AGENDA C-3
APRIL 2004

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Executive Director

ESTIMATED TIME
6 HOURS

DATE: March 22, 2004

SUBJECT: Aleutian Islands Pollock Fishery

ACTION REQUIRED

Initial Review of an EA/RIR for amending the BSAI FMP to allocate pollock quota to the Aleut Corporation for an Aleutian Islands Fishery. Approve releasing the EA/RIR for Public Review.

BACKGROUND

During its February 2004 meeting, the Council reviewed recent Congressional action that requires the Council to allocate TAC to the Aleut Corporation for a directed Aleutian Islands pollock fishery. The pollock allocation would be for economic development in Adak. Section 803 of the Consolidated Appropriations Bill, 2004 (HR 2673) and Senator Stevens' floor language on Section 803 are attached as Item C-3(a). The Council also received a report from NMFS that summarized options available for implementing the elements in the Bill, and a report from NMFS and Council staff on the potential environmental and socio-economic effects of implementing the Statute as well as cumulative effects considerations. The Council also received comments from the AP and the public.

One of the provisions in the Bill would allow the Council to exceed the BSAI 2.0 million mt OY cap, for the years 2004 through 2008 so that a TAC could be allocated and not affect other fisheries in the fully prescribed BSAI groundfish fisheries. That option was rejected by the Council. Another element in the Bill is the requirement that any action taken does not trigger a formal ESA Section 7 consultation over the endangered Steller sea lion; the Council concurred, and asked its Steller Sea Lion Mitigation Committee to evaluate options for providing an Aleut Corporation pollock fishery on a separate track.

The Council's motion (attached as Item C-3(b)) tasked staff with preparing an EA/RIR/IRFA for an FMP amendment. The Council's intent is to make an initial review of this document at this April meeting, suggest changes in the document that may be necessary, and send it out for public review. The Council intends to take final action at its June 2004 meeting. Under this schedule, the Council is allowing itself sufficient time for the rulemaking and FMP amendment process so that the AI pollock fishery can be authorized for the 2005 fishing season. The schedule the Council selected specifically allows the Council to make decisions on apportioning TAC for this fishery within the normal specifications process this fall.

NMFS and Council staff have prepared an EA/RIR (with a certification that an IRFA is not required) that responds the specific elements in the Council's February motion. A copy of this document was shipped to the Council, SSC, and AP on March 19, 2004. There are five main decisions the Council will eventually

need to make in approving the AI pollock fishery. Each of the five decisions has several alternatives, each of which is based on the Council motion and the language in the Bill or in Senator Stevens' floor language.

The following decision points and their alternatives were analyzed:

Elements and Alternatives

1.0 Allocation size

1.1 No action: Determine the appropriate Aleutian Islands pollock TAC each year during the annual specifications process.

1.2 For guidance in determining the allocation amount to the AI pollock fishery, the Council shall consider pollock allocations given to the various groups that participate in the CDQ program, in order to recommend a "reasonable amount" of AI pollock to award to the Aleut Corporation and in no case should this amount exceed 40,000 mt.

2.0 Allocation mechanism

2.1 No action: no regulatory changes

2.2 The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock TAC. Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year.

2.3 The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TAC amounts from each of the existing groundfish fisheries in the BSAI, without regard to species. Any unused TAC amount, surplus to the needs of the AI pollock fishery, will be rolled back to the fisheries from which it originated in the same proportions (and species). This should occur at the earliest time in the calendar year.

2.4 Option: Exempt the BSAI sablefish IFQ fishery from the proportional reduction

3.0 Monitoring vessel activity

3.1 Status quo (this option imposes only those monitoring and enforcement requirements that would be required if there were no change in regulations).

3.2 "Increased monitoring" alternative. This alternative would have several components (not options). These include:

1. Aleut Corp must let the NMFS Alaska Region know which vessels are authorized by it to fish in the Aleutians, and these vessels must carry documentation showing they have such permission;
2. If a catcher vessel authorized by the Aleut Corp fishes in the Aleutians at any time during a trip, all pollock landed by that vessel when the trip ends

will be deemed to be Aleutian Islands pollock and debited against the Aleut Corp. quota;

3. AFA requirements extend to catcher-processors and motherships (this extends AFA level observer and scale requirements to CPs under 60 feet and to unlisted AFA vessels);
4. AI pollock may only be delivered to a shore plant with a catch monitoring control plan;
5. The Aleut Corp. will be responsible for keeping its harvests and its agents' harvests within the AI pollock directed fishing allowance.

3.3 "Observer" alternative. All the requirements of Alternative 2 would apply; in addition, under Alt 3 all catcher vessels would be required to have 100% observer coverage.

4.0 Small vessels

4.1 No action. Take no steps to delay ability of Aleut Corp. to introduce vessels under 60 feet LOA.

4.2 Defer small vessel participation until a later date 2 (2006) or 5 (2009) years from 2004 to allow for development of a management program.

5.0 Economic development report mandate

5.1 No action: do not require an annual report to the Council

5.2 Require an annual report to the Council

5.3 Require an annual report comparable to CDQ reports.

The EA/RIR provides an analysis of each of these elements and alternatives, a cumulative effects analysis, and a Regulatory Impact Review. The Executive Summary of the EA/RIR is attached as Item C-3(c). Several maps of the Aleutian Islands and the historic patterns of pollock catch in the AI subarea are provided under Item C-3(d).

NMFS and Council staff are available to answer questions.

Appropriations rider

Section 803 of Title VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 2004:

Text of the Section 803

SEC 803. ALEUTIAN ISLANDS FISHERIES DEVELOPMENT.

(a) ALEUTIAN ISLANDS POLLOCK ALLOCATION. - Effective January 1, 2004 and thereafter, the directed pollock fishery in the Aleutian Islands Subarea (AI) of the BSAI (as defined in 50 CFR 679.2) shall be allocated to the Aleut Corporation (incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)). Except with the permission of the Aleut Corporation or its authorized agent, the fishing or processing of any part of such allocation shall be prohibited by section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857), subject to the penalties and sanctions under section 308 of such Act (16 U.S.C. 1858), and subject to the forfeiture of any fish harvested or processed.

(b) ELIGIBLE VESSELS. - Only vessels that are 60 feet or less in length overall and have a valid fishery endorsement, or vessels that are eligible to harvest pollock under section 208 of Title II of Division C of Public Law 105-277, shall be eligible to form partnerships with the Aleut Corporation (or its authorized agents) to harvest the allocation under subsection (a). During the years 2004 through 2008, up to 25 percent of such allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under such section of Public Law 105-277.

(c) GROUNDFISH OPTIMUM YIELD LIMITATION. - The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. For the purposes of implementing subsections (a) and (b) without adversely affecting current fishery participants, the allocation under subsection (a) may be in addition to such optimum yield during the years 2004 through 2008 upon recommendation by the North Pacific Council and approval by the Secretary of Commerce (if consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)).

(d) MANAGEMENT AND ALLOCATION. - For the purposes of this section, the North Pacific Fishery Management Council shall recommend and the Secretary shall approve an allocation under subsection (a) to the Aleut Corporation for the purposes of economic development in Adak, Alaska pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

Senator Stevens' floor language

[Congressional Record: January 22, 2004 (Senate)] [Page S129-S157] From the Congressional Record Online via GPO Access [wais.access.gpo.gov] [DOCID:cr22ja04-16] AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES **APPROPRIATIONS** ACT, 2004--CONFERENCE REPORT

The PRESIDING OFFICER. The senior Senator from Alaska.

[[Page S150]]

In an effort to gradually establish a small boat fleet in Adak, subsection (b) of section 803 provides that during the years 2004 through 2008, up to 25 percent of the Aleutian allocation may be harvested by vessels 60 feet or less in length overall. During the years 2009 through 2013, up to 50 percent of such allocation may be harvested by vessels 60 feet or less in length overall. After the year 2012, 50 percent of such allocation shall be harvested by vessels 60 feet or less in length overall, and 50 percent shall be harvested by vessels eligible under section 208 of Title II of Division C of Public Law 105-277. Establishing a small boat fleet will be critical for the economic diversification of Adak and the revenues generated from the use of the Aleutian Islands pollock allocation will allow for greater investment opportunities in this community. For purposes of implementing this section, section 206 of the American Fisheries Act (AFA) is redefined so that the allocations in section 206(b) of the AFA should only apply to the Bering Sea portion of the directed pollock fishery.

Subsection (c) of section 803 codifies one of the longest standing conservation and management measures of the North Pacific Fishery Management Council, the 2 million metric ton cap for groundfish in the Bering Sea. The optimum yield for groundfish in the Bering Sea and Aleutian Islands Management Area shall not exceed 2 million metric tons. Upon the recommendation of the North Pacific Council and approval of the Secretary of Commerce, and only if consistent with the conservation and management goals and requirements of the Magnuson-Stevens Fishery Conservation and Management Act, the allocation of Aleutian pollock for economic development in Adak, may be in addition to the 2 million metric ton optimum yield. This treatment of the Aleutian Islands pollock allocation would only be during the 2004 through the 2008 fishing years, but only if harvests in excess of the cap do not result in overfishing and then only to the extent necessary to accommodate a directed pollock fishery in the Aleutian Islands and should not adversely affect the current participants in the Bering Sea pollock fishery in the near term. Eventually this pollock allocation will come under the combined optimum yield for all groundfish in the Bering Sea and Aleutian Islands 2 million metric ton cap by taking proportional reductions in the total allowable catches for each of the existing groundfish fisheries as necessary to accommodate the establishment of the Aleutian Island pollock fishery. Subsection (d) of section 803 allows the North Pacific Fishery Management Council to recommend and the Secretary to approve an allocation of Aleutian Islands pollock to the Aleut Corporation for the purposes of economic development in Adak pursuant to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The North Pacific Council should consider pollock allocations given to the various groups that participate in the Community Development Quota program to recommend a reasonable amount of the Aleutian Islands pollock to the Aleut Corporation for purposes of economic development in Adak and in no case should this amount exceed 40,000 metric tons. Nothing in this section requires the North Pacific Council to open the Aleutian Islands pollock fishery. The Council should not take any action in regards to this fishery which would require a new consultation under the current biological opinion or Endangered Species Act covering Steller sea lions.

Agenda Item C-6
Congressional Legislation - Aleutian Islands Pollock Fishery
February 8, 2004

Motion:

The Council recommends that an amendment to the BSAI FMP be initiated for an AI pollock fishery. In the development of this amendment, the Council will be cautious that any opening of a directed Aleutian Islands pollock fishery is accomplished in full compliance with all applicable law and not disruptive to existing fisheries to the extent practicable. The Council will avoid taking any action in regards to this fishery which would likely result in an adverse effect requiring a formal consultation under the Endangered Species Act.

It is the Council's intent that this amendment should be developed on a schedule that will address all these considerations. These considerations must be met in order for the fishery to occur. As long as these considerations are met, and if possible, the schedule should mesh with the normal specifications process for a fishery to occur in 2005.

Further, the Council provides the following comments on the potential FMP amendment alternatives:

Initial Allocation Amount

For guidance in determining the allocation amount to the AI pollock fishery, the Council shall consider pollock allocations given to the various groups that participate in the CDQ program in order to recommend a reasonable amount of AI pollock to the Aleut Corporation and in no case should this amount exceed 40,000 mt.

Optimum Yield Cap and Allocation of Unutilized AI Pollock Allocation

The following will be analyzed. The pollock allocation to an AI fishery will come from within the OY cap:

Option 1: The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock TAC. Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year.

Option 2: The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TACs for each of the existing groundfish fisheries in the BSAI. Any unused pollock TAC from the AI fishery will be rolled back on a pro-rata basis to the fisheries from where it originated in the same proportions. This should occur at the earliest possible time in the calendar year.

Suboption 2.1: Exempt the BSAI sablefish IFQ fishery from the proportional reduction.

Use of B Season Allocation

Option 1: Maintain the current 40/60 percent A/B seasonal apportionment requirement for pollock fisheries. Unutilized B season TAC is addressed in the options above.

Small Vessels

Option 1: Provisions for small vessels to fish starting in 2005.

Option 2: Defer small vessel participation until a later date 2 or 5 years from now to allow for development of a management program.

Economic Development Mandate

Option 1: Require an annual report to the Council along the lines of CDQ reports.

Monitoring Vessel Activity

Option 1: Have NMFS staff consult with enforcement and provide the Council with options.

Option 2: Mandatory shoreside monitoring.

Safety and Efficiency of Small Vessel Operations

Option 1: No change in Steller sea lion protection measures.

Option 2: Charge the SSL Mitigation Committee to consider changes to the SSL protection measures to allow small pollock trawlers to operate more safely and efficiently. The Council will not take any action which would likely result in an adverse effect requiring formal consultation under the ESA.

AGENDA C-3(c)
APRIL 2003

DRAFT

ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW

for an Amendment to the BSAI FMP and regulatory amendments to allow the allocation of future Aleutian Islands pollock specifications to the Aleut Corporation as Required by Statute

March 2004

Lead Agency National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Alaska Regional Office
Juneau, Alaska

Responsible Official James W. Balsiger
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Abstract: This document contains an Environmental Assessment and a Regulatory Impact Review that analyze the potential impacts of an FMP amendment and regulations to allocate any future Aleutian Islands pollock specifications to the Aleut Corporation, as required by Section 803 of the 2004 Appropriations Act. This document also contains a draft certification that this action will not have a significant impact on a substantial number of small entities. The analyses in this document address the requirements of the National Environmental Policy Act, Executive Order 12866, and the Regulatory Flexibility Act.

Executive Summary

This executive summary is divided into five parts:

- What is this action?
- What are the alternatives?
- Environmental Assessment
- Regulatory Impact Review
- Regulatory Flexibility Act Considerations

What is this action?

The U.S. Congress, in Section 803 of the Consolidated Appropriations Act of 2004 (HR 2673)(CAA), now Public Law 108-199, required that future directed fishing allowances of pollock in the Aleutian Islands be allocated to the Aleut Corporation.[1] Only fishing vessels approved by the Aleut Corporation or its agents would be allowed to harvest this allowance. In turn, the Aleut Corporation was only allowed to contract with vessels under sixty feet long, or with listed AFA vessels, to harvest the fish. The allocation was made to the Aleut Corporation for the purpose of furthering the economic development of Adak.

In February 2004, the North Pacific Fishery Management Council (Council) passed a motion requesting an analysis of options that might be incorporated into an FMP amendment to create a structure within which such an allocation could be made.[2] It was the Council's intent that this analysis be presented to it in April 2004, in order that the Council could make a final decision on the amendment in June 2004.

This document provides that analysis. This document is an Environmental Assessment/Regulatory Impact Review (EA/RIR) providing environmental, economic, and small entity analyses of this proposed action. This document also includes a "Factual Basis for Certification" as an appendix. The "factual basis" provides grounds for saying that a substantial number of small entities will not be affected by this action, and that, therefore, an IRFA is not required under the Regulatory Flexibility Act. This document addresses the analytical requirements of the National Environmental Policy Act (NEPA), Presidential Executive Order 12866 (EO 12866), and the Regulatory Flexibility Act (RFA).

The U.S. Congress has determined that establishing a small boat fleet in the community of Adak will be critical for the economic diversification of that community (PL 108-199). Congress has further determined that this economic benefit can be gained through a direct apportionment of pollock quota to the Aleut Corporation to be used for economic development in Adak.[3] Congress' intent is that the Aleut Corporation, or its agent, will initially partner with large vessels (from a pool of vessels approved for the BSAI pollock fishery under the American Fisheries Act) to fish their apportionment, but gradually develop and partner with a small vessel fleet to harvest pollock. Eventually, by the year 2013, Congress intends that 50 percent of the Aleut Corporation pollock apportionment will be fished by partner vessels under 60 feet, and 50 percent will be fished by partner AFA vessels. Revenues generated from the use of the Aleutian Islands pollock apportionment will allow for greater investment opportunities in Adak.

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[1]The text of Section 803 may be found in Appendix A.1.

[2]The text of this motion may be found in Appendix A.3.

[3]The Aleutian Islands subarea includes federal management areas 541, 542, and 543. These, along with the location of Adak and other information, are shown in Figure 1.1-1.

Congress has mandated that, if the North Pacific Fishery Management Council provides for an Aleutian Islands directed pollock fishery, all Total Allowable Catch (TAC) quota must be apportioned to the Aleut Corporation. This quota is to be fished with permission of the Aleut Corporation, and is to be used for economic development in Adak. Congress also specified that the Council could apportion this TAC over and above the 2 million mt Optimum Yield (OY) cap in the Bering Sea/Aleutian Islands groundfish fisheries which, based on longstanding policy, has never been exceeded by the Council. But Congress also mandated that, should the Council choose to exceed the OY cap for the purposes of apportioning pollock to the Aleut Corporation, the OY cap could be exceeded only for the fishing years 2004 through 2008.

In February 2004, the Council approved proceeding with an analysis of possible environmental effects of such a fishery, with the intent of opening an AI pollock fishery in 2005. The Council's motion is in Appendix A.3. The Council clearly determined that it did not want to provide for this AI pollock fishery by apportioning TAC over the 2 million mt OY cap. The Council directed staff to develop an EA/RIR/IRFA with which the Council will evaluate the effects of this fishery and make a decision.

The Council requested an evaluation of (1) different approaches to determining levels of TAC apportionment, perhaps using the current CDQ apportionment formula as a guideline, possibly with a requirement that no AI apportionment would exceed 40,000 mt; (2) alternative methods for calculating the Aleut Corporation apportionment so as to remain under the OY cap, with an evaluation of how unused TAC from this fishery might be rolled back to other groundfish fisheries in the BSAI; (3) alternative approaches to monitoring catch in the fishery to be created; (4) whether to provide for a small vessel component of this fishery in 2004 or defer this decision to 2006 or 2009; and (5) whether to require an annual report from the Aleut Corporation on how the pollock apportionment was used for economic development in Adak.

The Council further stated its intent to not take any action that might trigger the need for a formal Section 7 consultation under the Endangered Species Act. The Council specifically tasked its Steller Sea Lion Mitigation Committee to review options for changing Steller sea lion protection measures in the AI to allow small vessels to operate more safely and efficiently. Thus the issue of safety and efficiency of small vessel operations in the proposed AI pollock fishery as it relates to options for changing SSL protection measures will be addressed after further consideration by the SSL Mitigation Committee and the Council, and is not part of the Council's decision in this action.

What are the alternatives?

1.0 Allocation size

1.1 No action: Determine the appropriate Aleutian Islands pollock TAC each year during the annual specifications process.

1.2 For guidance in determining the allocation amount to the AI pollock fishery, the Council shall consider pollock allocations given to the various groups that participate in the CDQ program, in order to recommend a "reasonable amount" of AI pollock to award to the Aleut Corporation and in no case should this amount exceed 40,000 mt.

2.0 Allocation mechanism

2.1 No action: no regulatory changes

2.2 The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock TAC. Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year.

2.3 The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TAC amounts from each of the existing groundfish fisheries in the BSAI, without regard to species. Any unused TAC amount, surplus to the needs of the AI pollock fishery, will be rolled back to the fisheries from which it originated in the same proportions (and species). This should occur at the earliest time in the calendar year.

Option: Exempt the BSAI sablefish IFQ fishery from the proportional reduction

3.0 Monitoring vessel activity

3.1 Status quo (this option imposes only those monitoring and enforcement requirements that would be required if there were no change in regulation).

3.2 "Increased monitoring" alternative. This alternative would have several components (not options). These include:

1. Aleut Corp must let the NMFS Alaska Region know which vessels are authorized by it to fish in the Aleutians, and these vessels must carry documentation showing they have such permission;
2. If a catcher vessel authorized by the Aleut Corp fishes in the Aleutians at any time during a trip, all pollock landed by that vessel when the trip ends will be deemed to be Aleutian Islands pollock and debited against the Aleut Corp. quota;
3. AFA requirements extend to catcher-processors and motherships (this extends AFA level observer and scale requirements to CPs under 60 feet and to unlisted AFA vessels);
4. AI pollock may only be delivered to a shore plant with a catch monitoring control plan;
5. The Aleut Corp. will be responsible for keeping its harvests and its agents' harvests within the AI pollock directed fishing allowance.

3.3 "Observer" alternative. All the requirements of Alternative 2 would apply; in addition, under Alt 3 all catcher vessels would be required to have 100% observer coverage.

4.0 Small vessels

4.1 No action. Take no steps to delay ability of Aleut Corp. to introduce vessels under 60 feet LOA.

4.2 Defer small vessel participation until a later date 2 (2006) or 5 (2009) years from 2004 to allow for development of a management program.

5.0 Economic development report mandate

5.1 No action: do not require an annual report to the Council

5.2 Require an annual report to the Council

5.3 Require an annual report comparable to CDQ reports.

Environmental Assessment

An Environmental Assessment (EA) was prepared for this action to address the statutory requirements of the National Environmental Policy Act (NEPA). The purpose of the EA is to predict whether the impacts to the human environment resulting from the action will be "significant," as that term is defined under NEPA. If the predicted impacts from the preferred alternatives are found not to be significant, and those alternatives are chosen, no further analysis is necessary to comply with the requirements of NEPA.

An EA must consider whether an environmental impact is significant. Significance is determined by considering the contexts (geographic, temporal, societal) in which the action will occur, and the intensity of the action. The evaluation of intensity should include consideration of the magnitude of the impact, the degree of certainty in the evaluation, the cumulative impact when the action is related to other actions, the degree of controversy, and violations with other laws.

Four significance assignments are made in this EA. These are:

Significantly adverse (S-): Significant adverse effect in relation to the reference point and based on ample information and data and the professional judgement of the analysts who addressed the topic.

Insignificant impact (I): Insignificant effect in relation to the reference point; this determination is based on information and data, along with the professional judgement of the analysts, that suggest that the effects will not cause a significant change to the reference point condition.

Significant beneficial (S+): Significant beneficial effect in relation to the reference point and based on ample information and data and the professional judgement of the analysts who addressed the topic.

Unknown (U): Unknown effect in relation to the reference point; this determination is characterized by the absence of information and data sufficient to adequately assess the significance of the impacts, either because the impact is impossible to predict, or because insufficient information is available to determine a reference point for the resource, species, or issue.

The significance of impacts of the actions analyzed in this EA were determined through consideration of the following information as required by NEPA and 50 CFR Section 1508.27:

Context: The setting of the proposed action is the groundfish fisheries of the BSAI. Any effects of these actions are limited to these areas. The effects of the action on society, within these areas, is on individuals directly and indirectly participating in the groundfish fisheries and on those who use the ocean resources.

Intensity: Listings of considerations to determine intensity of the impacts are in 50 CFR § 1508.27 (b) and in the NOAA Administrative Order 216-6, Section 6. Each consideration is addressed below in order as it appears in the regulations.

6.1 Adverse or beneficial impact determinations for marine resources, including sustainability of target and nontarget species, damage to ocean or coastal habitat or essential fish habitat, effects on biodiversity and ecosystems, and marine mammals:

Each of the alternatives for the five decisions faced by the Council was evaluated for environmental significance with respect to the following potential direct and indirect impacts:

- Pollock stock
- Other target species and fisheries
- Incidental catch of other and non-specified species
- Incidental catch of forage species
- Incidental catch of prohibited species
- Steller sea lions
- Marine mammals and ESA listed mammals
- Seabirds
- Habitat
- Ecosystem
- State managed and parallel fisheries
- Social and economic effects

The criteria used to determine significance for each of these impacts are described in detail in Section 4.1. The evaluations of direct and indirect significance may be found in Sections 4.2 to 4.6. These evaluations are summarized in Tables 6.0-1 to 6.0-5. (These tables are in this executive summary.) The evaluation of cumulative significance may be found in Chapter 5. The cumulative significance evaluations are summarized in Table 5.0-1. (This table is in this executive summary.)

In general, these alternatives were found to have insignificant effects with respect to the range of potential impacts. There were two exceptions. Monitoring alternative 3.1 (status quo) was found to have "unknown" effects with respect to a criterion for pollock fishing mortality, because concerns about the ability of managers to monitor pollock landings under that monitoring regime exist. (See Section 4.4.2). Monitoring alternative 3.2 (observer requirements) was found to have "unknown" effects with respect to the economic impacts on operating costs, net returns, and safety. This alternative requires observer coverage on small vessels (under 60 feet in length). This would be an adverse effect on small vessel operating costs and economic viability, but the significance of the effect is unknown.

6.2 Public health and safety

Subsequent actions by the Council to create an Aleutian Islands directed fishing allowance (DFA) may have safety implications if trawlers under 60 feet LOA find it difficult to operate safely outside of the SSL protected areas. The current action does not create an allocation or, by itself, permit pollock fishing in the AI. A subsequent Council decision would be required for that. The monitoring alternative 3.3, which would place observers on vessels under 60 feet, creating unknown safety implications by potentially increasing the number of persons on small vessel in the AI.

6.3 Cultural resources and ecologically critical areas

These actions take place in the geographic areas of the Bering Sea and Aleutian Islands, generally from 3 nm to 200 nm offshore. The land adjacent to these areas contains cultural resources and ecologically critical areas. The marine waters where the fisheries occur contain ecologically critical areas. Effects on the unique

characteristics of these areas are not anticipated. Evaluations of impacts on habitat and on ecosystems were evaluated and found to be "insignificant."

6.4 Controversiality

These actions deal with management of the groundfish fisheries. Differences of opinion exist among various industry, environmental, management, and scientific groups on the appropriate levels of TAC to set for various target species and in particular fishery management areas. Two aspects of the current action may be controversial. The Council has chosen to make potential AI pollock allocations from within the BSAI OY of 2 million mt. Because the OY is currently fully utilized for the TACs of other species, this means that an AI allocation will require a reduction in the TACs for other species. This creates distributional issues that may be controversial. One of the monitoring alternatives, 3.3, involves observer requirements on vessels under 60 LOA. Observers have not been required before on vessels of this size in the GOA or BSAI. This proposal may be controversial.

Many persons are concerned about the environmental impacts associated with reopening a pollock fishery in the Aleutian Islands. This could be a source of controversy. The current action does not create an allocation of pollock in the Aleutian Islands. That action, if it is taken, will be taken each year during the annual specifications process. This action is an amendment to the BSAI FMP to permit an AI pollock DFA, if it is created by the Council, to be allocated to the Aleut Corporation. The controversiality of the action will depend on how these issues are resolved before final action is taken.

6.5 Risks to the human environment, including social and economic effects

Risks to the human environment associated with groundfish fisheries are described in detail in the revised Draft PSEIS (NMFS 2003b). Because of the mitigation measures implemented with every past action, it is anticipated that there will be no significant adverse impacts to the human environment beyond that disclosed in the Draft PSEIS (NMFS 2003b) or the Steller Sea Lion Protection Measures SEIS (NMFS 2001b). No significant adverse impacts to the human environment were identified for the alternatives evaluated in this EA. As noted above, there was one unknown impact affecting the human environment. Monitoring alternative 3.2 (observer requirements) was found to have "unknown" effects with respect to the economic impacts on operating costs, net returns, and safety. This alternative requires observer coverage on small vessels (under 60 feet in length). This would be an adverse effect on small vessel operating costs and economic viability, but the significance of the effect is unknown.

6.6 Future actions

Future actions related to this action may result in impacts. The action under consideration, an amendment to the BSAI FMP and supporting regulations meant to provide a structure within which future AI pollock DFAs could be allocated to the Aleut Corporation, in itself has no impact on specifications. It does not create a TAC or DFA for AI pollock, and it does not affect existing BSAI TACs for other species. A subsequent decision by the Council during the annual specifications process will be required each year, in order to provide an AI DFA. Pursuant to NEPA, appropriate environmental analysis documents (EA or EIS) will be prepared to inform the decision makers of potential impacts to the human environment and to implement mitigation measures to avoid significant adverse impacts.

6.7 Cumulatively significant effects, including those on target and nontarget species:

The EA evaluated cumulative impacts in Chapter 5. Chapter 5 reviewed seven past, present, and reasonably foreseeable future actions that could combine with the impacts of the actions considered here to have a combined effect on the quality of the human environment. These factors were:

- The annual specifications process
- The AI Steller Sea Lion population trajectory
- Development at Adak
- Other regional development
- Changes in SSL protection measures
- State managed fisheries
- Evolving understanding of pollock stock structure in the Aleutians.

The cumulative effects analysis conclusions are summarized in Table 5.0-1. The cumulative effects analysis did not find that the alternatives would have significant incremental impacts when added to other past, present, or reasonably foreseeable future actions.

6.8 Districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places:

This action will have no effect on districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places, nor cause loss or destruction of significant scientific, cultural, or historical resources. Because this action is 3 nm to 200 nm at sea, this consideration is not applicable to this action.

6.9 Impact on ESA listed species and their critical habitat:

ESA listed species that range into the fishery management areas are listed in Table 6.0-6. (This table is in this executive summary.) An FMP level Section 7 consultation was completed for the groundfish fisheries in November 2000 (NMFS 2000) for those species under the jurisdiction of NMFS. This document is limited to those species under NMFS jurisdiction and covers most of the endangered and threatened species which may occur in the action area, including marine mammals, seabirds, and Pacific salmon.

Listed seabirds are under the jurisdiction of the USFWS which has completed an FMP level BiOp (USFWS 2003a) and project level BiOp (USFWS 2003b) for the groundfish fisheries. Both USFWS BiOps concluded that the groundfish fisheries and the annual setting of harvest specifications were unlikely to cause the jeopardy of extinction or adverse modification or destruction of critical habitat for ESA listed birds.

Under the FMP level BiOp (NMFS 2000), the western distinct population segment of Steller sea lions was the only ESA listed species identified as likely to be adversely affected by the groundfish fisheries. A subsequent biological opinion on the Steller sea lion protection measures was issued in 2001 (NMFS 2001b, Appendix A, Supplement June 19, 2003). The 2001 BiOp found that the groundfish fisheries conducted in accordance with the Steller sea lion protection measures were unlikely to cause jeopardy of extinction or adverse modification or destruction of critical habitat for Steller sea lions.

No consultations are required under this action at this time because based on the best available information, the proposed actions will not modify the actions already analyzed in previous BiOps, are not likely to adversely affect ESA listed species beyond the effects already analyzed, and the incidental take statements of ESA species are not expected to be exceeded. Summaries of the ESA consultations on individual listed

species are located in the section 3.0 and accompanying tables of the Draft PSEIS under each ESA listed species' management overview (NMFS 2003b).

6.10 Violations of Federal, state, or local laws or requirements for the protection of the environment

These actions pose no known violation of Federal, State, or local laws or requirements for the protection of the environment.

6.11 Introduction and spread of nonindigenous species

This action may affect the introduction or spread of nonindigenous species into the AI; however these impacts were analyzed in Section 4.2 and were determined to be not significant.

6.12 Comparison of alternatives

Two alternatives were examined for the "allocation size" decision. The action alternative would include language in the FMP amendment that directed the Council to consider CDQ allocations when making the AI pollock allocation, and in no case to make an AI pollock allocation greater than 40,000 mt. The action alternative may constrain future AI pollock allocations in the short run, should ABCs be higher than the 40,000 mt cap. In the longer run, it would be possible for the Council to amend the FMP to relax the constraint. The proposed language directing the Council to consider CDQ program allocations when making Aleut Corporation allocations is consistent with a wide range of potential pollock allocations to the Aleut Corp.

The Council has chosen to make AI pollock allocations count against the BSAI OY. Thus, an increase in AI pollock TAC will reduce one or more other BSAI TACs. Four alternatives were considered: (1) no action - no FMP or regulatory changes; (2) fund AI pollock TACs from EBS pollock TAC; (3) fund AI pollock TAC equiproportionately from all other BSAI TACS; (4) fund AI pollock TAC as in (3), except that there would be no reduction in BSAI sablefish TACs. The different allocations will generally have relatively small impacts on TACs. An AI pollock allocation of 40,000 mt is only two percent of the BSAI OY, and less than 3% of the current BSAI pollock TAC of 1,492,000 mt. Environmental impacts would be insignificant. This issue does have distributional implications.

Three monitoring alternatives were considered: (1) no action - no additional monitoring measures; (2) a heightened monitoring alternative with five elements; and (3) an "observer" alternative that adds observer requirements to the elements in Alternative 2. The "no action" alternative has generally insignificant impacts. It was assigned an "unknown" impact for directed pollock harvest, because of concerns over estimates of pollock fishery mortality in this new fishery, taking place in a remote area, under monitoring rules that are less comprehensive than those for other BSAI pollock fishing. The "observer" alternative was rated "unknown" for potential economic impacts. Observers may be expensive for small vessels and may reduce the economic viability of the small vessel fleet in this area. Moreover, placing observers on small vessels may put more persons at risk in case of an accident.

The Council considered a provision in the FMP that would prevent fishing by vessels under 60 feet LOA for two or five years. The "no action" alternative would not have added this language. This action alternative appears to provide few benefits, at the risk of interfering with Aleut Corporation development plans. Initially it was thought that making arrangements for small vessels might delay the introduction of the program. However, whether or not this provision for deferring entry of small vessels is in the FMP, the Aleut Corporation would not be able to introduce small vessels unless acceptable monitoring arrangements were

made. In this case, the Aleut Corporation could contract with AFA vessels to harvest its allocation until such time as the provisions were made to accept small catcher vessel deliveries.

The Council considered requiring the Aleut Corporation to report on the ways it had used its allocation to advance the development of Adak. No action (no report), a basic report, and CDQ-style reporting requirements were considered. The reporting requirement has no environmental implications. It may have economic implications if it helps ensure that the Aleut Corporation use of the pollock allocation is advancing the distributional goals of Congress. The Council does not have a legal obligation to monitor Aleut Corporation use of the allocation for development. A basic report could be provided at relatively low cost. A CDQ-style report could be expensive to produce, and for NMFS and the Council to fully evaluate. Because the Aleut Corp could draw on existing reporting activities, it is believed that it could produce a detailed report at less additional expense that the average cost for CDQ reports.

Summary of Significance Determinations for Decision 1 Alternatives: Effects of Allocation Size (Table 6.0-1).

Coding: S- = Significantly adverse, I = Insignificant impact, S+ = Significantly beneficial, U = Unknown		
Issue	**Alternative 1 (no action)**	**Alternative 2**
	No action. TAC set through specifications process	**Guidance for TAC from CDQ fisheries (~25,000 mt) with 40,000 mt cap**
Pollock stock	I	I
Other target species and fisheries	I	I
Incidental catch of other and nonspecified species	I	I
Incidental catch of forage species	I	I
Incidental catch of PSC	I	I
Steller sea lions	I	I
Other marine mammals	I	I
Seabirds	I	I
Habitat	I	I
Ecosystem	I	I
State-managed and parallel fisheries	I	I
Economic and socio-economic	I	I

Summary of Significance Determinations for Decision 2 Alternatives: Effects of Allocation Mechanism. (Table 6.0-2)

Coding: S- = Significantly adverse, I = Insignificant impact, S+ = Significantly beneficial, U = Unknown				
Issue	**Alternative 1 (no action)**	**Alternative 2**	**Alternative 3**	**Alternative 4**
	No action. No fishery.	**TAC "funded" from Bering Sea pollock fishery**	**TAC "funded" from BSAI groundfish fisheries equi-proportionally**	**TAC "funded" from BSAI groundfish fisheries equi-proportionally, excluding IFQ sablefish fishery**
Pollock stock	I	I	I	I
Other target species and fisheries	I	I	I	
Incidental catch of other and nonspecified species	I	I	I	I
Incidental catch of forage species	I	I	I	I
Incidental catch of PSC	I	I	I	I
Steller sea lions	I	I	I	I
Other marine mammals	I	I	I	I
Seabirds	I	I	I	I
Habitat	I	I	I	I
Ecosystem	I	I	I	I
State-managed and parallel fisheries	I	I	I	I
Economic and socio-economic	I	I	I	I

Summary of Significance Determinations for Decision 3 Alternatives: Effects of Monitoring Vessel Activity (Table 6.0-3)

Coding: S- = Significantly adverse, I = Insignificant impact, S+ = Significantly beneficial, U = Unknown			
Issue	**Alternative 1 (no action)**	**Alternative 2**	**Alternative 3**
	No action. Status quo monitoring and enforcement	**Increased level of monitoring**	**Increased level of monitoring plus 100 % observer coverage on C/Vs**
Pollock stock	U	I	I
Other target species and fisheries	I	I	I
Incidental catch of other and nonspecified species	I	I	I
Incidental catch of forage species	I	I	I
Incidental catch of PSC	I	I	I
Steller sea lions	I	I	I
Other marine mammals	I	I	I
Seabirds	I	I	I
Habitat	I	I	I
Ecosystem	I	I	I
State-managed and parallel fisheries	I	I	I
Economic and socio-economic	I	I	I/U

Summary of Significance Determinations for Decision 4 Alternatives: Effects of Small Vessel Entry Date (Table 6.0-4)

Coding: S- = Significantly adverse, I = Insignificant impact, S+ = Significantly beneficial, U = Unknown		
Issue	**Alternative 1 (no action)**	**Alternative 2**
	No action. No delay in entry of vessels < 60 feet LOA	**Delay entry of small vessels 2 or 5 years from 2004**
Pollock stock	I	I
Other target species and fisheries	I	I
Incidental catch of other and nonspecified species	I	I
Incidental catch of forage species	I	I
Incidental catch of PSC	I	I
Steller sea lions	I	I
Other marine mammals	I	I
Seabirds	I	I
Habitat	I	I
Ecosystem	I	I
State-managed and parallel fisheries	I	I
Economic and socio-economic	I	I

Summary of Significance Determinations for Decision 5 Alternatives: Effects of Economic Development Reporting (Table 6.0-5)

Coding: S- = Significantly adverse, I = Insignificant impact, S+ = Significantly beneficial, U = Unknown			
Issue	**Alternative 1 (no action)**	**Alternative 2**	**Alternative 3**
	No action. No annual economic report required.	**Require annual economic report.**	**Require annual economic report comparable to CDQ reports.**
Pollock stock	I	I	I
Other target species and fisheries	I	I	I
Incidental catch of other and nonspecified species	I	I	I
Incidental catch of forage species	I	I	I
Incidental catch of PSC	I	I	I
Steller sea lions	I	I	I
Other marine mammals	I	I	I
Seabirds	I	I	I
Habitat	I	I	I
Ecosystem	I	I	I
State-managed and parallel fisheries	I	I	I
Economic and socio-economic	I	I	I

Cumulative effects summary for this action (Table 5.0-3)

Environmental Component	Alternatives													
	1.1	1.2	2.1	2.2	2.3	2.4	3.1	3.2	3.3	4.1	4.2	5.1	5.2	5.3
Pollock stock	I	I	I	I	I	I	U	I	I	I	I	I	I	I
Other target species & fisheries	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Incidental catch of other and nonspecified species	I	I	I	I	I	I	I	I	I	I	I	I	I	I
incidental catch of forage species	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Incidental catch of PSC	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Steller sea lions	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Other marine mammals	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Seabirds	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Habitat	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Ecosystem	I	I	I	I	I	I	I	I	I	I	I	I	I	I
State-managed and parallel fisheries	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Economic and socio-economic	I	I	I	I	I	I	I	I	I/U	I	I	I	I	I

ESA listed and candidate species that range into the BSAI or GOA groundfish management areas (Table 6.0-6).

Common Name	Scientific Name	ESA Status
Blue Whale	*Balaenoptera musculus*	Endangered
Bowhead Whale	*Balaena mysticetus*	Endangered
Fin Whale	*Balaenoptera physalus*	Endangered
Humpback Whale	*Megaptera novaeangliae*	Endangered
Right Whale	*Balaena glacialis*	Endangered
Sei Whale	*Balaenoptera borealis*	Endangered
Sperm Whale	*Physeter macrocephalus*	Endangered
Steller Sea Lion (WesternPopulation)	*Eumetopias jubatus*	Endangered
Steller Sea Lion (Eastern Population)	*Eumetopias jubatus*	Threatened
Chinook Salmon (Puget Sound)	*Oncorhynchus tshawytscha*	Threatened
Chinook Salmon (Lower Columbia R.)	*Oncorhynchus tshawytscha*	Threatened
Chinook Salmon (Upper Columbia R. Spring)	*Oncorhynchus tshawytscha*	Endangered
Chinook Salmon (Upper Willamette .)	*Oncorhynchus tshawytscha*	Threatened
Chinook Salmon (Snake River Spring/Summer)	*Oncorhynchus tshawytscha*	Threatened
Chinook Salmon (Snake River Fall)	*Oncorhynchus tshawytscha*	Threatened
Sockeye Salmon (Snake River)	*Oncorhynchus nerka*	Endangered
Steelhead (Upper Columbia River)	*Onchorynchus mykiss*	Endangered
Steelhead (Middle Columbia River)	*Onchorynchus mykiss*	Threatened
Steelhead (Lower Columbia River)	*Onchorynchus mykiss*	Threatened
Steelhead (Upper Willamette River)	*Onchorynchus mykiss*	Threatened
Steelhead (Snake River Basin)	*Onchorynchus mykiss*	Threatened
Steller's Eider [1]	*Polysticta stelleri*	Threatened
Short-tailed Albatross [1]	*Phoebaotria albatrus*	Endangered
Spectacled Eider[1]	*Somateria fishcheri*	Threatened
Northern Sea Otter[1]	*Enhydra lutris*	Candidate

[1]The Steller's eider, short-tailed albatross, spectacled eider, and northern sea otter are species under the management jurisdiction of the U.S. Fish and Wildlife Service. For the bird species, critical habitat has been established for the Steller's eider (66 FR 8850, February 2, 2001) and for the spectacled eider (66 FR 9146, February 6, 2001). The northern sea otter has been proposed as a candidate species by USFWS (November 9, 2000; 65 FR 67343).

Regulatory Impact Review

This RIR is required under Presidential Executive Order (E.O.) 12866 (58 *FR* 51735; October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

> In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic,

environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

Separate sections in the RIR evaluate the costs and benefits of the alternatives for each of the five decisions faced by the Council.

Allocation size

The Council faces a decision on whether or not to provide guidance in the FMP on the appropriate size of future AI pollock allocations to the Aleut Corp. Two alternatives were considered for this decision. Under Alternative 1, the FMP would contain no language constraining Council decisions with respect to the appropriate Aleut Corporation allocation. Under Alternative 2, the Council would be constrained in two ways. First, it would have to consider the allocations received by the CDQ groups in setting the Aleut Corporation allocation. Second, it could not provide a directed pollock fishery in the Aleutians with a TAC greater than 40,000 mt.

The action alternative would have the following potential effects:

- It could, but would not necessarily, restrict the Council's freedom of action in some future years, leading to lower AI pollock DFA allocations than there might otherwise be.
- If allocations were constrained, the Aleut Corp and its affiliated entities would receive lower revenues (depending on market and price effects)
- If allocations were constrained, other BSAI fishery TACs would be higher than they otherwise would have been and revenues to fleets exploiting those TACs would be somewhat higher.
- For a number of reasons, it is impossible to predict actual revenue impacts (depending on market and price effects)
- The action has no direct impacts, only indirect impacts so far as it constrains future Council decision making. While constraint language in the FMP may constrain short term decisions by the Council, it would not necessarily constrain medium to long term decisions, because the Council could amend the FMP to relax them.

It is not clear how the Council would choose to interpret Senator Stevens' floor language with respect to considering CDQ allocations in determining Aleut Corporation allocations. The direction to the Council "...to recommend a reasonable amount of the Aleutians Islands pollock to the Aleut Corporation for purposes of economic development in Adak..." is not precise, and may not impose much of a constraint on AI pollock allocations to the Aleut Corporation beyond that in the 40,000 mt cap.

The choice of a cap on the allocation to the Aleut Corporation has distributional significance. The Council has chosen to treat the AI pollock allocation to the Aleut Corporation as one of the allocations to be made within the BSAI optimum yield. Therefore, any allocation to the Aleut Corporation will be associated with a reduction in TACS for other species in the BSAI. The extent to which this would impact other fisheries would depend on choices made by the Council with respect to the funding of the allocation. These choices are discussed in the next section. The 40,000 mt cap on Aleut Corporation allocations places a limit on decreases in the amounts of TAC for the other BSAI fisheries.

"Funding" the allocation

The Council also faces a decision on how to "fund" AI pollock allocations. Section 803 incorporates into statute the Council's longstanding BSAI OY limit of two million mt, but allows the Council to create AI pollock allocations in addition to the OY for the years 2004 to 2008. At its February 2004 meeting, the

Council determined to include any AI pollock allocations in the OY.[4] For this reason, therefore, an AI pollock allocation to the Aleut Corporation will require reductions in the TACs for one or more other species. The Council must decide whether to provide itself future direction on the appropriate approach to TAC setting, and, if so, what sort of direction to provide.

Three principal alternatives, one of which has a significant optional element, are evaluated for this decision. These are: (1) No action - FMP is not amended to provide the Council with direction on future approaches; (2) The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock TAC. Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year; (3) The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TACs for each of the existing groundfish fisheries in the BSAI. Any unused pollock TAC from the AI fishery will be rolled back to the fisheries form were it originated in the same proportions. This should occur at the earliest time in the calendar year [Option: Exempt the BSAI sablefish IFQ fishery from the proportional reduction].

The funding decision is fundamentally a distributive decision. It is a decision about the fishing fleet sectors that will bear the burden of providing the Aleutian Islands TAC. Under Alternative 2, the AI pollock allocation would be funded by the AFA fishery. Some of the AFA operations will participate in the AI pollock fishery, so the sector may receive revenues offsetting some of the loss, however, this will not be evenly distributed among AFA operations. Under Alternative 2, all fleet sectors in the BSAI (other than the AI pollock fleet) will fund the allocation. At current TAC levels, the AFA would continue to fund 75% of the allocation. The pollock share of the BSAI OY was at its lowest in recent years in 1999, when it was about 50%. At 1999 levels the AFA pollock fishery would have funded half of the allocation. Under Alternative 4, funding would be shared by all BSAI fleet sectors except for the sablefish fishery.

BSAI fisheries are currently subject to a wide range of management regimes. Some of these, such as the AFA cooperatives, the CDQ groups and the sablefish IFQ program, represent rationalized fisheries in which operations have the freedom to harvest fish quotas in a relatively efficient manner. Other fisheries have not been rationalized, and fishing operations harvest the fish under arrangements that approximate open access fisheries. Currently, most non-CDQ fisheries, other than the IFQ fisheries for halibut and sablefish, and the AFA fishery for pollock, fall in the latter category. Rationalized fisheries are likely to produce relatively high net returns for the participants involved. Open access fisheries are subject to competitive dissipation of fishing rents through excessive entry. Net returns are likely to be relatively smaller in these latter fisheries. As a result, it is likely that allocations made from non-pollock fisheries involve the movement of fishery quota from operations with relatively lower net returns to operations with relatively higher net returns. Moreover, the equal proportions option that excludes sablefish may generate somewhat higher "fishery-wide" aggregate net returns that the option that includes sablefish.

The Aleut Corporation may not be able to harvest its allocation in a year. The fishery will generally be taking place 20 miles from shore because of the SSL protection measures. However, the last directed fisheries, prior to 1999, took place within 20 miles to a great extent. There is uncertainty about the extent to which vessels will be able to catch the pollock allocation outside of 20 miles. Moreover, there is uncertainty about the ability of vessels under 60 feet LOA to operate successfully outside 20 miles. SSL protection measures mandate that no more than 40% of the DFA be taken in the lucrative "A" season roe fishery. There is uncertainty about whether the Aleut Corporation will have an interest in catching and marketing large volumes of pollock in the "B" season. Since BSAI fishery allocations are at the OY, and since the Council has chosen to include the AI pollock allocation within the OY, an AI pollock allocation,

[4]See Appendix A.6 for the transcript of the Council's discussion.

whether it is caught or not, means a reduced allocation for other fishermen. The Council has included "rollback" provisions in its proposal to return pollock DFA that the Aleut Corporation may be unable to use to the fisheries that originally funded the allocation.

Under Alternative 1, the "no action" alternative, the FMP would not be modified. Under these circumstances, the language of the FMP (for example, with respect to CDQ allocations) would be in conflict with the statutory language in Section 803. Therefore, this is not a viable alternative.

Under Alternative 2, the entire AI pollock allocation would be funded from the EBS pollock TAC. This option imposes the least amount of potential disruption to the industry, as a whole, and the smallest complication for management. A change in the pollock TAC amount, half way through the year would require publishing the reallocation in the Federal Register for the approximately 35 allocations for Bering Sea pollock (including CDQ).

Pollock is of highest value during the "A" season, when roe is present. The TAC is divided 40/60 between the "A" and "B" seasons respectively. This split also applies to the proposed AI pollock allocation. It appears likely that, even in the initial years of the AI Aleut Corporation allocation, efforts will be made to fully utilize the "A" season allocation. Questions remain about when (if) the "B" season AI share will be fully harvested. Therefore, it appears likely that any rollback of pollock TAC in excess of Aleut Corporation needs, would not occur until after the "A" season has ended (i.e., EBS fishermen will only receive rollbacks in the "B" season). The least complicated way to reallocated the unused ("B" season) AI pollock would be to reallocate it in the final specifications instead of later in the year under a separate reallocation notice. Currently the reallocation would required 3 tables in the final specifications to be updated. The Council would recommend the AI TAC and the harvest specifications could state the A and B season amounts and determine that the B season AI pollock TAC would not be caught and therefore the amount could be reallocated back to the fisheries that funded the AI pollock TAC.

Under Alternative 3, the AI pollock TAC would be funded by equal proportional reductions in all other BSAI fishery allocations. It effects approximately 80 groundfish, 71 groundfish sideboard and 176 CDQ allocations. Under current specification regulations the reallocation would require the ten groundfish allocation tables in the final specifications to be updated.

The timing of the reallocation is extremely significant to the open or closure status of the fishery. Before the reallocation is effective a TAC amount may be reached and could result in unnecessary closures and disruption within the fishing industry. Closure of a fishery allows only maximum retainable amounts or could possibly move a fishery to a prohibited species status. Both of these cases require mandatory discards which pose economic loss to the industry and increase discards. The fisheries that would experience the highest impact under this alternative are the IFQ sablefish, pollock, Pacific cod, Atka mackerel and CDQ fisheries because of their complex allocations. The pollock, Pacific cod and Atka mackerel TACs are further allocated by some or all of the following categories: gear type, processing sector, seasons, critical habitat, and vessel size. The IFQ sablefish and CDQ fisheries have allocations to individuals or groups. Fisheries with complex allocations would be most vulnerable to closures because of smaller quotas that are completely utilized. If a fishery has been closed to directed fishing and then the reallocation to increase TACs occurs, the remaining unharvested TAC may not support a directed fishery and therefore TAC may remain unharvested, representing an economic loss to the industry.

Alternative 3 has an option that exempts the sablefish fishery from original allocation. The sablefish fishery in the BSAI operates under an individual fishing quota (IFQ) program. This program divides the annual sablefish TAC among the individual fishermen with permits to fish for a specified quota of sablefish. The fishermen have considerable discretion about how to fish for their own quota during the course of the year.

Each has a known allocation, and may fish throughout the year at their own pace. The benefits of an IFQ program flow from this certain knowledge about the size of the allocation. If a portion of the sablefish TAC was used to create an AI pollock allocation, with a commitment to return unused quota to the sablefish fishery at some unknown time late in the season, fishermen would lose the ability to plan the harvest of their individual quota during the course of the year. This would reduce the benefits of the IFQ program for sablefish.

Monitoring harvest

Three monitoring and enforcement objectives are considered in this EA/RIR. These are:

- (3.1) Status quo (this option imposes only those monitoring and enforcement requirements that would be required if there were no change in regulation;
- (3.2) "Increased monitoring" alternative. This alternative would have several components (not options). These include: (1) Aleut Corp must let the NMFS Alaska Region know which vessels are authorized by it to fish in the Aleutians, and these vessels must carry documentation showing they have such permission; (2) If a catcher vessel authorized by the Aleut Corp fishes in the Aleutians at any time during a trip, all pollock landed by that vessel when the trip ends will be deemed to be Aleutian Islands pollock and debited against the Aleut Corp. quota; (3) AFA requirements extend to catcher-processors and motherships (this extends AFA level observer and scale requirements to CPs under 60 feet and to unlisted AFA vessels); (4) AI pollock may only be delivered to a shore plant with a catch monitoring control plan; (5) The Aleut Corp. will be responsible for keeping its' harvests and its' agents' harvests within the AI pollock directed fishing allowance; and
- (3.3) "Observer alternative. All the requirements of Alternative 2 would apply; in addition, under Alt 3, all catcher vessels would be required to have 100% observer coverage.

Alternative 1, the status quo alternative, imposes no new monitoring requirements. Vessels under 60 feet in length, and AFA vessels, would only be subject to current regulatory requirements. This imposes not additional costs on industry or managers.

Alternative 2, described above, imposes five new monitoring and enforcement requirements in addition to those described in Alternative 1. These extensions, with estimates of their benefits and costs, are summarized below.

Under the first monitoring and enforcement element for Alternative 2, the Aleut Corporation would be responsible for managing the vessels participating in the AI pollock fishery. This will include determining that the vessel has the appropriate permits and meets the requirements of the statute for participation. The Corporation will also be responsible for notifying NMFS about the identities of eligible vessels, and of changes in the list. The Aleut Corporation will provide a letter to the NMFS Alaska Region with a list of approved vessels enclosed before the beginning of the fishery. The Aleut Corp will be required to provide each approved vessel with a letter of authorization for participation in the AI pollock fishery. Vessels will be prohibited from fishing for pollock in the AI unless they have a valid, authorized letter on board. It will be the responsibility of the vessel owner/operator to ensure their authorization is valid before fishing.

Monitoring and enforcement will be facilitated if NMFS knows, in advance, which vessels are authorized to fish for pollock in the Aleutian Islands, and which are not. Requiring vessels to carry documentation stating that they have Aleut Corporation authorization to fish for pollock in the Aleutian Islands will facilitate the efforts of USCG enforcement boarding efforts. Additionally, enforcement agents who are tracking VMS data will have information on which vessels harvesting pollock are allowed to fish within the Aleutian

Islands. These measures would be of some benefit to the Aleut Corporation, as it would facilitate NMFS identification of vessels fishing for pollock without Aleut Corporation authorization.

Current plans involve imposing two regulatory obligations on the Aleut Corp. It must notify the NMFS Alaska Region of vessels authorized to fish in the AI pollock fishery prior to entry by those vessels into the fishery, and it must provide those vessels with documentation that they can carry, indicating that they have been authorized to participate in this fishery. NMFS will incur costs for collecting data and processing the paperwork. Aleut Corporation costs to notify NMFS and provide documentation to vessels are expected to be relatively small. NMFS estimates that these will be under $200. Most of the cost will be labor costs associated with preparing the letters. The information for these should be available to the Corporation following its negotiations with its affiliated fishing firms.

The second monitoring and enforcement element would ascribe all pollock catch for a trip to the Aleutian Island's quota if a catcher vessel was present in both the Bering Sea and the Aleutian Islands areas on the same trip. As described in Statute, the Aleut Corporation may choose to contract with AFA vessels to harvest part of their allocation. By definition, these vessels would also be able to harvest pollock in the Bering Sea. Catcher vessels that participate in these fisheries may mix multiple hauls in recirculating salt water tanks for transport back to the plant where the fish are processed. Under these circumstances, if a catcher vessel chose to fish in both the Bering Sea and the Aleutian Islands on the same trip, it would be very difficult for managers to deduct fish from the proper quota. Furthermore, vessel operators may have incentives to misreport the portion of fish harvested in each area, and these circumstances may be difficult to track and enforce. For these reasons, if a catcher vessel enters the Aleutian Islands area at any time during a trip, all of the catch will be attributed to the Aleutian Islands quota. Because all catch is 100 percent observed and weighed at-sea, AFA catcher processors and motherships would be allowed to harvest Bering Sea and Aleutian Islands quota on the same trip. Compliance with this requirement should not present a significant operational or economic burden to participating catcher vessels, and is a reasonable requirement on the part of the Agency to assure attainment of conservation and management objectives.

Many of the vessels that will be authorized to fish for the Aleut Corporation also have authority to fish for AFA pollock in the EBS. This may make it difficult to determine whether fish delivered by a vessel were harvested under AFA or Aleut Corporation authority. Vessels may have an incentive to misstate the origins of their fish under certain conditions. On AFA catcher-processors, every haul is observed, all catch is weighed by approved flow scales, a motion compensated platform scale is available for the exclusive use of the observer, and each vessel is required to have an approved observer sampling station. Catcher vessels do not have these controls. Therefore, this measure would extend only to catcher vessels, and would provide the necessary control over harvests inside and outside of the Aleutian Islands area. Similar provisions are used for similar reasons in the CDQ program.

Catcher vessels, that may have been fishing for pollock in the GOA or EBS before entering the AI to fish for Aleut Corporation pollock will have to put into port and offload their product before entering the Aleutians, or risk having all their catch charged against the Aleut allocation. Similarly, vessels fishing in the Aleutian Islands fishery will have to offload any Aleutian Islands fish before entering the AFA fishery.

The third element would extend the scale, sampling station, and observer coverage requirements to all catcher processors and motherships. Observer and catch weighing requirements for AFA-listed catcher processors apply, whenever the vessel is fishing for groundfish off Alaska. However, catcher processors less than 60 feet, and the Ocean Peace (the only unlisted AFA vessel catcher processor) are not required to meet these requirements when fishing for non-AFA pollock. However, at this time, there are no trawl vessels under 60' capable of processing at-sea and endorsed to do so. Thus, NMFS does not anticipate that these regulations

will have any additional impact except to the extent that the Ocean Peace voluntarily chooses to participate in this fishery.

The use of at-sea scales and observer work stations in the pollock fishery gives NMFS and the industry accurate and reliable catch data. AFA-listed catcher processors and motherships must currently weigh all groundfish caught off Alaska. Unlisted AFA vessels and CPs under 60 feet are not required by regulation to have the same monitoring measures as AFA listed CPs. On AFA catcher-processors, every haul is observed, all catch is weight by approved flow scales, a motion compensated platform scale is available for the exclusive use of the observer, and each vessel is required to have an approved observer sampling station. Since an unlisted AFA CP, or any CP under 60 feet LOA that processes at sea, has reduced observer coverage requirements, and may offload at sea, there is no way to determine if product is from the EBS or the AI. By requiring these AFA equivalent monitoring measures on CPs under 60 feet, and unlisted AFA vessels, managers have the ability to account for catch. This creates a more enforceable program.

Any CP under 60 feet or unlisted AFA vessel seeking to participate in the AI pollock fishery must ensure every haul is observed, all catch is weight by approved flow scales, a motion compensated platform scale is available for the exclusive use of the observer, and each vessel is required to have an approved observer sampling station. This will impose costs in the form of equipment acquisition and maintenance, observer coverage, and factory modifications. There would also be additional paperwork and reporting requirements. NMFS will incur costs as it must approve the scales and observer sampling station. However, NMFS does not anticipate that any of these vessels will participate in this fishery.

The fourth element would require all fish harvested in the Aleutian Islands to be delivered to a shoreside processor or stationary floating processor which is operating under an approved catch monitoring and control plan (CMCP). All shoreside or stationary floating processors which process AFA pollock are required to operate under an approved CMCP (see 50 CFR 679.28). This element extends this requirement to any shoreside or stationary floating processor that process pollock harvested in the Aleutian Islands. Each CMCP would be required to address a variety of performance standards. NMFS anticipates that this alternative would extend these requirements to one additional facility.

Currently, a processor accepting deliveries of AFA pollock must have a CMCP approved by NMFS. The regulations provide minimum requirements for the CMCP, including an observer sampling station, an MCP for the observer, and a plan for communicating with the observer. The onus is on the plant to develop a CMCP within the published guidelines. NMFS approves the CMCP. This plan ensures that deliveries can be effectively monitored and that delivery weights will be accurately reported. These plans also help ensure more accurate and reliable reporting by the processor and enable NMFS and the industry to more efficiently resolve reporting discrepancies.

Paperwork Reduction Act (PRA) estimates of the cost of creating a new CMCP are $8,000 for the firm and $1,000 for NMFS. Subsequently, CMCPs must be modified as changes are made in plant operations or layout. Costs associated with a modification of a plan would be less than the costs of creating the original. One processing firm in Adak is expected to incur these costs. Additionally, the plant would be required to incur equipment costs and any costs that may result from changes to the plant in the course of complying with CMCP guidelines. Depending on the layout of the existing plant, modifications to the catch-weighing system, the observer work area, or the layout of the plant could be necessary. These costs are difficult to predict but would probably range between $10,000 and $70,000.

The fifth element will place responsibility on the Aleut Corporation for not catching more pollock than are allowed under the AI pollock directed fishing allowance. The Corporation would be subject to fines if it or

its agents exceeded the DFA. The monitoring procedures discussed under this alternative would allow NMFS to monitor compliance.

This provision should improve control of harvest, and reducing the potential of exceeding the AI pollock DFA. The Aleut Corp. or its agents will contract with fishing operations to harvest and deliver pollock. The Corp., or its agents, will be in a position to monitor catches almost as they occur. The Corp. will have the ability to slow harvests as the directed fishery allocation is approached, and to end harvests when it has been reached. Penalties for overage will give the Corp. or its agents an incentive not to exceed the DFA. NMFS will continue to monitor catches and deliveries through its normal monitoring systems.

Costs appear to be minimal. This approach makes use of catch and delivery monitoring procedures that would be undertaken by the Aleut Corp, its agents, and NMFS.

Alternative 3: additional observer coverage

Under Alternative 3, catcher vessels would be required to carry 100% observer coverage. NMFS commonly uses an estimated daily contract rate of $355/observer to estimate private observer costs. This cost estimate includes $30 per day towards travel expenses, but doesn't include an estimated $15/day for food provided by the vessel. In addition, these fishing operations incur economic and operational impacts that are not directly reflected in the money they must spend on observer coverage. For example, fishing vessel operators may have to alter their sailing plans and schedules to pick up or drop off observers; the observers take up limited (and valuable) space on vessels which (especially in the class of vessels under 60 feet) may be at a premium. That is, provisions must be made to accommodate the necessary work of the observer on deck (e.g., observing gear setting and retrieval, recording and sampling of catch and bycatch). The observer also occupies "living space" aboard, which otherwise could have housed additional crew members. These operational impacts may be reflected in both increased operating expenses and reduced harvests and revenues. It is not possible, with available information, to quantify these effects, but they may represent a substantial additional cost of operation for this smallest class of vessels.

The discussion above was predicated on a set of costs that reflect experience in the current 100% and 30% observed fleets. There are a number of reasons to believe that the costs of supplying certified observers to the small boat fleet (which, as noted, has heretofore been exempted from observer coverage requirements) will be higher, on average, than the costs of supplying observers to the larger vessel fleet. These may include, among others:

- Observers are likely to find the working and living conditions more difficult on the smaller boats; they will have fewer amenities, more restricted living and working space, and may not be as safe as when assigned to larger vessels. Wages may have to be higher to continue to attract sufficient numbers of qualified observers to meet the new demand associated with extending coverage requirements to this segment of the industry. These higher wage costs (should they emerge) are not reflected in the present estimates.
- Moreover, the logistical expenses are likely to be higher to supply observers for these small boats. Small vessels are expected to be operating out of the port of Adak. Adak is remote and transportation costs to and from Adak are high, making it more expensive to get the observers to their assigned vessels
- Smaller vessels tend to take shorter (but more frequent) trips than their larger counterparts, in these fisheries. This means that observers will spend more time transferring between operations (and perhaps locations), as each deployment is made for a shorter "trip" duration. The logistical and transportation costs are thus likely to be higher, per unit observer coverage, than under present conditions.

- It may be harder for observer provider companies to supply observers to small operations in a timely manner; thus, fishermen may lose fishing time and revenues due to an inability to obtain the required observer coverage.
- Costs for the vessel associated with carrying an observer may be high. Smaller vessels have less living space and working space than larger vessels. A vessel that is required to carry an observer may find that it must displace a crew member in order to accommodate the observer. This may increase the amount of work for each remaining crew member, lower the overall productivity of the vessel, and ultimately, lengthen the trip.

A further consideration is that the Council has never before required observer coverage on vessels less than 60 feet in length. This action would establish a precedent, and impose observer coverage requirements (and costs) on the AI pollock fleet that are not imposed on other vessels under 60 feet fishing elsewhere in the GOA and BSAI.

The benefit of the observer coverage requirement is the improvement in the monitoring of fishing vessel harvests at sea. Under the status quo, and Alternative 2, the only catch data for unobserved catcher vessels will be the landings records prepared when the catcher vessel delivers to a shoreside plant, mothership, or catcher processor. These records may differ from actual catches by the amounts of discards or unreported events (e.g., gear loss, bird or marine mammal strikes). By placing an observer on these vessels, fisheries managers may verify at-sea discards as reporting on the fish ticket, obtain additional biological sampling, and monitor marine mammal and seabird interactions.

This may not be a large potential benefit in this fishery. Pollock fishing is a "clean" fishery with relatively small amounts of incidental catch. Pollock fishermen tend not to routinely discard fish at sea (historically, <2% of total catch), although intermittent discards undoubtedly take place. These vessels will, in addition, operate under all prevailing regulations, including IR/IU, which "prohibits" discarding of pollock and Pacific cod). However, under these conditions, the value of the information on discards and unreported events may not be large.

Delay entry of small vessels

The proposed action would ban participation of vessels less than 60 feet LOA from participating in this fishery for two or five years. The "no action" alternative is to not put any restriction on small vessel activity into the FMP.

The proposed amendments to the BSAI FMP and regulations are meant to provide a framework within which an allocation of AI pollock may be given to the Aleut Corporation. It may be that elements of the framework can be put in place faster for AFA catcher-processors and motherships than for catcher vessels under 60 feet. For example, under monitoring and enforcement Alternative 2, shoreside plants accepting pollock deliveries must have a catch monitoring and control plan in place. Given the short time frame for this action, it may not be possible to accomplish that by January 2005.

The Aleut Corporation is planning to provide fishing opportunities in 2005, to catcher vessels under 60 feet LOA, if the fishery is opened that year. The boats that would fish are most likely vessels that are currently fishing for Pacific cod in the area. A provision in the FMP that explicitly delays the entry of small vessels for from two to five years, until monitoring and management issues unique to this class of vessel are resolved, may impose some cost on the Aleut Corporation and those small vessels in a position to enter the fishery.

It seems likely that the gains from this provision to delay entry of vessels under 60 feet LOA could be small. The provisions that may prevent small vessels from fishing are those in Alternatives 2 and 3 under the decision on monitoring. These impose conditions on the fishery that parties can either meet or not meet. If a plant with a catch monitoring or control plan is required, but not available, small vessels would not be able to make landings. They would be prevented from making these landings whether or not the FMP contained language that prevented them from entering the fishery. If small vessels were required to carry observers under Alternative 3, they could not participate in the fishery unless they had observers. Again, this would not depend on provisions in the FMP. In both of these instances, AFA vessels that met the conditions applicable to their class of vessel could participate in the fishery, even if the smaller vessels could not.

The action alternative appears to impose costs without creating benefits.

Reporting requirement

Section 803(d) states that the allocation is "...for the purposes of economic development in Adak, Alaska..." The Council's February 2004 motion, under the heading "Economic Development Mandate" requests the evaluation of an option to "Require an annual report to the Council along the lines of CDQ reports."[5] The purpose of such a report would be to allow the Council to monitor the Aleut Corporation's use of their allocation, to assure it is used to promote the economic development of Adak. Three alternatives are considered in the RIR: (1) no reporting requirement, (2) require an annual report with no confidential information, (3) require an annual report with elements equivalent to the reports provided by CDQ groups.

The clearest benefit of a reporting requirement would be the contribution it would make to insuring the advancement of Congresses' distributional goals in making this allocation. The pollock allocation to the Aleut Corporation may be thought of as a lump sum grant to the Corporation for the purpose of the economic development of Adak. This grant will change the constraints faced by the corporation, and may change its allocation of resources. The possibility exists that the corporation may misuse the allocation, by utilizing resulting revenues for purposes unrelated to the development of Adak. To the extent that these are possibilities, and to the extent that monitoring by the Council can detect potential problems, this requirement might help advance Congresses' distributional objectives.

However the Council is not under any legal obligation to monitor the Aleut Corporation's use of the allocation to promote Adak development. It is uncertain that the Council has the "authority" to closely monitor and regulate the details of the Corporation's use of these funds. Moreover, the Aleut Corporation has made a significant commitment and investment in the economic development of Adak. It's subsidiary, the Aleut Enterprise Corporation, was formed to manage the corporation's business development projects in Adak. This suggests a congruence of interest between Congress and the Corporation with respect to community development goals and objectives.

Finally the "economic development" purpose of the Aleut Corporation "is very broad and could encompass almost any activity funded or undertaken by the Aleut Corporation in or for Adak. Allocations would not necessarily have to be used to generate income for the Aleut Corporation, or result in investments or payment of ongoing operating costs. For example, allocation may be made to owners and operators of vessels under 60 feet in overall length at concessionary terms in order to encourage them to deliver to, or homeport their vessels in Adak. The Corporation may choose to provide Aleutian Island pollock grants to crew members or skippers who choose to live in Adak, or enroll their children in local schools, in order to encourage the

[5]Section 803 and the Council's motion may be found in Appendices A.1 and A.3.

development of a community there. A reporting requirement that sought to be definitive, would have to be extremely comprehensive.

The two action alternatives, reporting non-confidential information, and CDQ-style reporting, would impose costs of the Aleut Corporation and on the Council and NMFS. It probably would take a limited amount of effort for the Aleut Corporation to provide a general description of how it was using the pollock allocation for economic development in Adak. In fact, the corporation probably would have to provide such a general descriptive document for its own use in informing board members and shareholders in the existing annual report process for the corporation itself. A general report to the Council would not add to the administrative cost for NMFS to administer the AI pollock allocation, because the report would not be submitted to NMFS and NMFS would not have oversight responsibilities for the economic development aspects of the allocation to the Aleut Corporation. The Council would incur limited costs associated with receiving, photocopying, and allocating time during a Council meeting to address the annual report.

Alternative 3 requires reports from the Aleut Corporation similar in scope to those required from CDQ groups. Section 4.6 of the EA provides a description of the elements one might expect in a report of this scope. This alternative would provide the highest level of monitoring of whether the Aleut Corporation was using the AI pollock allocation in a manner the Council judged to be consistent with the requirements of the statute. However, it also would be the most costly option to the Aleut Corporation, its affiliated business partners, and NMFS.

Regulatory Flexibility Act considerations

The Regulatory Flexibility Act (RFA) was passed in 1980, and substantially amended in 1996. The purpose of the act is to require agencies to consider the impacts of their actions on small entities. The Small Business Administration (SBA) guidelines for the implementation of the act state:

> "The Regulatory Flexibility Act...requires agencies to consider the impact of their regulatory proposals on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The RFA applies to a wide range of entities, including small businesses, small not-for-profit organizations, and small governmental jurisdictions." (SBA, 2003, page 1)

SBA's RFA guidelines state that:

> "If, after conducting an analysis for a proposed or final rule, an agency determines that a rule will not have a significant economic impact on a substantial number of small entities, section 605(b) provides that the head of the agency may so certify. The certification must include a statement providing the *factual* basis for this determination, and the certification may be published in the *Federal Register* at the time the proposed or final rule is published for public comment." (SBA, 2003, page 8)

NMFS has conducted a preliminary examination of the probable implications of the proposed FMP amendment for small entities, and has found that it will not have a "significant economic impact on a substantial number of small entities..." Appendix A5 reviews the factual basis for this conclusion.

Section 803(a) of the Consolidated Appropriations Act of 2004 (CAA) requires that "Effective January 1, 2004 and thereafter, the directed fishery for pollock in the Aleutian Islands Subarea (AI) of the BSAI ...shall be allocated to the Aleut Corporation...Except with the permission of the Aleut Corporation or its authorized

agent, the fishing or processing of any part of such allocation shall be prohibited by Section 307 of the Magnuson-Stevens Fishery Conservation and Management Act..."

For the purposes of the RFA, the Aleut Corporation is best characterized as a holding company. A holding company is "... a company that usually confines its activities to owning stock in and supervising management of other companies. A holding company usually owns a controlling interest in the companies whose stock it holds."[6] The Aleut Corporation carries out most of its significant activities through a variety of other companies whose stock it holds. These include the Aleut Enterprise Corporation, the Adak Reuse Corporation, SMI International Corporation, Tekstar, Inc, Akima Corporation, Aleut Real Estate L..L.C., and the Alaska Trust Company. (Aleut Corp Annual Report, pages 29-30).

The Aleut Corporation is a large holding company entity under the SBA criteria. Aleut Corporation revenues ranged from about $72 million in 2001 to about $49 million in 2003. SBA small entity criteria at 13 CFR 121.201 provide a small entity threshold for "Offices of Other Holding Companies" of $6 million.[7] [8]

The vessels used to fish for the subject pollock allocation are expected to "co-op" with the Aleut Corp. (since the latter is responsible for dispersing the component shares of the block allocation to individual local fishing operation). If that is approximately the structural organization, then all those vessels "allocated" a working share of the Aleut Corp.'s TAC are "affiliates" of the larger group and are not "small entities", themselves, for RFA purposes. Under SBA guidelines, entities affiliated with large entities are considered large entities for the purpose of an RFA analysis. This criterion means that entities which contract with the Aleut Corporation to harvest or process its allocation of AI pollock are large entities within the meaning of the RFA. Thus the vessels under 60 feet and the AFA vessels that fish this allocation on behalf of the Aleut Corporation must be considered "affiliates," and thus large entities within the meaning of the RFA.

The decisions identified as (1), (3), (4), and (5) in Section 2.1 (allocation size, monitoring, delay vessels < 60 feet, reporting) of the EA are only expected to directly regulate entities which would harvest or process the Aleut Corporation allocation of AI pollock. Since, as noted above, these entities are affiliated with the Aleut Corporation, they are all considered large within the meaning of the RFA. Thus, these FMP decisions will not affect any directly regulated small entities. It is NOAA Fisheries' policy that only adverse impacts accruing to "directly regulated" entities, as a result of an action, are appropriately the subject of the RFA. (The RIR, however, treats all economic and socioeconomic impacts, whether direct, indirect, or tangential, without regard to entity size.)

Council decision (2) will establish a "mechanism" by which the AI allocation is "funded," in order that it be contained under the 2 million ton total BSAI groundfish OY. This action will not actually reapportion the various TACs to fund AI pollock. It will simply establish the process by which subsequent action in the annual specifications process will apportion the 2 million ton OY.

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[6](Definition accessed at http://www.incorporating-online.org/Definition-holding-company.html on February 25, 2004).

[7]This is sector NIACS Subsector 551, NIACS code 551112. "Other" holding companies is in contrast to "Offices of Bank Holding Companies." 13 CFR 120.201 accessed at http://www.blm.gov/nhp/news/regulatory/CFR/13CFR121.201.html on February 25, 2004.

[8]Section 803 "requires" the Aleut Corp. to contract with AFA boats to harvest some (or all, initially) of the pollock allocation. Once they enter into a cooperative agreement, that "entity" is large (i.e., because all its AFA partners are "large", as documented in AFA, and the Aleut Corporation is "large" by affiliation).

The potential "direct effects" on small entities, attributable to funding the AI pollock allocation will be treated during the annual specifications process, an action which always contains an IRFA. This is appropriate, because it is not until the specifications are set that any adverse impacts may actually be "defined" (i.e., TAC shares allocated). The AI Pollock proposed action imposes "no" adverse impacts on any entity, large or small. Rather, it establishes a "process" which will be followed by the Council and NMFS when setting the species/fishery TACs, at which time all attributable impacts to small entities will be assessed, as required by RFA.

To illustrate the point, note that the Council is free to set the TAC at zero, or any number above zero (presumably up to the AI pollock ABC), according to the legislation. If it selects zero, no TAC will be allocated from other fisheries, and there clearly are "no significant adverse effects on a substantial number of small entities." If it selects some "non-zero", but very small TAC (which is within its purview), say 100 mt, there clearly are "no significant adverse impacts...". This logic extends continuously until some, as yet undefined, point at which an amount of AI TAC "does" create a "significant adverse impact..." (unless the funding source is EBS pollock, wherein there are no small entities). However, it is the "setting" of all the annual TACs (AI pollock and its funding sources), and not the mechanism "for" setting, which will result in those impacts, and permit an analysis which has the potential to identify the likely number, distribution, and attributes of the entities impacted. The Council won't actually "set" the TAC amounts until it has the recommended ABCs for the coming fishing year.

Note on maps

Many of the maps in this EA/RIR show the location of catch with vertical bars. The bars provide a measure of the absolute volume of target species catch taken in a location. A higher bar means that a larger volume of pollock was taken from that location during the period covered by the map. A legend on the left hand side of each map makes it possible to obtain a rough estimate of the volume of the target species catch indicated by any specific bar. The legend contains a bar of a certain length, with a number to the left of its base. The bars and numbers in the legend provide a scale with which to measure the metric tonnage represented by the bars in the map. A hypothetical legend bar may have a height of an inch and the number 1,000 to the left of its base. This means that a distance of an inch, measured against any of the bars in the map, represents a catch volume of 1,000 mt. A bar on the map that was two inches high would represent a catch of 2,000 mt; a bar of a half inch would represent a catch of 500 mt. These bars perform the same function for volume of catch that a normal distance scale (for example 100 miles per inch) performs for distance on a map. The program that generates the maps creates a unique volume scale for the legend of each map. The program finds the tallest bar on the map (representing the largest volume of catch). This bar becomes the standard for the legend. The program draws a bar in the legend equal in distance to half the height of the tallest bar. The number to the left of the base of the legend bar is set equal to half the volume represented by this tallest bar.

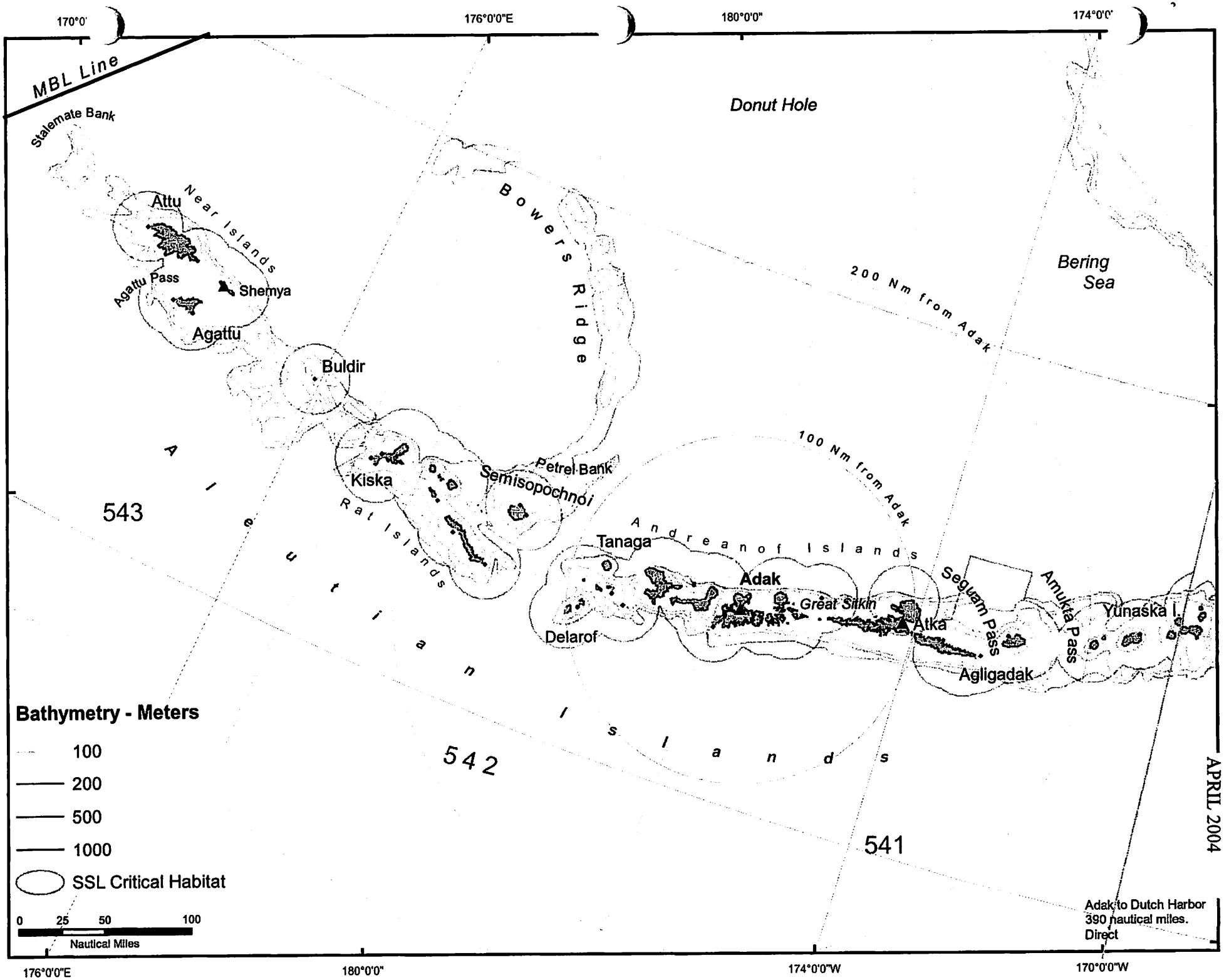
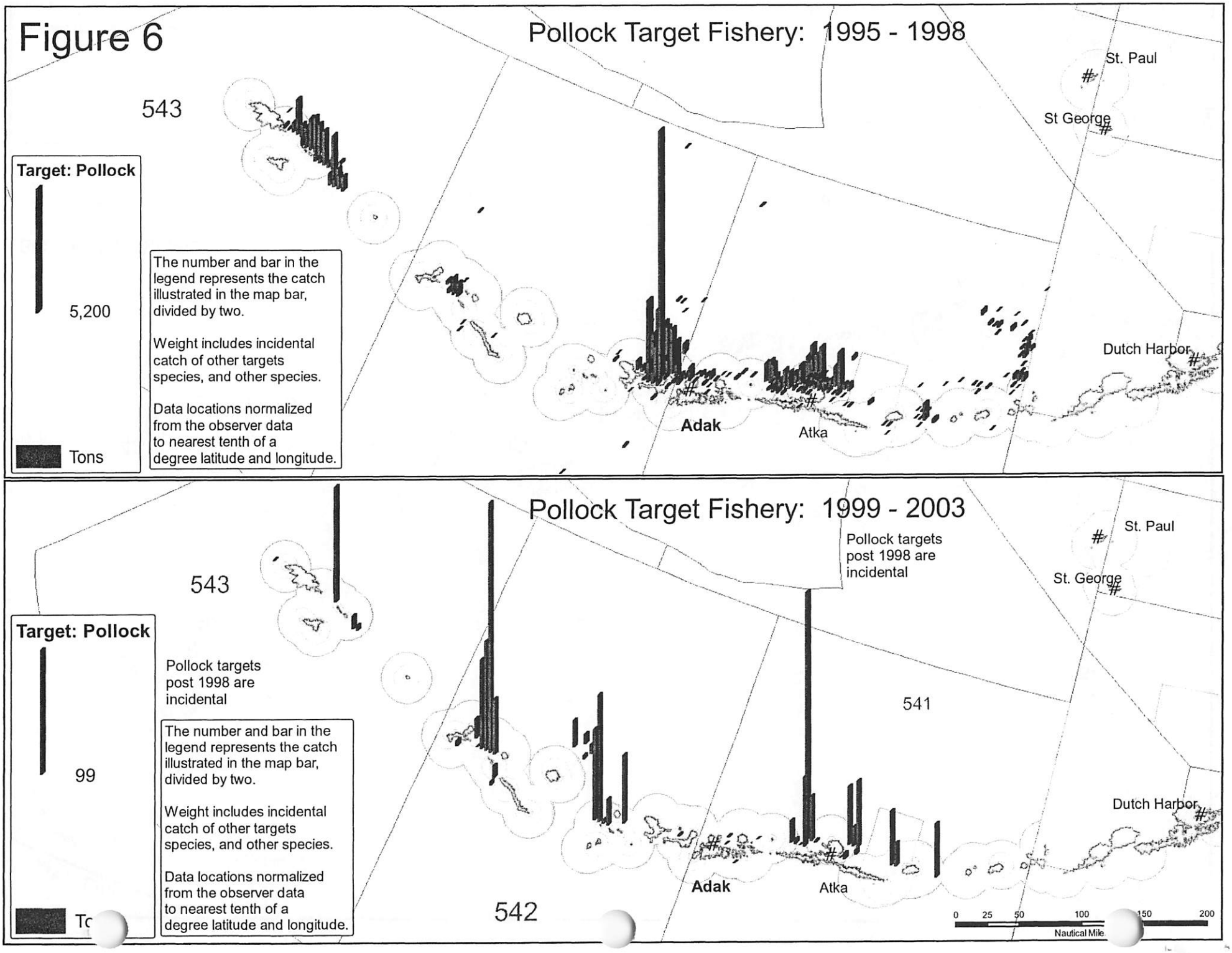
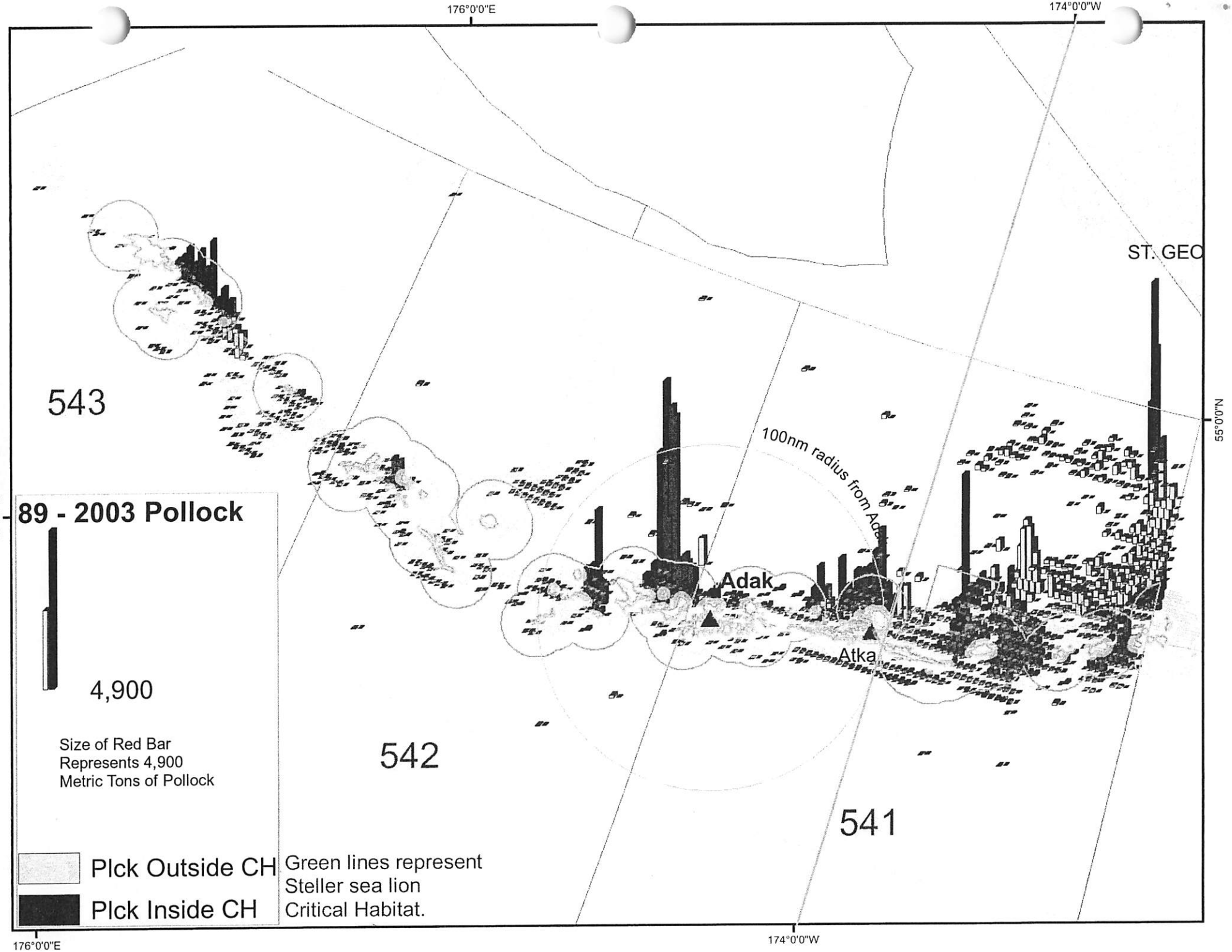

170°0'
176°0'0"E
180°0'0"
174°0'0"
MBL Line
Stalemate Bank
Donut Hole
Attu
Near Islands
Bowers Ridge
Agattu Pass
Shemya
Agattu
Buldir
200 Nm from Adak
Bering Sea
Kiska
Semisopochnoi
Petrel Bank
100 Nm from Adak
Rat Islands
Andreanof Islands
Tanaga
Adak
Great Sitkin
Seguam Pass
Amukta Pass
Yunaska I.
Atka
Delarof
Agligadak
543
542
541
Aleutian Islands
50°0'0"N
N.0.0.55
Bathymetry - Meters
100
200
500
1000
SSL Critical Habitat
0 25 50 100
Nautical Miles
Adak to Dutch Harbor
390 nautical miles.
Direct
176°0'0"E
180°0'0"
174°0'0"W
170°0'0"W
AGENDA C-3(d)
APRIL 2004

Figure 6


Pollock Target Fishery: 1995 - 1998
543
Target: Pollock
5,200
Tons
The number and bar in the legend represents the catch illustrated in the map bar, divided by two.
Weight includes incidental catch of other targets species, and other species.
Data locations normalized from the observer data to nearest tenth of a degree latitude and longitude.
St. Paul
St George
Dutch Harbor
Adak
Atka
Pollock Target Fishery: 1999 - 2003
Pollock targets post 1998 are incidental
543
Target: Pollock
99
Pollock targets post 1998 are incidental
The number and bar in the legend represents the catch illustrated in the map bar, divided by two.
Weight includes incidental catch of other targets species, and other species.
Data locations normalized from the observer data to nearest tenth of a degree latitude and longitude.
St. Paul
St. George
541
Dutch Harbor
Adak
Atka
542
0 25 50 100 150 200
Nautical Mile


176°0'0"E
174°0'0"W
ST. GEO
543
100nm radius from Ada
55°0'0"N
50°0'0"N
89 - 2003 Pollock
Adak
Atka
4,900
Size of Red Bar
Represents 4,900
Metric Tons of Pollock
542
541
Plck Outside CH
Plck Inside CH
Green lines represent
Steller sea lion
Critical Habitat.
176°0'0"E
174°0'0"W

Public Testimony Sign-Up Sheet

and

Other Handouts Received

PUBLIC TESTIMONY SIGN-UP SHEET FOR AGENDA ITEM C-3 A1 Pollock

	NAME (PLEASE PRINT)	AFFILIATION
1 X	Beth Stewart	AEB
2 X	TERRY LEITZELL	ICICLE 3
3 X	BRENT PAINE	UCB
4 X	ED LUTTRELL / LORI SWANSON	GFF
5 X	Joe Childers Childers	WEGOAF
6 X	Glen Tillion	Aleut Enterprise Corp (3)
7 X	Donna Parker	HSCC
8 X	PAUL MACGREGOR	APA
9 X	GERRY MERRIGAN & Thorn Smith	Prowler Fisheries 3
10 X	Ken Tippett	Ak. Vsual Co 3
11 X	SANDRA MOLLER	ALEUT ENTERPRISE CORP. (6)
12 X	MARCUS ALOOR	Westward Fishing Co 3
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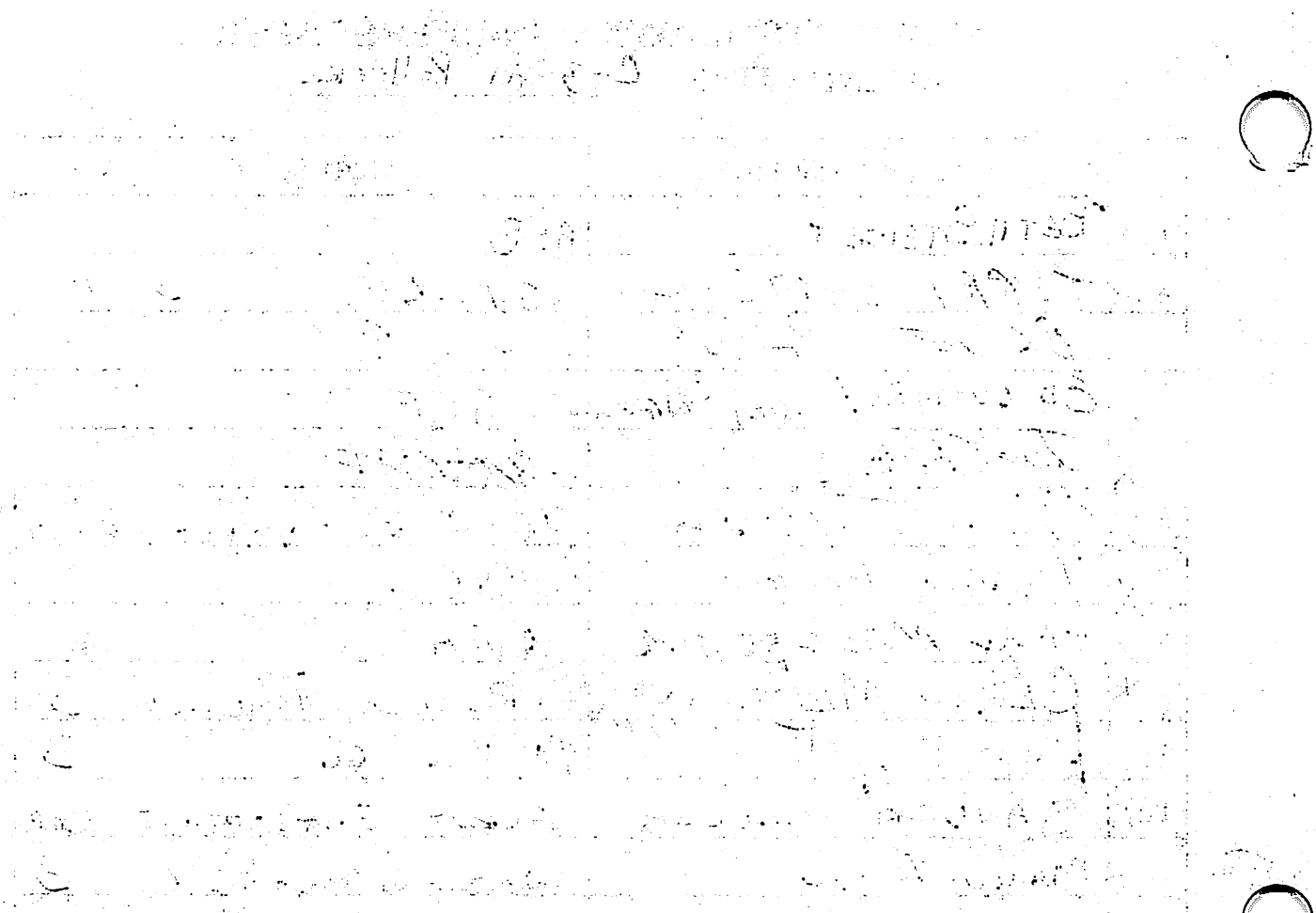
NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person " to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.



Handout C-3
4/1/04 3pm

Aleutian Islands Pollock
Agenda C-3

North Pacific Fishery Management Council

April 2004

1

Overview

- Review statute and Council's February motion
- Discuss issues identified during the analysis
- Review conclusions of the NEPA, E.O. 12866, and RFA analysis
- Overview of the implementation process

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The Statute, and the Council's February motion

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The Statute

- Section 803 of the January appropriations rider
- Required allocation of future AI pollock DFA to Aleut Corp
- To be fished by vessels of two types
  - Vessels under 60 feet with endorsements
  - AFA
- Purpose: economic development of Adak

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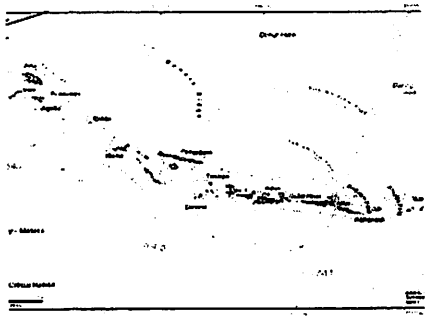

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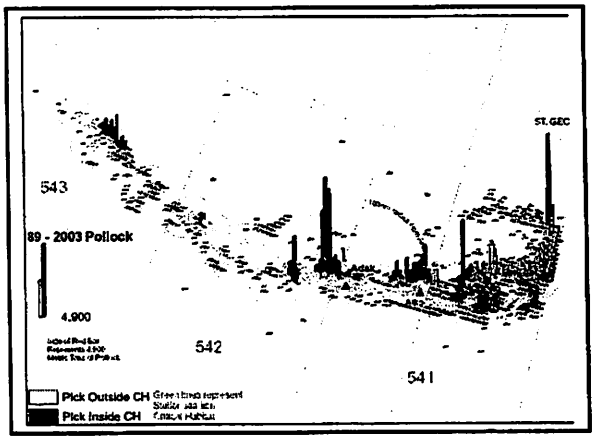

Stevens' Floor Language

- Section 206 of AFA is redefined so that allocations in Section 206(b) should only apply to the Bering Sea portion of the directed pollock fishery
- Authorization to exceed the OY cap in 2004-2008 may not result in overfishing
- Such authorization should not adversely affect current participants in the Bering Sea pollock fishery in the near term

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Stevens' Floor Language (cont'd)

- Future pollock allocation to Aleut Corp to be within OY cap by taking proportional reductions in TAC for each existing groundfish fishery
- Council should consider pollock allocations to CDQ groups to determine reasonable TAC apportionments to the Aleut Corp
- In no case should this amount exceed 40,000 mt

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Stevens' Floor Language (cont'd)

- "Nothing in this section requires the North Pacific Council to open the AI pollock fishery"
- The Council should not take any action that would require a new ESA Section 7 consultation on Steller sea lions

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The Council's February 2004 Motion

- Amendment to the BSAI FMP for an AI pollock fishery
- Fishery must be in compliance with all applicable law and not be disruptive to existing fisheries to the extent practicable
- Avoid taking any action that would result in an adverse effect requiring formal consultation under the ESA

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Council Motion (cont'd)

- Development of FMP amendment to be on a schedule that addressed above issues
- Draft EA/RIR/IRFA for FMP amendment at April Council meeting
- To the extent possible, FMP amendment schedule should mesh with the normal specifications process for a fishery to occur in 2005

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Council Motion - Decisions

- Initial allocation amount
- OY cap and allocation of unutilized pollock allocation
- Use of the B season allocation
- Small vessels
- Economic development mandate
- Monitoring vessel activity
- Safety and efficiency of small vessel operations

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Council Motion - Initial Allocation

- Consider allocations given to CDQ groups as guidance for determining Aleut Corp allocation
- In no case should this exceed 40,000 mt

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Council Motion - OY Cap and Unutilized Pollock Allocation

- AI fishery allocation shall be within the OY cap
- Option 1 - fund by reducing EBS pollock TAC
- Unused AI fishery pollock rolls back to EBS pollock fishery at the earliest time possible

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Council Motion - OY Cap and Unutilized Pollock Allocation

- Option 2 - fund by taking proportional reductions in TACs for existing groundfish fisheries in BSAI
- Unused AI fishery pollock rolls back to BSAI groundfish fisheries on pro-rata basis at the earliest time possible
- Option 2a - Exempt BSAI sablefish IFQ fishery from option 2

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Council Motion - Use of B Season Allocation

- Maintain current 40%/60% A/B season apportionment requirement
- Unutilized B season TAC addressed above

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Council Motion - Small Vessels

- Option 1 - provide for small vessel to fish starting in 2005
- Option 2 - defer small vessel participation until a later date 2 or 5 years from now (2004) to allow for development of a management program

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Council Motion - Economic Development Mandate

- Require annual report to the Council considering the CDQ reports as a possible model

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Council Motion - Monitoring Vessel Activity

- Staff to consult with NOAA Enforcement and develop options for Council review
- Mandatory shoreside monitoring

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Council Motion - Safety and Efficiency of Small Vessel Operations

- Option 1 - no change in SSL protection measures
- Option 2 - charge the SSL Mitigation Committee to consider SSL protection measure changes to allow small pollock trawlers to operate more safely and efficiently
- No action will be taken that would result in an adverse effect that would require a formal ESA Section 7 consultation

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Council Excluded:

- Exceeding the BSAI groundfish fishery 2 million mt OY cap
- Taking any action that would trigger a formal Section 7 consultation under the ESA - remanded consideration of SSL protection measure changes to SSL Mitigation Committee on separate track

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Two steps for a 2005 fishery

- **FMP and regulatory amendments**
- Providing a structure within which Aleutian Islands pollock may be allocated to the Aleut Corporation
- **Annual specifications**
- During the annual specifications process, Council determines whether to provide a pollock TAC and how much to provide

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It is important to note

- The current analysis only addresses the first of these steps
- This analysis: The FMP amendment and regulations to create the structure for allocation to the Aleut Corp
- This is not an analysis of actual specifications of pollock DFA

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Five decisions from Council motion

- 1.0 - Allocation size
- 2.0 - Allocation mechanism
- 3.0 - Monitoring vessel activity
- 4.0 - Small vessels
- 5.0 - Economic development report mandate

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1.0 Allocation Size

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Allocation Size

- 1.1 - No action - determine AI pollock fishery TAC amount in normal annual specifications process
- 1.2 - Use CDQ pollock allocations as guidance in apportioning annual AI pollock fishery TAC - do not exceed 40,000 mt

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Alternative 1.1 - no action

- Gives Council latitude to set TAC annually in specs process
- Could set TAC at zero or any amount up to ABC
- Allows for AI pollock fishery TAC to be recommended during industry discussions prior to Council's initial TAC recommendations
- ABC for 2004 is 39,400

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1.2: "Consider" CDQ pollock allocations

- Based on 2004: 1,492,000 mt for EBS
- CDQ averages:
  - 25,000 per group
  - 5.5 per capita
  - 2,300 per community
- Highs (for groups):
  - 36,000 mt/group
  - 18 mt per capita
  - 7,500 mt per community

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1.2: 40,000 mt and Past TACs

- ABCs generally at 100,000 mt and more in 1980s (although catch only approached this level in one year)
- From 1992-1995, ABCs ranged between about 57,000 mt and 59,000 mt
- From 1996-1998, ABCs ranged between about 24,000 mt and 37,000 mt

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1.2: A short run constraint

- Would prevent Council from setting a DFA above 40,000 metric tons, even if the recommended ABC in a year would allow it.
- In longer run, the FMP could be amended to relax, tighten, or eliminate the constraint

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1.2: Based on Sen. Stevens' floor language, not statute

- Doesn't appear to have a biological basis
- Has distributional implications – puts an upper bound on "funding" required from other fleet segments
- Less prescriptive force than statutory language

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2.0 Funding mechanism

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"Funding" mechanism

- 2.1 - No action - no regulatory changes
- 2.2 - "Fund" AI pollock fishery allocation by reducing EBS pollock fishery TAC - roll back unused TAC to EBS fishery asap
- 2.3 - "Fund" AI pollock fishery allocation by proportionally reducing all BSAI groundfish fishery TACs - roll back unused TAC to BSAI fisheries on pro-rata basis asap
- 2.4 - As in 2.3 but exempt BSAI IFQ sablefish fishery

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2.1: No action

- Currently statute requires AI pollock DFA allocation to Aleut Corp.
- Currently FMP doesn't authorize explicit allocation to Aleut Corp.
- FMP requires 10% allocation of BSAI pollock to CDQ
- Not a legally viable alternative

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2.2: From pollock

- Alternative 2.2 - "Fund" the AI pollock fishery by reduction in EBS pollock TAC
- If BS pollock accounts for half of OY, 40k AI allocation is about 4% and 25k is 2.5%
- If BS pollock accounts for ¾ of OY, 40k allocation is about 2.3% and 25k is 1.4%

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2.2: From pollock

- Unused TAC rolls back to EBS pollock fishery
  - May be hard to roll back "A" season pollock
  - Rollback could go to approximately 35 allocations (CDQ, bycatch, AFA categories)
  - Various options: publish reallocation notice, provide rollback in final specifications, rollback through unspecified reserves

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2.3: From "all species"

- Alternative 2.3 - "Fund" the AI pollock fishery by a proportional reduction in all BSAI groundfish fisheries
- If the AI DFA is 40,000 mt, this would mean decreases of about 2% in each TAC; if 25,000 mt, decreases of about 1.25%

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2.3: From "all species"

- Unused TAC rolls back to all BSAI fisheries
- Could go to about 80 groundfish, 71 groundfish sideboard, and 176 CDQ allocations
- Further complicated by other issues: MRA/PSC, allocation to gear and other sectors, allocation to individuals (IFQ)

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2.3: From "all species"

- Some fisheries may be done before any rollback can take place
- For example, Pacific cod trawl, and rock sole
- Rollback to sablefish IFQ fishery would be complicated managerially and to industry
- Various options: publish reallocation notice, provide rollback in final specifications, rollback through unspecified reserves

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2.3: From "all species"

- Rollback through unspecified reserves may make more sense in this case than in relatively simple case of pollock (for instance, it prevents loss of OY reallocated back to fisheries that are closed).

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2.4: From "all except sablefish"

- Alternative 2.4 - "Fund" the AI pollock fishery by a proportional reduction in all BSAI groundfish fisheries excluding IFQ sablefish fishery
- Reduces administrative complexity

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CDQ Apportionment

- Clarify whether CDQ apportionment is taken before or after Aleut Corp deduction
- If before, CDQ does not share in funding deduction; CDQ ends up with higher percentage of BSAI harvests than provided for under current deductions
- If after, CDQ shares in funding and its percentages stay the same

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3.0 Monitoring and enforcement

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Monitoring Vessel Activity

- Alternative 3.1 - Status Quo
  - Existing observer, monitoring, and enforcement program extends to the AI pollock fishery
  - No observers required on <60 ft vessels
  - AFA rules would be in force for AFA C/Ps and motherships in the AI pollock fishery
- Concern over remote fishery with less monitoring than other BSAI pollock fisheries

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Monitoring Vessel Activity

- 3.2 - Increase monitoring by requiring all of the following:
  - a) Aleut Corp must provide NMFS a list of vessels authorized by it - these vessels must carry documentation of this when in AI pollock fishery

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Monitoring Vessel Activity

- b) If a C/V authorized by Aleut Corp fishes in the AI at any time during a trip, all pollock landed by that vessel at trip end will be deemed AI pollock and debited against the Aleut Corp quota
- c) AFA requirements extend to all C/Ps and motherships (AFA observer and scale requirements extend to <60 C/Ps and unlisted AFA vessels)

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Monitoring Vessel Activity

- d) AI pollock may only be delivered to a shoreside processor with a CMCP
- e) The Aleut Corp will be responsible for keeping its and its agents' harvests within the AI pollock directed fishing allowance
- 3.3 - As in 3.2 above plus requirement that all C/Vs have 100% observer coverage

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3.2: NMFS needs to know Aleut Corp partners

- Only certain parties can fish
- Limits of harvest of small vessels and AFA vessels
- NMFS needs to get information on who the Aleut Corp has given permission to fish in order to meet its management responsibilities

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3.2: Confusing AI and AFA Pollock

- AFA vessels may fish in both AFA and AI pollock fisheries.
- When observers are present it is possible to monitor AFA and AI harvest.
- When they are not, it is not possible to monitor
- Enforcement requires a "no mixing" rule for CVs

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3.2: Extending AFA requirements

- Need to extend scale, sampling station, and observer coverage to all catcher processors
- Currently only extended to listed AFA vessels
- This would extend them to CPs under 60 ft (none right now) and the Ocean Peace (only unlisted AFA CP)

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3.2: Catch monitoring and control plan

- Plant must meet standards that facilitate monitoring
- A standard requirement in other pollock fisheries accepting deliveries of pollock from catcher-vessels

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3.2: Importance of Aleut Corp Responsibility for DFA Compliance

- Aleut Corp and its partners will be best positioned to monitor catch and deliveries of pollock in real time
- Need to provide them with incentive to comply with the DFA harvest limits

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4.0 Defer entry of small vessels

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Small Vessels

- 4.1 - No action - no delay in entry of vessels <60 feet LOA
- 4.2 - Delay entry of vessels <60 feet LOA to 2006 or 2009

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Original purpose

- To permit the program to move forward in 2005, even if it were impossible to implement small vessel monitoring and enforcement provisions by that time.

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Costs Without Benefits?

- Currently it appears that requirements for each fleet sector can be implemented independently
- No gain from delaying entry of small vessels
- May unnecessarily delay Aleut Corp. utilization of small vessels

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5.0 Report on economic development

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Economic Development Report Mandate

- 5.1 - No action - do not require a report
- 5.2 - Require an annual report to the Council
- 5.3 - Require an annual report to the Council comparable to CDQ group reports

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Legal Obligation on Council?

- The statute does not impose a legal obligation on the Council or on NMFS to monitor the Aleut Corporation utilization of the pollock allocation
- This is a policy choice by the Council and the Secretary

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Tradeoffs

- May advance Congressional distributional objectives
- Some issues hard to evaluate
- Aleut Corporation objectives may be aligned with those of Congress
- CDQ-level evaluation could be burdensome to Aleut Corp, Council and NMFS

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Elements Not Considered Here

- To break or not to break - the BSAI groundfish 2 million mt OY cap
- To consult or not to consult - under the ESA on Steller sea lion protection measure changes in the AI

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The OY Cap Issue

- Council motion explicitly excludes exceeding the OY cap for "funding" the Aleut Corp AI pollock fishery TAC
- BSAI fisheries fully prescribed, so AI pollock fishery TAC not readily "available"
- Congress has given leeway to exceed cap for 2004-2008
- Some public support for exceeding cap for 2004-2008
- Exceeding cap for 2004-2008 would allow 5 year "grace period" during which BSAI groundfish fisheries might "adjust" to accommodating AI pollock fishery TAC in specs process

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OY Cap Issue (cont'd)

- Council uncomfortable exceeding cap as it deviates from long-standing policy
- AI pollock TAC would be very small, likely 1-2% of BSAI OY, and thus not a significant disruption
- Conservation issue - a safeguard in light of uncertainty over AI pollock stock structure
- Buffer against uncertain catch monitoring
- Maintains policy of conservative harvest levels
- Comports with Council's F40 report and psEIS bookend

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The ESA Consultation Issue

- Council motion explicitly excludes taking action that triggers formal Section 7 consultation over Steller sea lion protection measures
- Council recognized possible small vessel safety and efficiency issues associated with AI pollock fishery
- Remanded to its SSLMC evaluation of possible SSL protection measure changes, but with same caveat
- SSLMC meeting April 26 to address the issue

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Other issues identified in the EA/RIR

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Other Issues

- AI pollock stock structure
- Safety and economic efficiency of small vessels
- Steller sea lion considerations
- PSC issues
- State water and parallel fishery issues

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AI Pollock Stock Structure

- Possibly three BSAI pollock stocks (p. 12-27)
- Some interchange but may be assessed separately
- NMFS stock assessments looking at structure in Aleutian Islands Region stock based on discontinuities in stock distribution from fishery and stock survey data
- Three area "stocks" fall out: NRA west, NRA east, and Basin

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AI Pollock Stock Structure

- New model emerging: separation of the NRA stock at 174 degrees W (Fig 3.2-1, p. 22 and Fig 1.1-1, p. 2)
- Possible management of a Western NRA stock and a stock E of 174 degrees W
- Stock strength in either area may affect future ABCs and TACs
- Area East of 174 may be closed?

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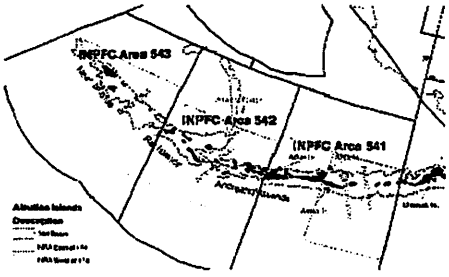

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Small Vessel Safety and Efficiency

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Safety and efficiency

- Most lucrative fishery will take place in the winter when weather is very bad
- SSL protective measures will require this fishery to take place at least 20 nm from shore (with limited exceptions)
- Raises unanswered concerns about ability of vessels under 60 feet to function safely and profitably

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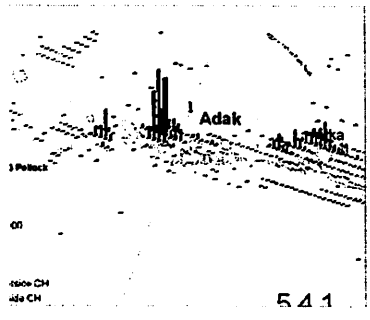

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Safety and efficiency

- This issue has led to interest in ways to modify protection measures so as to allow small vessels to operate more effectively
- SSLMC to address this

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Steller Sea Lions

- Western DPS still declining
- Within this population, western Aleutian Islands group in steepest decline (Buldir to Attu Is.)
- Non-pup counts: 14,011 to 817 (1979-2002)
- Recent (2002) counts show some small increases in some groups, but western AI group continues negative trend (23% decline in 2 years - 2000-2002)
- Heightened concern over causes
- NMFS budget restrictions may restrict SSL research

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PSC Management Issues

- Historic AI pollock fishery (pre-1999 and pre-SSL closure restrictions)
  - Halibut bycatch avg 1.5 kg/100 mt pollock
  - Chinook bycatch avg 2/100 mt pollock
  - Other salmon bycatch avg 2.5/100 mt pollock
  - Bairdi bycatch avg 1/1000 mt pollock
  - High variation in bycatch rates
- Bycatch from AI pollock fishery outside SSL closure areas may be different

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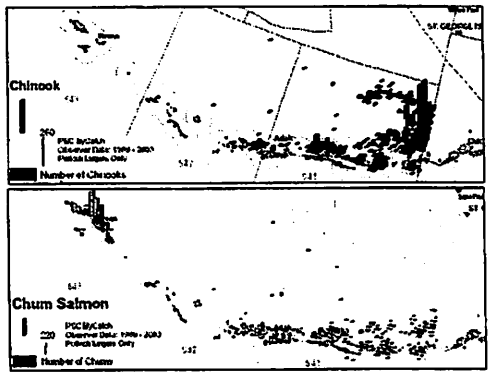

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State Water and Parallel Fisheries

- State waters closed until opened
- Possible State parallel pollock fishery in AI if opened by E.O.?
- Possible future State water fishery in AI?
- State Constitution precludes preferential allocation to one entity
- Result in SSL consultation?

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EA/RIR

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The EA/RIR

- Mailed to Council family March 19
- Supplement to the EA/RIR at this meeting
- Content and analyses:
  - Purpose and need - based on Congressional bill
  - Description of alternatives
  - Affected environment - focused on key elements of the region that may be affected
  - Environmental analysis of each alternative - significance criteria as basis for conclusions
  - Cumulative effects
  - Conclusions

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EA/RIR (cont'd)

- Also included:
  - The RIR
  - Discussion of OY issue and reference to FMP
  - RFA certification
  - Transcript of Council discussions and motion from February meeting
  - Draft FMP and regulatory language changes if action is approved

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Environmental Impacts

- Process:
  - Significance criteria
  - Alternatives analysis
  - Significance of impact conclusions for each element and alternative
  - Cumulative effects

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Environmental Impacts (cont'd)

- Impact assessment considered:
  - The AI pollock stock
  - Other AI target species and fisheries
  - Incidental catch of "other" and non-specified species
  - Incidental catch of forage fish
  - Incidental catch of PSC
  - Steller sea lions
  - Other marine mammals
  - Seabirds
  - Habitat
  - Ecosystem considerations
  - State-managed and parallel fisheries
  - Socio-economic effects

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Environmental Impacts (cont'd)

- No significant adverse effects from proposed action
- Two alternatives were judged to have unknown impacts:
  - Alternative 3.1, monitoring, status quo - because of uncertainty over pollock stock
  - Alternative 3.2, monitoring with enhanced requirements because of uncertainty over costs, net returns, and safety

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Environmental Impacts (cont'd)

- Important to emphasize: this EA examines only the "process" or "framework" within which the Council would manage an AI pollock fishery allocated to the Aleut Corp
- Specific TACs will be separately analyzed in the TAC-setting EA process later this year

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RIR and RFA

- RIR examines the different costs and benefits and distributional implications of the alternatives for each decision
- Reg Flex certification in Appendix A5. IRFA not necessary for this action (FMP Amendment). Certification does not cover specifications.

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Council decisions

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EA/RIR Schedule

- Initial review in this meeting
- EA/RIR revisions, then public review of revised draft EA/RIR (May)
- Council review in June and selection of preferred process for approving Aleut Corp AI pollock DFA and management program
- Draft FMP and regulatory amendments to Council, then Secretary (July)

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EA/RIR Schedule (cont'd)

- Proposed rule (early August)
- Council approval of interim specs (October)
- Final rule effective mid December
- Council final recommendations on harvest specs (December)
- January 20, 2005 AI fishery starts
- Final harvest specs published (Feb-March 2005)

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Council decisions

- **April 2004**: Release EA/RIR for public review (with any modifications the Council considers appropriate)
- **June 2004**: FMP Amendment
- **October 2004**: Interim specifications for AI pollock (contingent on FMP and regulation)
- **December 2004**: recommend final specifications

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RECAP - Decisions Needed

- This meeting - Council review and approval of elements and alternatives
- Any new or revised analyses required?
- Adequate range of alternatives analyzed?
- Staff tasking appropriate for schedule?

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Sources

- "INITIAL REVIEW DRAFT. ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW for Amendment 82 to the BSAI groundfish fishery FMP and regulatory amendments to allow the allocation of future Aleutian Islands pollock specifications to the Aleut Corporation as required by Statute." March 2004. Accessed at http://www.fakr.noaa.gov/analyses/amd82/BSAI82.pdf on March 22, 2004

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For More Information

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Handout C-3
4-1-04 3pm

SUPPLEMENT/ERRATA

FOR DRAFT

ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW

for an Amendment to the BSAI FMP and regulatory amendments to allow the allocation of future Aleutian Islands pollock specifications to the Aleut Corporation as Required by Statute

March 2004

Lead Agency National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Alaska Regional Office
Juneau, Alaska

Responsible Official James W. Balsiger
Regional Administrator
Alaska Regional Office

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Abstract: This document contains supplemental information and replacement text or tables for an Environmental Assessment and a Regulatory Impact Review that analyze the potential impacts of an FMP amendment and regulations to allocate any future Aleutian Islands pollock specifications to the Aleut Corporation, as required by Section 803 of the 2004 Appropriations Act.

Table of Contents

Description of Alternatives

Page 8, under 3.3 "Observer" alternative, the italicized text describes the "implications" of the alternatives 3.1, 3.2, and 3.3. This text should read:

Implications of this action: The Statute allows basically two classes of vessels to participate in the Aleut Corp fishery: vessels 60 ft and smaller LOA, and AFA vessels (which are large catcher, catcher/processor, or mothership vessels). Regardless which vessel class fishes for the Aleut Corp allocation, they would have to follow current regulations for observer coverage and other monitoring and reporting requirements under the "No Action" option. The Council, however, may wish to increase or otherwise change how this fishery is monitored, and under the second alternative there are a suite of elements that would apply (in addition to status quo). These elements are a set of measures that would increase the level of monitoring currently required. These elements are not options but rather are intended to apply collectively to the action should this alternative (3.2) be selected. The first is an enforcement measure - making it easier for enforcement to know if a vessel is either fishing under AFA rules or the rules set forth for this new Aleut Corp fishery. (Note that under current regulations, listed AFA catcher-processors and motherships are under AFA rules in any groundfish fishery.) The second element would enable more accurate catch accounting and would discourage an AFA vessel from fishing for pollock in both the Bering Sea and the AI in the same trip. The third element would enhance catch composition accounting by imposing observer, sampling station, and scale requirements on all C/Ps and unlisted AFA vessels. The fourth element requires shore or stationary floating plants receiving AI pollock to operate under an approved CMCP, thereby enhancing catch accounting at the plant and would not require CMCPs for CVs. The fifth element requires the Aleut Corp to ensure that the AI pollock harvest remains within the quota prescribed; the burden of close monitoring the DFA is placed on the Aleut Corp, which would be subject to penalties if DFAs are exceeded. Alternative 3.3 imposes all elements in 3.2 plus a mandatory 100% observer requirement on all CVs.

Effects on Habitat

Text on page 107, under *Effects on Habitat*, first paragraph, should include the following text immediately following the sentence ending "...growth to maturity.":

As part of the process of evaluating EFH considerations, Habitat Areas of Particular Concern, which may be particularly sensitive to the effects of fishing activities, also are being evaluated by the Council. In the AI region, sensitive areas of concern include known concentrations of sponge and coral (Figs. 4.2.2-8 and 4.2.2-9).

Funding the AI Pollock Allocation

In Section 4.3.1, under *Implications of Alternatives* (p. 120 ff), Tables 4.3.1-1 and 4.3.1-2 contain several errors. The correct data for these tables are found on pages 204 and 205, in Tables 7.8-1 and 7.8-2, respectively.

In the same section, but under *Effects on Incidental Catch of Prohibited Species* (p. 129 ff), Tables 4.3.2-1, 4.3.2-2, and 4.3.2-3 may be better understood with some changes in column and row headings. Also, Table 4.3.2-3 should have been titled for a 50,000 mt allocation of pollock, not 25,000 mt. Therefore, replace Tables 4.3.2-1 through 4.3.2-3 with the following tables:

Table 4.3.2-1 Estimated PSC and reductions in PSC for 8 species according to three different funding mechanisms for a 25,000 mt allocation of pollock

Year	Prohibited species	Estimated bycatch	Estimated bycatch reduction with only EBS pollock funding (Alt 2.2)	Estimated bycatch reduction with all BSAI groundfish funding (Alt 2.3)	Estimated bycatch reduction with all BSAI groundfish except for sablefish (Alt 2.4)
Low BS pollock TAC scenario (BSAI TACs equal 1999 level; pollock about 50% of OY)	Halibut (mt)	13,448	3	175	168
	Bairdi (#)	3,385,488	12	44,080	42,380
	Red King (#)	243,487	0	3,170	3,048
	Chinook (#)	33,442	446	435	419
	Other salmon (#)	58,710	1,345	765	735
	Herring (mt)	489	9	6	6
	Other tanner (#)	6,607,563	107	86,036	82,714
	Other king (#)	252,200	31	3,510	3,157
High BS pollock TAC scenario (BSAI TACs equal to 2004 level; pollock about 75% of OY)	Halibut (mt)	5,250	3	68	68
	Bairdi (#)	1,054,177	12	13,717	13,715
	Red King (#)	108,420	0	1,362	1,362
	Chinook (#)	32,302	446	409	409
	Other salmon (#)	83,412	1,345	1,046	1,046
	Herring (mt)	597	9	7	7
	Other tanner (#)	1,990,794	107	26,737	26,726
	Other king (#)	50,865	31	1,191	712

Notes: Estimated bycatches are calculated using TACs for the base year for groundfish target species and four year average bycatch rates (1999-2002) for the indicated species. Funding reductions estimates using estimated changes in target species and four year average bycatch rates. These reductions do not account for the TAC being moved to the Aleutian Islands.

Table 4.3.2-2 Estimated PSC and reductions in PSC for 8 species according to three different funding mechanisms for a 40,000 mt allocation of pollock

Year	Prohibited species	Estimated bycatch	Estimated bycatch reduction with only EBS pollock funding (Alt 2.2)	Estimated bycatch reduction with all BSAI groundfish funding (Alt 2.3)	Estimated bycatch reduction with all BSAI groundfish except for sablefish (Alt 2.4)
Low BS pollock TAC scenario (BSAI TACs equal 1999 level; pollock about 50% of OY)	Halibut (mt)	13,448	4	280	269
	Bairdi (#)	3,385,488	19	70,527	67,808
	Red King (#)	243,487	0	5,072	4,877
	Chinook (#)	33,442	714	697	670
	Other salmon (#)	58,710	2,153	1,223	1,176
	Herring (mt)	489	15	10	10
	Other tanner (#)	6,607,563	172	137,658	132,343
	Other king (#)	252,200	50	5,616	5,051
High BS pollock TAC scenario (BSAI TACs equal to 2004 level; pollock about 75% of OY)	Halibut (mt)	5,250	4	109	109
	Bairdi (#)	1,054,177	19	21,945	21,943
	Red King (#)	108,420	0	2,179	2,179
	Chinook (#)	32,302	714	655	655
	Other salmon (#)	83,412	2,153	1,674	1,674
	Herring (mt)	597	15	12	12
	Other tanner (#)	1,990,794	172	42,774	42,755
	Other king (#)	50,865	50	1,905	1,138

Notes: Notes: Estimated bycatches are calculated using TACs for the base year for groundfish target species and four year average bycatch rates (1999-2002) for the indicated species. Funding reductions estimates using estimated changes in target species and four year average bycatch rates. These reductions do not account for the TAC being moved to the Aleutian Islands.

Table 4.3.2-3 Estimated PSC and reductions in PSC for 8 species according to three different funding mechanisms for a 50,000 mt allocation of pollock

Year	Prohibited species	Estimated bycatch	Estimated bycatch reduction with only EBS pollock funding (Alt 2.2)	Estimated bycatch reduction with all BSAI groundfish funding (Alt 2.3)	Estimated bycatch reduction with all BSAI groundfish except for sablefish (Alt 2.4)
Low BS pollock TAC scenario (BSAI TACs equal 1999 level; pollock about 50% of OY)	Halibut (mt)	13,448	5	350	351
	Bairdi (#)	3,385,488	23	88,159	88,284
	Red King (#)	243,487	1	6,340	6,349
	Chinook (#)	33,442	892	871	872
	Other salmon (#)	58,710	2,691	1,529	1,531
	Herring (mt)	489	19	13	13
	Other tanner (#)	6,607,563	215	172,072	172,307
	Other king (#)	252,200	62	7,020	6,577
High BS pollock TAC scenario (BSAI TACs equal to 2004 level; pollock about 75% of OY)	Halibut (mt)	5,250	5	136	136
	Bairdi (#)	1,054,177	23	27,429	27,427
	Red King (#)	108,420	1	2,724	2,724
	Chinook (#)	32,302	892	819	819
	Other salmon (#)	83,412	2,691	2,093	2,092
	Herring (mt)	597	19	15	15
	Other tanner (#)	1,990,794	215	53,461	53,437
	Other king (#)	50,865	62	2,381	1,423

Notes: Notes: Estimated bycatches are calculated using TACs for the base year for groundfish target species and four year average bycatch rates (1999-2002) for the indicated species. Funding reductions estimates using estimated changes in target species and four year average bycatch rates. These reductions do not account for the TAC being moved to the Aleutian Islands.

Purpose and Need and Monitoring Vessel Activity Options

The following description of the alternative meanings of "fishery endorsement" should be added to Chapter 4, **Monitoring Vessel Activity Options**, in Section 4.4.1, page 144, following the four bullets mid-page.

Section 803(b) does not define the meaning of the word "endorsement." Senator Stevens' floor language does not elaborate on the meaning. Thus, it appears the Council may have the scope to, and may want to, clarify the meaning in the administrative record for this action. The term endorsement may have several meanings:

- The term "fishery endorsement" may refer to an endorsement provided by the U.S. Maritime Administration to a vessel documented by the U.S. Coast Guard. The endorsement is a function of its documentation and allows that vessel to be deployed in any U.S. fishery. In testimony before the Council in February, members of the public familiar with the legislative process indicated that it was their understanding that this had been the Congressional intent.
- The term might refer to a vessel with a Federal Fisheries Permit (FFP) for groundfish for which pollock species is indicated on the application.[1] FFP Atka mackerel, Pacific cod, and pollock endorsements are made freely available to vessel owners on request.
- The term "endorsement" is also used in the groundfish License Limitation Program (LLP).[2] The term could be interpreted to mean a vessel with an LLP with endorsements to fish with trawl gear in the Aleutian Islands area. However, no vessels less than or equal to 60 feet LOA possess LLPs with these endorsements. Thus, this interpretation appears to defeat the intent of Congress.

The Aleut Corporation and the Aleut Enterprise Corporation

On page 30 under the above heading, the third sentence contains a reference to 1.572 million acres of subsurface estate. This should read "...1.572 million acres of surface estate."

Significance Analysis and Criteria

In Section 4.1, a set of significance criteria are presented (see p. 64 ff). These criteria were used by the analysts in judging the level of effect of the various alternatives on several features of the environment. There are several clarifications or changes to the language in this section that need to be made, none of which affects the conclusions reached in this EA/RIR. However, to be more accurate in the presentation of the criteria used in the analyses, and to simplify the process of making text changes in this section of the document, the following text can be substituted for Section 4.1 in its entirety:

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[1]Provided for in 679.4(b)

[2]679.4(k)

An EA must consider whether an environmental impact is significant. Significance is determined by considering the contexts (geographic, temporal, societal) in which the action will occur, and the intensity of the action. The evaluation of intensity should include consideration of the magnitude of the impact, the degree of certainty in the evaluation, the cumulative impact when the action is related to other actions, the degree of controversy, and violations of other laws.

This section describes the criteria by which the impacts of the proposed action are analyzed for each of the following resource categories:

- Pollock stock
- Other target species and fisheries
- Incidental catch of other and non-specified species
- Incidental catch of forage fish species
- Incidental catch of prohibited species
- Steller sea lions
- Other marine mammals
- Seabirds
- Habitat
- Ecosystem
- State managed and parallel fisheries
- Social and economic effects

The above categories are used in the annual specifications EA documents and are relevant potential receptors in the proposed action. Each of these categories also is associated with significance criteria that have previously been developed and used to evaluate alternative quotas in the annual specifications document. Use of these provides consistency with the significance criteria used in these related documents.

Four significance assignments are made in this EA. These are:

Significantly adverse (S-): Significant adverse effect in relation to the reference point and based on ample information and data and the professional judgement of the analysts who addressed the topic.

Insignificant impact (I): Insignificant effect in relation to the reference point; this determination is based on information and data, along with the professional judgement of the analysts, that suggest that the effects will not cause a significant change to the reference point condition.

Significant beneficial (S+): Significant beneficial effect in relation to the reference point and based on ample information and data and the professional judgement of the analysts who addressed the topic.

Unknown (U): Unknown effect in relation to the reference point; this determination is characterized by the absence of information and data sufficient to adequately assess the significance of the impacts, either because the impact is impossible to predict, or because insufficient information is available to determine a reference point for the resource, species, or issue.

This chapter is organized into six sections. In addition to this section, which describes the significance

criteria, there is one section for each of the decisions the Council identified in its February 2004 motion. As described in Chapter 2, these are:

- AI pollock allocation level
- Funding the AI pollock allocation
- Monitoring and enforcement measures
- Delay of small vessel use
- Economic development reporting

Each of these sections is divided into two parts. The first describes the alternatives available to the Council and the issues associated with their implementation. The second evaluates the environmental significance of these alternatives should they be incorporated into the FMP.

The following sub-sections of 4.1 describe the significance criteria used in evaluation of the proposed alternatives. Significance criteria are provided for each of the resource categories listed above.

Effects on pollock stock

Alternatives are evaluated with respect to five potential impacts on pollock stocks in the Aleutian Islands:

1. How much effect does the alternative have on fishing mortality?
2. How much effect does the alternative have on spatial or temporal concentration of the species?
3. How much effect does the alternative have on the availability of prey for the target species?
4. How much effect does the alternative have on the target species' habitat?

The ratings utilize a qualitative assessment of the relative impact of each alternative on the mortality to pollock or the degree to which the action might affect the spatial and temporal distribution of pollock harvest. The ratings also employ a qualitative assessment of how the alternative may affect prey items that are important to pollock harvests, and how the alternative may affect the pollock habitat The significance criteria used to evaluate the impacts of the alternatives on pollock are provided in Table 4.1-1.

Table 4.1-1 Criteria used to estimate the significance of effects on the pollock stocks in the Aleutian Islands

Intensity of the Effects				
Direct Effects	**Significant Adverse**	**Unknown**	**Insignificant Impact**	**Significant Beneficial**
Fishing mortality	Reasonably expected to jeopardize the capacity of the stock to yield fishable biomass on a continuing basis.	Unknown fishing mortality rate.	Reasonably expected to not jeopardize the capacity of the stock to yield fishable biomass on a continuing basis.	Action allows the stock to return to its unfished biomass.
Spatial or temporal distribution	Reasonably expected to adversely affect the distribution of species harvested either spatially or temporally.	No information on how the action might affect the distribution of species harvested either spatially or temporally.	Unlikely to adversely impact the distribution of species harvested either spatially or temporally.	Reasonably expected to positively affect the species harvested through spatial or temporal increases in abundance.
Change in prey availability	Evidence that the action may lead to a change prey availability such that it jeopardizes the ability of the stock to sustain itself.	No information that the action may lead to a change in prey availability such that it enhances *or* jeopardizes the ability of the stock to sustain itself.	Evidence that the action will not lead to a change in prey availability such that it jeopardizes the ability of the stock to sustain itself.	Evidence that the action may result in a change in prey availability such that it enhances the ability of the stock to sustain itself.
Habitat: Change in suitability of spawning, nursery, or settlement habitat, etc. due to fishing	Evidence that the action may lead to a decrease in spawning or rearing success such that it jeopardizes the ability of the stock to sustain itself.	No information that the action may lead to a detectable change in spawning or rearing success such that it enhances *or* jeopardizes the ability of the stock to sustain itself.	Evidence that the action may lead to a detectable change in spawning or rearing success such that it has no effect on the ability of the stock to sustain itself.	Evidence that the action may lead to an increase in spawning or rearing success such that it enhances the ability of the stock to sustain itself.

Effects on Other Target Species and Fisheries

The FMP describes the target fisheries as, "those species which are commercially important and for which a sufficient data base exists that allows each to be managed on its own biological merits. Catch of each species must be recorded and reported. This category includes pollock, Pacific cod, yellowfin sole, Greenland turbot, arrowtooth flounder, rock sole, "other flatfish," sablefish, Pacific ocean perch, "other rockfish," Atka mackerel, and squid." (BSAI FMP, page 286). Impacts on pollock fisheries in the Aleutians are discussed under the previous resource category.

Alternatives are evaluated with respect to five potential impacts on other directed fisheries or the species harvested in other directed fisheries:

1. How much effect does the alternative have on fishing mortality?
2. How much effect does the alternative have on spatial or temporal concentration of the species?
3. How much effect does the alternative have on the availability of prey for the target species?
4. How much effect does the alternative have on the target species' habitat?
5. How much effect does the alternative have on gear use by other target fishers or the fishing grounds important to other target fisheries?

The ratings utilize a qualitative assessment of the relative impact of each alternative on the mortality to fish species harvested in non-target fisheries or the degree to which the action might affect the spatial and temporal distribution of species harvested in other directed fisheries. The ratings also employ a qualitative assessment of how the alternative may affect prey items that are important to fish harvested in other target fisheries, and how the alternative may affect the habitat used by non-target fish species. The issue of gear conflicts or fishing grounds preemption is addressed in these ratings also. The significance criteria used to evaluate the proposed action on other directed fisheries or fish stocks are provided in Table 4.1-2.

Table 4.1-2 Criteria used to estimate the significance of effects on other directed fisheries or the fish stocks targeted in other directed groundfish fisheries in the Aleutian Islands

	Intensity of the Effects			
Direct Effects	**Significant Adverse**	**Unknown**	**Insignificant Impact**	**Significant Beneficial**
Fishing mortality	Reasonably expected to jeopardize the capacity of the stock to yield fishable biomass on a continuing basis.	Unknown fishing mortality rate.	Reasonably expected to not jeopardize the capacity of the stock to yield fishable biomass on a continuing basis.	Action allows the stock to return to its unfished biomass.
Spatial or temporal distribution	Reasonably expected to adversely affect the distribution of species harvested in other target fisheries either spatially or temporally.	No information on how the action might affect the distribution of species harvested in other target fisheries either spatially or temporally.	Unlikely to adversely impact the distribution of species harvested in other target fisheries either spatially or temporally.	Reasonably expected to positively affect the species harvested in other target fisheries through spatial or temporal increases in abundance.
Change in prey availability	Evidence that the action may lead to a change prey availability such that it jeopardizes the ability of the stock to sustain itself.	No information that the action may lead to a change in prey availability such that it enhances *or* jeopardizes the ability of the stock to sustain itself.	Evidence that the action will not lead to a change in prey availability such that it jeopardizes the ability of the stock to sustain itself.	Evidence that the action may result in a change in prey availability such that it enhances the ability of the stock to sustain itself.
Habitat: Change in suitability of spawning, nursery, or settlement habitat, etc. due to fishing	Evidence that the action may lead to a decrease in spawning or rearing success such that it jeopardizes the ability of the stock to sustain itself.	No information that the action may lead to a detectable change in spawning or rearing success such that it enhances *or* jeopardizes the ability of the stock to sustain itself.	Evidence that the action may lead to a detectable change in spawning or rearing success such that it has no effect on the ability of the stock to sustain itself.	Evidence that the action may lead to an increase in spawning or rearing success such that it enhances the ability of the stock to sustain itself.

Intensity of the Effects				
Direct Effects	**Significant Adverse**	**Unknown**	**Insignificant Impact**	**Significant Beneficial**
Gear conflicts or fishing grounds preemption	Evidence that non-target fisheries will experience gear loss and/or will be displaced from important fishing grounds.	Unable to determine if the action will cause gear loss or grounds preemption.	Evidence that non-target fisheries will not experience gear loss and/or displacement from important fishing grounds.	Evidence that the action will result in reductions in gear loss in non-target fisheries and/or improved access to fishing grounds important to non-target fishers.

Effects on Incidental Catch of Other Species and Non-specified Species

The "other species" category in the BSAI are marine organisms that are important ecologically and also have some economic value. The Council sets an aggregate total TAC for the other species category to limit catch to within levels that are considered sustainable for these species. Some of the other species organisms are harvested incidentally in other fisheries, including sculpins, skates, sharks, and octopus. Information on the distribution, stock structure, and life history characteristics of these species is limited. Available information on sculpins, skates, sharks, and octopus is provided in the SAFE for 2004 (NPFMC 2003).

Table 4.1-3 provides estimates of incidental non-specified and other species in sampled hauls in the AI from 1989 to 2003. These are not estimates of total harvests of these species in directed pollock fisheries during these years. A very large number of species are included in the totals. Squid and grenadiers were the species that appeared in significant levels most consistently during these years.

Table 4.1-3 Most frequently appearing non specified and other species in AI pollock incidental catches, 1991-1998 (from observer reports)

	50 metric tons or more in sampled hauls								
	90	91	92	93	94	95	96	97	98
Grenadier	X		X	X	X	X		X	X
Unidentified invertebrates	X								
Irish lord	X								
Lumpsucker	X	X	X	X	X	X		X	
Ragfish	X	X			X				
Sculpin	X	X							
Skate	X	X							
Sponge	X								
Squid	X	X	X	X	X	X	X	X	X
	100 metric tons or more in sampled hauls								
	90	91	92	93	94	95	96	97	98
Grenadier	X		X	X	X	X		X	
Irish lord	X								
Lumpsucker				X					
Sculpin	X	X							
Skate	X	X							
Sponge	X								
Squid	X	X	X	X	X	X	X	X	X

Non-specified species are other marine organisms harvested incidentally in other groundfish fisheries but are not of major economic value and are not specifically apportioned TAC in the specifications process. Information on incidental harvest of non-specified species is very limited. Presumably the incidental harvest of these organisms would track closely the harvest levels of certain target species, particularly when the target species is harvested by gear that also catches non-specified species. Non-specified species include such organisms as eelpouts, grenadiers, sea urchins, starfish, sponges, lumpsuckers, etc. Insufficient information is available with which to evaluate specific impacts of groundfish fisheries on these organisms.

The non-specified species category contains a huge diversity of species, including invertebrates, that are not defined in the FMP as target, other, forage, or prohibited species, except for animals protected under the MMPA or the ESA. Jellyfish and grenadiers, a group of deep-sea species related to hakes and cods, appear to have dominated non-specified catches in recent years. (Grenadier biology and management are discussed in Section 3.5.5.1 of the Draft PSEIS (NMFS 2003b)). Other non-specified species caught in recent years include prowfish, smooth lumpsucker, eels, sea cucumbers, Pacific lamprey, greenling, and Pacific hagfish.

There is currently no active management and limited monitoring for the species in this category, and the retention of any non-specified species is permitted. No reporting is required for non-specified species, and there are no catch limitations or stock assessments. Most of these animals are not currently considered commercially important and are not targeted or retained in groundfish fisheries.

The information available for non-specified species is much more limited than that available for target

fish species. Estimates of biomass, seasonal distribution of biomass, and natural mortality are unavailable for most non-specified species. Management concerns, data limitations, research in progress, and planned research to address these concerns are discussed in Section 5.1.2.6 of the Draft PSEIS (NMFS 2003b).

Because information is limited, predictions of impacts from different levels of harvest are described qualitatively. Direct effects include the removal of other or non-specified species from the environment as incidental catch in the groundfish fisheries. The reference point against which significance was assessed was the current population trajectory or harvest rate of the non-specified species. For analytical purposes, this is assumed to be a 2003 trajectory or rate. The current trajectory or rate significance criterion had been used in the Steller Sea Lion Protection Measures SEIS (Table 4.0-1 of NMFS 2001b). The criterion for evaluating significance was whether a substantial difference in bycatch amount would occur (increase by 50% = adverse or decrease by 50% = beneficial). Indirect effects include habitat disturbance by fishing gear and disruption of food web interactions by disproportionate removal of one or more trophic levels. No attempt was made to evaluate the significance of indirect effects.

Table 4.1-4 Criteria used to estimate the significance of effects on incidental catch of other species and non-specified species in the Aleutian Islands

Effect	Significant Adverse	Insignificant	Significant Beneficial	Unknown
Incidental catch of other species and non-specified species	Reasonably expected to increase 2003 levels of harvest by more than 50%	Reasonably not expected to increase or decrease harvest by more than 50%	Reasonably expected to decrease harvest by 50%	Insufficient information available to predict change in harvest

Effects on Incidental Catch of Forage Fish Species

Forage fish are fish eaten by larger predatory fish, seabirds, or marine mammals, usually swimming in large schools. In this analysis the species referred to as forage fish species are limited to those species included in FMP Amendments 36 in the BSAI and 39 in the GOA. Listings of GOA forage fish species may be found in Section 3.1 of the FMP while listings of BSAI forage fish species may be found in regulations in Table 2 to 50 CFR 679. The forage fish species categories include (but are not limited to) eulachon, capelin, smelts, lanternfishes, Pacific sand lance, Pacific sand fish, gunnels, pricklebacks, krill, and Pacific herring. A great many other species occupy similar trophic levels in the food chain to forage fish as species preyed upon by higher trophic levels at some period during their life history, such as juvenile pollock and Pacific cod.

Management concerns, data limitations, research in progress, and planned research to address these concerns are discussed in Section 5.1.2.5 of the Draft PSEIS (NMFS 2003b) and the Ecosystems Considerations for 2004 (NMFS 2003a, Appendix C). Bottom trawl surveys of groundfish conducted by NMFS are not designed to assess the biomass of forage fish species. Estimates of biomass and seasonal distribution of biomass are poor for forage fish species, therefore the effects of different levels of target species harvest on forage fish species are not quantitatively described.

Direct effects include the removal of forage fish species from the environment as incidental catch in the groundfish fisheries. Indirect effects include competition between groundfish (particularly juveniles) and forage fish for available prey. In the Steller Sea Lion Protection Measures SEIS (NMFS 2001b) the reference point against which forage fish effects are assessed is the current population trajectory or harvest rate of the subject target fish species (Table 4.1-1 in NMFS 2001b). For analysis purposes, this is assumed to be rates in 2003. The criterion for evaluating significance was a substantial change in incidental catch amount (increase >50% = adverse and decrease > 50%= beneficial). How do these relate to the table?

Indirect effects include habitat disturbance by fishing gear and disruption of food web interactions by disproportionate removal of one or more trophic levels. Insufficient information is available to estimate the indirect effects of changes in the incidental catch of forage species. Even though the amount of biomass and seasonal distribution is unknown for the individual forage fish groups, the small amount of average incidental catch in the BSAI of 33 mt and in the GOA of 148[3] mt (2000 to 2002) is not likely to affect stocks (abundance) of forage fish species by more than 50%. In both the BSAI and the GOA more than 90% of the incidental catch by weight of all forage fish species are smelt which are taken in pollock fisheries.

Table 4.1-5 summarizes the significance criteria applicable to forage fish.

Table 4.1-5 Criteria used to estimate the significance of effects on incidental catch of forage fish species in the Aleutian Islands

Effect	Significant Adverse	Insignificant	Significant Beneficial	Unknown
Incidental catch of other species and non-specified species	Reasonably expected to increase 2003 levels of harvest by more than 50%	Reasonably not expected to increase or decrease harvest by more than 50%	Reasonably expected to decrease harvest by 50%	Insufficient information available to predict change in harvest

Effects on Incidental Catch of Prohibited Species

Retention of prohibited species is forbidden in the BSAI and GOA groundfish fisheries. These species were typically utilized in domestic fisheries prior to the passage of the Magnuson-Stevens Act in 1976. Retention was prohibited in the foreign, joint venture, and domestic fisheries to eliminate any incentive that groundfish fishermen might otherwise have to target these species. The prohibited species in the include: Pacific salmon (chinook, coho, sockeye, chum, and pink and ESA listed salmon), steelhead trout, Pacific halibut, Pacific herring, and Alaska king, Tanner, and snow crab.

This analysis focuses on the effects of the alternatives on three aspects of prohibited species management measures: 1) effects on the stocks of prohibited species; 2) effects on harvest levels in the directed fisheries for salmon, halibut, herring, and crab managed by the state; and 3) effects on recent levels of incidental catch of prohibited species in the groundfish fisheries.

[3] The GOA harvest varied considerably around the mean, ranging from zero mt in 2000 to 351 mt in 2001.

Potential direct and indirect effects to these species include: the impact of incidental catch of prohibited species in the groundfish fisheries on stocks of prohibited species, the impact of incidental catch of prohibited species in the groundfish fisheries on the harvest levels of those species in their respective directed fisheries, and the effect on levels of incidental catch of prohibited species in the groundfish fisheries. Significance criteria for analyzing these effects are presented in Tables 4.1-6, 4.1-7, and 4.1-8.

Effects on the stocks of prohibited species are considered significantly adverse if they are likely to jeopardize the capacity of the stock to maintain benchmark population levels. Benchmarks for each prohibited species are defined below. The effects are considered significantly beneficial if harvest levels in the directed fisheries for the prohibited species increase without jeopardizing the stock. Effects on the harvest levels in fisheries targeting prohibited species are considered significant if they increase or decrease harvest levels by 20%. Effects on the incidental catch of prohibited species in directed groundfish fisheries are considered significant if they affect levels of incidental catch by 50% or more.

The benchmark used to determine the significance of effects under each alternative on salmon stocks was whether or not salmon minimum escapement needs would reasonably be expected to be met. If the alternative was reasonably not expected to jeopardize the capacity of the salmon stocks to produce long term sustainable yields it was deemed insignificant; if the alternative was reasonably expected to jeopardize the capacity of the salmon stocks to produce long term sustainable yields it was deemed significantly adverse; and where insufficient information exists to make such conclusions, the alternative's effects were rated unknown.

The benchmark used to determine the significance of effects under each alternative on herring stocks was whether minimum spawning biomass threshold levels could be reasonably expected to be met. If the alternative was reasonably not expected to jeopardize the capacity of the herring stocks to reach minimum spawning biomass threshold levels, it was deemed insignificant; if the alternative was reasonably expected to jeopardize the capacity of the herring stocks to reach minimum spawning biomass threshold levels it was rated significantly adverse; and where insufficient information exists to make such conclusions the alternative's effects were rated unknown.

The benchmark used to determine the significance of effects under each alternative on the halibut stock was whether or not incidental catch of halibut in the groundfish fisheries would reasonably be expected to lower the total constant exploitation yield (CEY) of the halibut stock below the long term estimated yield of 26,980 mt for the U.S. and Canada. If the alternative was reasonably not expected to decrease the total CEY of the halibut stock below the long term estimated yield of 26,980 mt it was rated insignificant, if the alternative was reasonably expected to lower the total CEY of the halibut stock below the long term estimated yield of 26,980 mt it was rated significantly adverse, and where insufficient information exists to make such conclusions the alternative's effects were rated unknown.

The benchmark used to determine the significance of effects under each alternative on crab stocks was whether minimum stock size threshold (MSST) levels would reasonably be expected to be maintained. If the alternative was reasonably not expected to jeopardize the capacity of the crab stocks to maintain MSST levels it was rated insignificant, if the alternative was reasonably expected to jeopardize the capacity of the crab stocks to reach or maintain MSST levels it was rated significantly negative, and where insufficient information exists to make such conclusions the alternative's effects were rated unknown.

Table 4.1-6 Criteria used to estimate the significance of effects on stocks of prohibited species in the BSAI and GOA

Effect	Significant Adverse	Insignificant	Significant Beneficial	Unknown
Incidental catch of prohibited species	Reasonably expected to jeopardize the capacity of the stock to maintain benchmark population levels	Reasonably not expected to jeopardize the capacity of the stock to maintain benchmark population levels	Reasonably expected to increase harvest levels in directed fisheries targeting prohibited species without jeopardizing capacity of stock to maintain benchmark population levels.	Insufficient information available

Benchmarks: Salmon - minimum escapement goals, Pacific halibut - estimated long term CEY level, Pacific herring - minimum spawning biomass threshold, crab - minimum stock size threshold.

Table 4.1-7 Criteria used to estimate the significance of effects on of harvest levels in state managed directed fisheries targeting stocks of prohibited species in the BSAI and GOA

Effect	Significant Adverse	Insignificant	Significant Beneficial	Unknown
Harvest levels in directed fisheries targeting catch of prohibited species	Substantial decrease in harvest levels in directed fisheries targeting prohibited species (>20%)	No substantial increase or decrease (<20%) in harvest levels in directed fisheries targeting prohibited species	Substantial increase in harvest levels in directed fisheries targeting prohibited species (>20%)	Insufficient information available

Table 4.1-8 Criteria used to estimate the significance of effects on bycatch levels of prohibited species in directed groundfish fisheries in the BSAI and GOA

Effect	Significantly Adverse	Insignificant	Significant Beneficial	Unknown
Harvest levels of prohibited species in directed fisheries targeting groundfish species	Substantial increase in harvest levels of prohibited species in directed fisheries targeting groundfish species (>50%)	No substantial increase or decrease (<50%) in harvest levels of prohibited species in directed fisheries targeting groundfish species	Substantial decrease in harvest levels of prohibited species in directed fisheries targeting groundfish species (>50%)	Insufficient information available

Effects on Steller Sea Lions

Because the Steller sea lion is endangered and groundfish fisheries in the Aleutian Islands are currently subject to a set of protection measures established to avoid jeopardy and adverse modification in its critical habitat of this species, the Steller sea lion will be addressed separately from other marine mammals (below).

Currently, the Steller sea lion population in Alaska is divided into two distinct population segments (DPS), the eastern and the western. The western DPS of Steller sea lion inhabits Alaska's marine waters from approximately the Prince William Sound region westward to the end of the Aleutian Islands. Thus the "stock" or DPS referenced in this document is the wSSL but will be referred to as SSL. Direct and indirect interactions between Steller sea lions and groundfish harvest may occur due to overlap in the size and species of groundfish harvested in the fisheries that are also important SSL prey, and due to temporal and spatial overlap in SSL foraging and commercial fishing activities.

Impacts of the proposed AI pollock fishery are analyzed by addressing four core questions modified from Lowry (1982):

1. Does the proposed action result in increases in direct interactions with SSLs (incidental take and entanglement in marine debris)?
2. Does the proposed action remove prey species at levels that could compromise foraging success of SSLs (harvest of prey species)?
3. Does the proposed action result in temporal or spatial concentration of fishing effort in areas used for foraging by SSLs (spatial and temporal concentration of removals with some likelihood of localized depletion)?
4. Does the proposed action modify SSL foraging behavior to the extent that population level impacts could occur (disturbance)?

The reference point for determining significant impact to Steller sea lions is predicting whether the proposed action will impact the current population trajectory of the SSL. Criteria for determining significance are provided below (Table 4.1-9).

Table 4.1-9 Criteria for determining significance of effects to Steller sea lions

Effects	Significance Criteria			
	Significant Adverse	Insignificant	Significant Beneficial	Unknown
Incidental take/ entanglement in marine debris	Take rate increases downward change in population trajectory by >10%	Level of take below that which would have an effect on population trajectories by > 10%	Not Applicable	Insufficient information available on take rates
Spatial/ temporal concentration of prey species	More temporal and spatial concentration in key areas	Spatial concentration of fishery as modified by SSL Protection Measures	Much less temporal and spatial concentration of fishery in all key areas	Insufficient information as to what constitutes a key area
Harvest of prey species	Harvest level exceeds harvest control rule	Harvest level at or below harvest control rule	Not applicable	Insufficient information to determine level of harvest in relation to available prey biomass
Disturbance	More disturbance (more interaction)	Similar level of disturbance as that which was occurring in 2001	Much less disturbance by groundfish fishery	Insufficient information as to what constitutes disturbance

Effects on Other Marine Mammals

The other marine mammal group includes northern fur seals, ESA-listed cetaceans (North Pacific right, blue, fin, sei, humpback, sperm, and bowhead whales), other cetaceans (gray, minke, beluga, and killer whale; Pacific white-sided dolphin; harbor and Dall's porpoise; and Baird's, Cuvier's, and Stejneger's beaked whale), harbor seals, other pinnipeds (spotted, northern fur, bearded, ringed, and ribbon seals; Pacific walrus; and northern elephant seal), and sea otters. Several species of marine mammals that reportedly occur in the North Pacific (Springer et al. 1999) are poorly known, and thus are not specifically addressed in this document. These are the Bryde's whale; short-finned pilot whale; false killer whale; and Risso's, bottlenose, striped, common, and northern right whale dolphins. The California sea lion is not likely present in the Aleutian Islands. The polar bear also is not likely present, even when the seasonal ice cover extends to the Aleutian Islands. These latter two species also are not addressed in this document.

Direct and indirect interactions between marine mammals and groundfish harvest occur due to overlap in the size and species of groundfish harvested in the fisheries that are also important marine mammal prey, and due to temporal and spatial overlap in marine mammal foraging and commercial fishing activities.

Impacts of the proposed action are analyzed by addressing four core questions modified from Lowry (1982):

1. Does the proposed action result in increases in direct interactions with marine mammals (incidental take and entanglement in marine debris)?
2. Does the proposed action remove prey species at levels that could compromise foraging success

of marine mammals (harvest of prey species)?

3. Does the proposed action result in temporal or spatial concentration of fishing effort in areas used for foraging by marine mammals (spatial and temporal concentration of removals with some likelihood of localized depletion)?
4. Does the proposed action modify marine mammal foraging behavior to the extent that population level impacts could occur (disturbance)?

The reference point for determining significant impact to marine mammals is predicting whether the proposed action will impact the current population trajectory of any marine mammal species. Significance ratings for each question are provided below (Table 4.1-10).

Table 4.1-10 Criteria for determining significance of effects to marine mammals.

Effects	Significance Criteria			
	Significant Adverse	**Insignificant**	**Significant Beneficial**	**Unknown**
Incidental take/ entanglement in marine debris	Take rate increases downward change in population trajectory by >10%	Level of take below that which would have an effect on population trajectories by > 10%	Not Applicable	Insufficient information available on take rates
Spatial/ temporal concentration of fishery	More temporal and spatial concentration in key areas	Spatial concentration of fishery as modified by SSL Protection Measures	Much less temporal and spatial concentration of fishery in all key areas	Insufficient information as to what constitutes a key area
Global harvest of prey species	Harvest level exceeds harvest control rule	Harvest level at or below harvest control rule	Not applicable	Insufficient information to determine level of harvest in relation to available prey biomass
Disturbance	More disturbance	Similar level of disturbance as that which was occurring in 2001	Much less disturbance by groundfish fishery	Insufficient information as to what constitutes disturbance

Effects on Seabirds

Given the sparse information, it is not likely that groundfish fishery effects on most individual bird species are discernable. For reasons explained in the Steller Sea Lion Protection Measures SEIS (NMFS 2001b), the following species or species groups are considered: northern fulmar, short-tailed albatross, spectacled and Steller's eiders, albatrosses and shearwaters, piscivorous seabird species, and all other seabird species not already listed.

The fishery effects that may impact seabirds are direct effects of incidental take (in gear and vessel strikes), and indirect effects on prey (forage fish) abundance and availability, benthic habitat, processing waste and offal.

ESA listed seabirds are under the jurisdiction of the USFWS, which has completed an FMP level (USFWS 2003a) and project level BiOp (USFWS 2003b) for the groundfish fisheries and the setting of annual harvest specifications. Both BiOps concluded that the groundfish fisheries and the annual setting of harvest specifications were unlikely to cause the jeopardy of extinction or adverse modification or destruction of critical habitat for ESA listed birds. Because this action falls within the OY specified for the BSAI, no population level effects beyond those already identified for ESA listed seabirds are anticipated and therefore ESA consultation on seabirds is not necessary.

The effects of incidental take of seabirds (from fishing gear and vessel strikes) are described in Section 3.7.1 of the Draft Programmatic SEIS (NMFS 2003b). Birds are taken incidentally in longline (hook and line), trawl, and pot gear. Estimation of seabird incidental take from longline and pot vessels is very straightforward. On trawlers, however, the estimation procedure is confounded by sample size issues (Appendix C of the PSEIS). This unfortunately creates the need to provide two estimates of total seabird takes for trawl fisheries, depending on the sample size for hauls where seabirds were not recorded. Further, while observers are able to see all gear-related mortalities from longline and pot vessels, on trawl vessels there is anecdotal evidence that seabird mortalities occur from collisions with the trawl sonar cable and main net cables. The degree of that mortality is currently unknown, as observers are fully tasked with sampling the catch. The trawl fleet contributes from 10.6% to 44.9% of the overall mortality, depending on which estimation methodology is used, with the actual amount likely being somewhere between these two bounds.

As noted in Section 3.7.1 of the Draft PSEIS (NMFS 2003b), several factors are likely to affect the risk of seabird incidental catch. It is reasonable to assume that risk goes up or down, partly as a consequence of fishing effort (measured as total haul time in the trawl fleet) each year (NMFS 2003b). In the longline fleet, new regulations became effective in February 2004 (69 *FR* 1930; 1-13-04). However, a sizeable portion of the longline fleet began, in January 2002, to use the seabird avoidance measures recommended by Washington Sea Grant (Melvin, et al., 2001) and approved by the North Pacific Fisheries Management Council at their December 2001 meeting. While the incidental take of seabirds has exhibited some large inter-annual variations, it is worth noting that the overall take of seabirds was reduced by about 60% from 2001 to 2002, largely due to bycatch reduction measures used by longline fisheries (outlined on pages 3.7-7 through 3.7-10 of the draft programmatic SEIS (NMFS 2003b)). Continued collection of seabird incidental take data by groundfish observers will provide the data necessary to evaluate whether the rates continue to decrease.

In the trawl fleet, improved instructions to observers will help refine the estimates, which will in turn allow a better assessment of whether the numbers taken pose a conservation concern. At the same time,

the trawl industry, USFWS, the NMFS, Washington Sea Grant, and the University of Washington are collaborating on a project to reduce or eliminate mortality associated with sonar transducer and net cables.

A description of the effects of prey abundance and availability on seabirds is in Section 3.7.1 of the Draft PSEIS (NMFS 2003b). Detailed conclusions or predictions cannot be made regarding the effects of forage fish bycatch on seabird populations or colonies. However, the present understanding is that fisheries management measures affecting abundance and availability of forage fish or other prey species could affect seabird populations (NMFS 2003b; NMFS 2001b), although commercial fisheries do not compete directly with seabirds. There is no directed commercial fishery for those species which compose the forage fish management group and seabirds typically target juvenile stages rather than adults for those target species where there is an overlap between seabirds and commercial fisheries.

The fishery effects on benthic habitat are described in Section 3.6.4 of the Draft PSEIS (NMFS 2003b). The indirect fishery effects on benthic habitat as utilized by seabirds are described in the seabird summaries provided in each alternative (Sections 4.5.7, 4.6.7, etc. in the PSEIS) (NMFS 2003b). The seabird species most likely to be impacted by any indirect gear effects on the benthos would be diving sea ducks such as eiders and scoters as well as cormorants and guillemots (NMFS 2001b). Additional impacts from bottom trawling may occur if sand lance habitat is adversely impacted. This would affect a wider array of piscivorous seabirds that utilize sand lance, particularly during the breeding season, when this forage fish is also used for feeding chicks. Bottom trawl gear has the greatest potential to indirectly affect seabirds via their habitat. The harvest of pollock in the AI will be restricted to pelagic trawl gear which will have less effect on the benthos than bottom trawl gear.

The volume of offal and processing wastes probably changes approximately in proportion to the total catch in the fishery. Whereas some bird populations may benefit from the food supply provided by offal and processing waste, the material also acts as an attractant that may lead to increased incidental take of some seabird species (NMFS 2001b). For example, there seems to be little interaction between trawl sonar cables and seabirds in the shoreside delivery fleet, which has minimal discards and offal, while the interactions are higher near catcher/processor vessels (McElderry, et al., in prep). These conclusions are drawn on very limited samples and should be used with caution. It is also worth noting the apparent reduction in seabird incidental take for the longline fleet described earlier. Should the use of seabird avoidance gear prove effective over time, the negative aspects of seabird attraction to vessels will be reduced. The amount of TAC levels could affect the amount of processing waste and offal that is available to scavenging seabirds, particularly in some areas near major breeding colonies. This impact would need to be considered in the balance of the beneficial and detrimental impacts of any disposal actions.

Table 4.1-11 outlines the qualitative significance criteria or thresholds that are used for determining if an effect has the potential to create a significant impact on seabirds.

Table 4.1-11 Criteria used to determine significance of effects on seabirds.

Effects	Rating		
	Significant	Insignificant	Unknown
Incidental take	Take number and/or rate increases or decreases substantially	Take number and/or rate is the same.	Take number and/or rate is not known.
Prey (forage fish) availability	Prey availability is substantially reduced or increased	Prey availability is the same.	Changes to prey availability are not known.
Benthic habitat	Impact to benthic habitat is substantially increased or decreased	Impact to benthic habitat is the same.	Impact to benthic habitat is not known.
Processing waste and offal	Availability of processing wastes is substantially decreased or increased	Availability of processing wastes is the same.	Changes in availability of processing wastes is not known.

Effects on Habitat

The Draft PSEIS uses the following criteria to determine significance for habitat:

1. Level of mortality and damage to living habitat;
2. Benthic community diversity;
3. Geographic diversity of impacts.

The reference point, or baseline, against which the criteria are applied is the current size and quality of marine benthic habitat and other essential fish habitat. Criteria used to evaluate effects of the proposed action on habitat are provided in Table 4.1-12.

Table 4.1-12 Criteria used to determine significance of effects on habitat

Effect	Significant	Insignificant	Beneficial	Unknown
Mortality and damage to living habitat species	Substantial increase in mortality and damage; long-term irreversible impacts to long-lived, slow growing species	Likely to not increase mortality or damage to long-lived, slow growing species	Decrease in mortality or damage to long-lived, slow growing species	Insufficient information available
Benthic community structure	Substantial decrease in community structure from baseline	Likely to not decrease community structure	Increase in community structure from baseline	Insufficient information available on baseline habitat

Distribution of fishing effort	Substantial increase in fishing activity in habitats lightly or not fished	Likely to be similar to baseline conditions of lightly- or not-fished state	Decrease in fishing activity in areas that have been lightly or not fished	Not applicable

Effects on the Ecosystem

The proposed action could affect the marine ecosystem through removals of pollock biomass or other actions that could affect either removals, discards, or discharge of processing materials such that this marine system is altered. Three primary means of measurement of ecosystem change are evaluated here: predator-prey relationships, energy flow and balance, and ecosystem diversity. The criteria used to evaluate the significance of the effects on the ecosystem from the proposed action are provided in Table 4.1-13.

Table 4.1-13 Significance thresholds for fishery induced effects on ecosystem attributes.

Issue	Effect	Significance Threshold	Indicators
Predator-prey relationships	Pelagic forage availability	Fishery induced changes outside the natural level of abundance or variability for a prey species relative to predator demands	Population trends in pelagic forage biomass (quantitative - pollock, Atka mackerel, catch/bycatch trends of forage species, squid and herring)
	Spatial and temporal concentration of fishery impact on forage	Fishery concentration levels high enough to impair the long term viability of ecologically important, nonresource species such as marine mammals and birds	Degree of spatial/temporal concentration of fishery on pollock, Atka mackerel, herring, squid and forage species (qualitative)
	Removal of top predators	Catch levels high enough to cause the biomass of one or more top level predator species to fall below minimum biologically acceptable limits	Trophic level of the catch Sensitive top predator bycatch levels (quantitative: sharks, birds; qualitative: pinnipeds) Population status of top predator species (whales, pinnipeds, seabirds) relative to minimum biologically acceptable limits
	Introduction of nonnative species	Fishery vessel ballast water and hull fouling organism exchange levels high enough to cause viable introduction of one or more nonnative species, invasive species	Total catch levels

Energy flow and balance	Energy re-direction	Long-term changes in system biomass, respiration, production or energy cycling that are outside the range of natural variability due to fishery discarding and offal production practices	Trends in discard and offal production levels (quantitative for discards) Scavenger population trends relative to discard and offal production levels (qualitative) Bottom gear effort (qualitative measure of unobserved gear mortality particularly on bottom organisms)
	Energy removal	Long-term changes in system-level biomass, respiration, production or energy cycling that are outside the range of natural variability due to fishery removals of energy	Trends in total retained catch levels (quantitative)
Ecosystem Diversity	Species diversity	Catch removals high enough to cause the biomass of one or more species (target, nontarget) to fall below or to be kept from recovering from levels below minimum biologically acceptable limits	Population levels of target, nontarget species relative to MSST or ESA listing thresholds, linked to fishing removals (qualitative) Bycatch amounts of sensitive (low potential population turnover rates) species that lack population estimates (quantitative: sharks, birds, HAPC biota) Number of ESA listed marine species Area closures
	Functional (trophic, structural habitat) diversity	Catch removals high enough to cause a change in functional diversity outside the range of natural variability observed for the system	Guild diversity or size diversity changes linked to fishing removals (qualitative) Bottom gear effort (measure of benthic guild disturbance) HAPC biota bycatch
	Genetic diversity	Catch removals high enough to cause a loss or change in one or more genetic components of a stock that would cause the stock biomass to fall below minimum biologically acceptable limits	Degree of fishing on spawning aggregations or larger fish (qualitative) Older age group abundances of target groundfish stocks

Effects on State of Alaska Managed State Waters Seasons and Parallel Fisheries for Groundfish Fisheries

The State of Alaska manages state water seasons for several species of groundfish in internal waters: sablefish in Statistical Areas 649 (Prince William Sound) and 659 (Southeast Inside District), pollock in Area 649 (Prince William Sound), and Pacific cod in Areas 610 (South Peninsula District), 620, 630 (Chignik, Kodiak, and Cook Inlet Districts), and 649 (Prince William Sound). The state also manages groundfish fisheries for which federal TACs are established within state waters. Unless otherwise specified by the state, open and closed seasons for directed fishing within state waters are concurrent with federal seasons. These fisheries have been referred to as parallel fisheries or parallel seasons in state waters. Harvests of groundfish in these fisheries accrue towards their respective federal TACs.

This analysis focuses on the effects of Alternatives 1 through 5 on harvest levels in these state managed fisheries. The criteria used in estimating the effects are outlined below in Table 4.1-14. If an alternative was deemed by NMFS as likely to result in a decrease in harvest levels in these fisheries of more than 50%, it was rated significantly adverse. If the alternative was deemed to likely result in an increase in harvest levels of more than 50%, it was rated significantly beneficial. If the alternative was deemed likely to neither decrease nor increase harvest levels by more 50%, it was rated insignificant. Where insufficient information was available to make such determinations, the effect was rated as unknown. The level of a 50% change in harvest levels is more a qualitative than quantitative assessment. The authors felt that a change of 50% or more in either direction was clearly a significant change and that a change of less than 50% in either direction was clearly insignificant as stocks of groundfish frequently change over the short term within this range. The authors acknowledge that individual fishing operations with greater reliance upon participation in these state fisheries may experience adverse or beneficial effects at changes in harvest levels below the 50% level. The year 2003 was used as a benchmark for comparison.

The significance criteria used for the analysis in this section to determine changes to harvest levels in state-managed and parallel fisheries can be reviewed in Table 4.1-14. An action is considered to have significant effects if it is likely to change harvest levels in these fisheries by at least 50%.

Table 4.1-14 Criteria used to estimate the significance of effects on harvest levels in state managed groundfish fisheries in the BSAI and GOA.

Effect	Significant Adverse	Insignificant	Significant Beneficial	Unknown
Harvest levels of groundfish in state waters seasons and parallel seasons	Substantial decrease in harvest levels (>50%)	No substantial decrease or increase in harvest levels (<>50%)	Substantial increase in harvest levels (>50%)	Insufficient information available

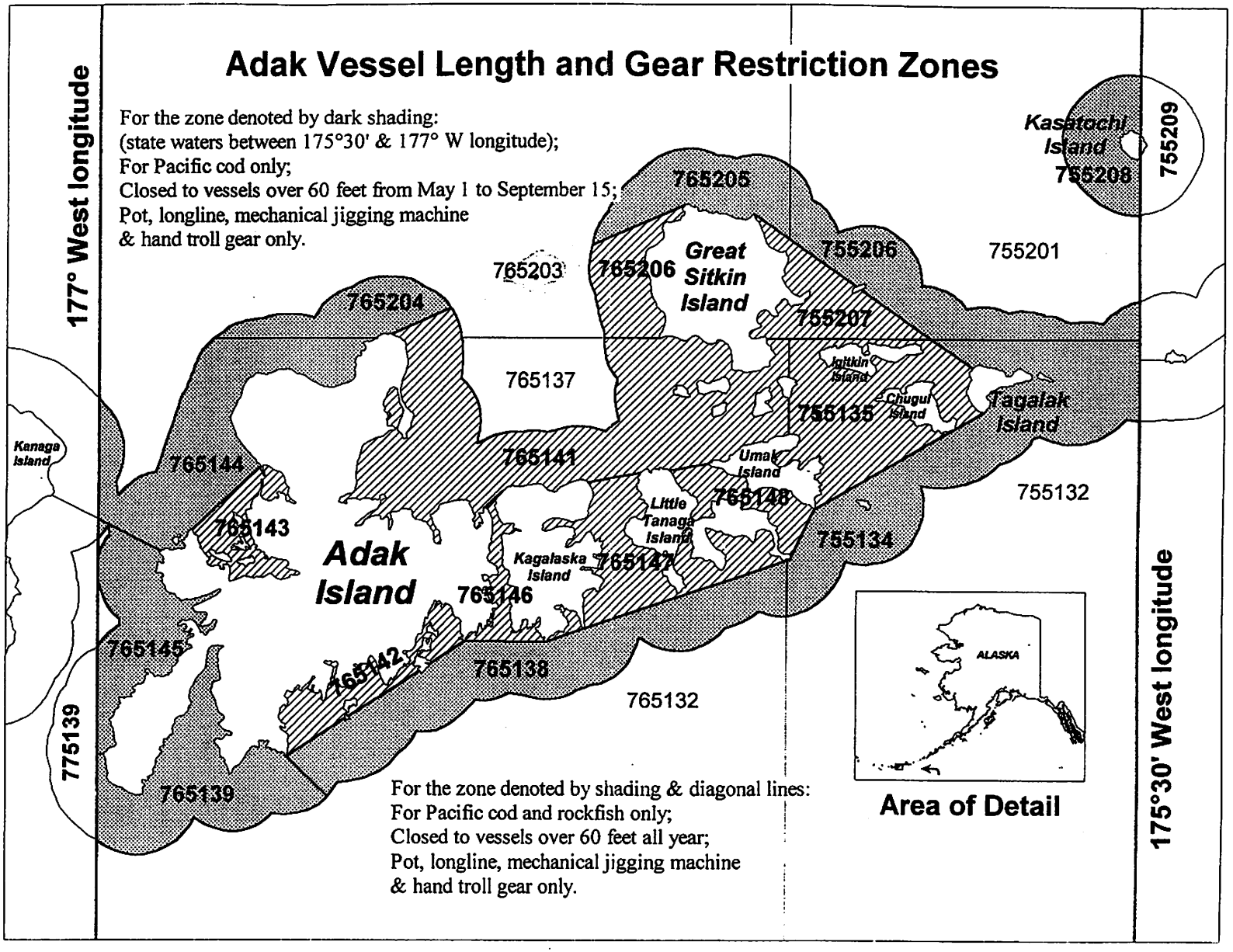
Economic and Socio-economic effects

The significance criteria used to evaluate effects of the proposed action include a quantitative and qualitative assessment of gross revenues, operating costs, net returns, safety and health, related fisheries, consumer effects, management and enforcement, excess capacity, bycatch and discards, subsistence use, impacts on benefits from marine ecosystems, and community impacts. These significance criteria are provided in Table 4.1-15.

Table 4.1-15 Economic and socio-economic significance criteria

Issue	Indicators	Significance threshold
Gross revenues	Changes in estimated gross revenues to relevant fishing and fish processing operations.	With exceptions noted below, The term "significant" for an expected change in a quantitative indicator means a 20 percent or greater change (either plus or minus) relative to the comparative baseline. If the expected change is less than 20 percent, the change is not considered to be significant. Roughly, the same threshold is used to assess changes in qualitative indicators (e.g. fishing vessel safety). However, whereas changes in quantitative indicators are based on model projections, predicted changes in qualitative indicators are based on the judgement of the economic analysts. (PSEIS, 4.1-10)
Operating costs	Cost information is generally unavailable for North Pacific fishing and/or processing operations. Only a qualitative discussion of operating costs will generally be possible.	
Net returns	Measured net returns (gross revenues net of variable and/or fixed costs as appropriate). Operating cost information is generally unavailable for North Pacific fisheries or fish processors. Only a qualitative analysis of net returns will generally be possible, based on inferences from knowledge of changes to gross revenues and of the characteristics of fishery management regime.	
Safety and health	Changes in risk of death, injury, or morbidity for the relevant population. In general, models making it possible to project changes in the risk of death, injury, or morbidity associated with changes in fishery management regulations are not available. It may only be possible to make informed conjectures about the direction of likely impacts. Only qualitative analyses will be possible.	
Related fisheries	Changes in fishing activity in one groundfish fishery can have impacts on other groundfish fisheries, (and on non-groundfish fisheries, such as those for crab, salmon, herring, and halibut). Behavioral models that would make quantitative projections of impacts possible are not, in general, available. A qualitative analysis will often be necessary.	
Consumer effects	Alternatives that change the quantity or quality of fish harvested, or that change the cost of harvesting fish, may affect product form, availability, and the prices faced by consumers and, thus, the size of the consumers' surplus they receive from the fisheries. In the absence of information on consumers' demand curves and demand elasticities, this analysis must necessarily be qualitative.	

Management and enforcement	The Council, NMFS, NOAA Enforcement, and the U.S. Coast Guard incur costs for the management of North Pacific fisheries, and for the enforcement of fisheries regulations. The U.S. Coast Guard also incurs costs to provide emergency services to the fishing industry. (Private sector costs associated with safety are considered under the "safety" impact category.) The private sector may also incur costs associated with observer, catch accounting and reporting, or VMS requirements. Analysis of this impact will be quantitative and qualitative.	
Excess capacity	Actions may impact fishery overcapacity. Impacts in the directed regulated fishery should be considered, as well as impacts in related fisheries (for example, will restrictions or rationalization in one fishery lead to increased capacity in a second fishery). In the absence of behavioral models, this discussion will generally be qualitative.	
Bycatch and discards	The impacts of the alternatives on the bycatch and discard of the target species, of other groundfish and non-groundfish species that support fishing activities by other sectors, and of PSC, may have economic impacts.	The significance criteria for PSC species, and for bycatch and discards of other species, which are targeted by other fishing sectors, are adopted here.
Subsistence use	The mechanisms relating changes in the harvest of groundfish prey to changes in populations of animals used for subsistence purposes, and the mechanisms relating changes in populations of animals to changes in subsistence use, are poorly understood. In addition, as noted earlier in this section, prohibited species bycatch is limited by bycatch caps and area closures. This issue will require a qualitative analysis.	The 20% utilization criterion above is adopted here.
Impacts on benefits from marine ecosystems	Groundfish fishing rules may directly impact marine ecosystem benefits through effects on groundfish populations, or indirectly through impacts on predators, prey, or habitat. Other than those benefits related to commercial or subsistence groundfish fisheries (addressed above, these may include non-market (existence value and option value, etc.), and other uses of the ecosystem such as recreational fishing or tourism.	Any action that places a species listed as endangered under the ESA in jeopardy or creates adverse modification to the species' habitat. will be significant, by definition. The 20% utilization criteria will be used for actions affecting recreational fishing or tourism.
Community impacts	Income, employment, and other impacts to onshore communities associated with actions. Simple quantitative models may be employed in some cases, although qualitative analysis will often be necessary.	The 20% utilization criterion above is adopted here



Clem Tillion
Handout

handout 4/1/04 3pm

AP Minutes 3/31/04

C-3 Aleutian Islands Pollock

The AP recommends that the EA/RIR for an Amendment to the BSAI FMP on Groundfish to allow an allocation of AI pollock to the Aleut corporation be relaeased to the public with the following additions: *Motion passed 20/0*

- Amplify discussion in the EA on chinook bycatch and implications to other fisheries. *Motion passed 19/0/1.*

- Add an alternative 1.3: The annual allocation to the Aleut Corporation be fixed at ____% of the annual ABC for AI pollock, but will not exceed 40,000 tons.

a) 18%
b) 36%
c) 50%
d) 75%
e) 100%

Motion passed 12/8

- 2.2 The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock **TAC if necessary to remain under the 2.0 million mt OY cap.** Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year.

  2.3 The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TAC amounts from each of the existing groundfish fisheries in the BSAI, without regard to species **if necessary to remain under the 2.0 million mt OY cap.** Any unused TAC amount, surplus to the needs of the AI pollock fishery, will be rolled back to the fisheries from which it originated in the same proportions (and species). This should occur at the earliest time in the calendar year.
  Motion passed 20/0

- Relative to the pollock harvest levels under the new 1.3 of the EA, quantify rockfish bycatch amounts and implications to MRAs and rockfish target fisheries in the Aleutian Islands. *Motion passed 14/1/4*

- Add a qualitative discussion of what effect, if any, an allocation to the Aleut Corporation would have on the repayment of loans to the government on pollock as mandated under the AFA. *Motion passed 13/7.*

A motion to initiate a discussion paper on a trailing amendment that would allow under 60'vessels without current LLPs to fish for other species in the Adak area failed 8/11/1.

Minority Report:
The minority of the AP supported a trailing amendment to discuss additional fishing opportunities for those vessels under 60' that, by statute, are exempt from LLP requirements in harvesting the Aleut Corporation's allocation of AI pollock. These vessels need additional fishing opportunities to retain their residency in Adak and build the community. The intent of the Aleut Corporation's pollock allocation, as indicated in the floor comments on section 803 of the 2004 Consolidated Appropriations Act, is to build a fishing community in Adak. Additional LLP exemptions fo rvessels under 60' will further these goals.
Signed: Duncan Fields, Kris Norosz, Dan Falvey, Eric Olson, and John Moller.

Stosh Anderson
Main Motion

Add the following additional alternative under Decision 1 (allocation size)

1.3 The Council shall allocate a combined Aleutian Islands ICA and DFA equal to the lesser of the ABC or 40,000 mt. This allocation shall be subject to the 40% "A" season, 60% "B" season allocation required by the SSL protection measures.

Add the following additional alternative under Decision 2 (funding and roll back)

2.5 If possible, the Aleutian Islands DFA is to be funded from the difference between the sum of BSAI species TACs and the BSAI OY cap. No allocation to the Aleutian Islands DFA shall be made from a species TAC unless the difference between the sum of the species TACs and the OY cap is not large enough to fund the Aleutian Islands DFA. If this difference is not large enough to fund the Aleutian Islands DFA, 10% of the allocation to the Aleutian Islands pollock DFA shall be taken from the BSAI rock sole ITAC, 10% from the BSAI yellowfin sole ITAC, and 80% from the EBS pollock ITAC. No later than June 10 (start of the "B" season), unused Aleutian Islands "A" season pollock DFA, and the entire Aleutian Islands "B" season DFA, shall be rolled back to the EBS pollock fishery.

2004 ABC for AI pollock, and TACs for EBS pollock, rock sole, yellowfin

Basic numbers	
ABC =	39,400
DFA+ICA	39,400
ICA	1,000

DFA	
DFA =	38,400
"A" =	15,360
"B" =	23,040

Funding	
Rocksole	3,840
Yellowfin	3,840
Pollock	30,720

Roll back		
Exp. 1	Harvest	15,360
	From "A"	0
	From "B"	23,040
	Total	23,040
Exp. 2	Harvest	12,500
	From "A"	2,860
	From "B"	23,040
	Total	25,900

Rock sole	41,000
Unspec	3,075
CDQ	3,075
ITAC	34,850
AI	3,840
Net	31,010

Pollock	1,492,000
Unspec	0
CDQ	149,200
ITAC	1,342,800
AI	30,720
Net	1,312,080

Roll back	23,040
Total	1,335,120

Roll back	25,900
Total	1,337,980

Yellowfin	86,075
Unspec	6,456
CDQ	6,456
ITAC	73,164
AI	3,840
Net	69,324

Beginning 2005, and until changed, the annual Aleutian Island Pollock TAC shall be the lesser of 15,000 mt or 40% of the AI pollock ABC. One hundred percent of the Directed Fishing Allowance (DFA) shall be available for harvest in the pollock "A" season. At its 2006 June meeting, the Council shall review the AI pollock fishery, e.g., harvest success, development of a small boat fleet, progress towards the completion of pollock processing capacity to see if further adjustments to the AI pollock TAC are appropriate.