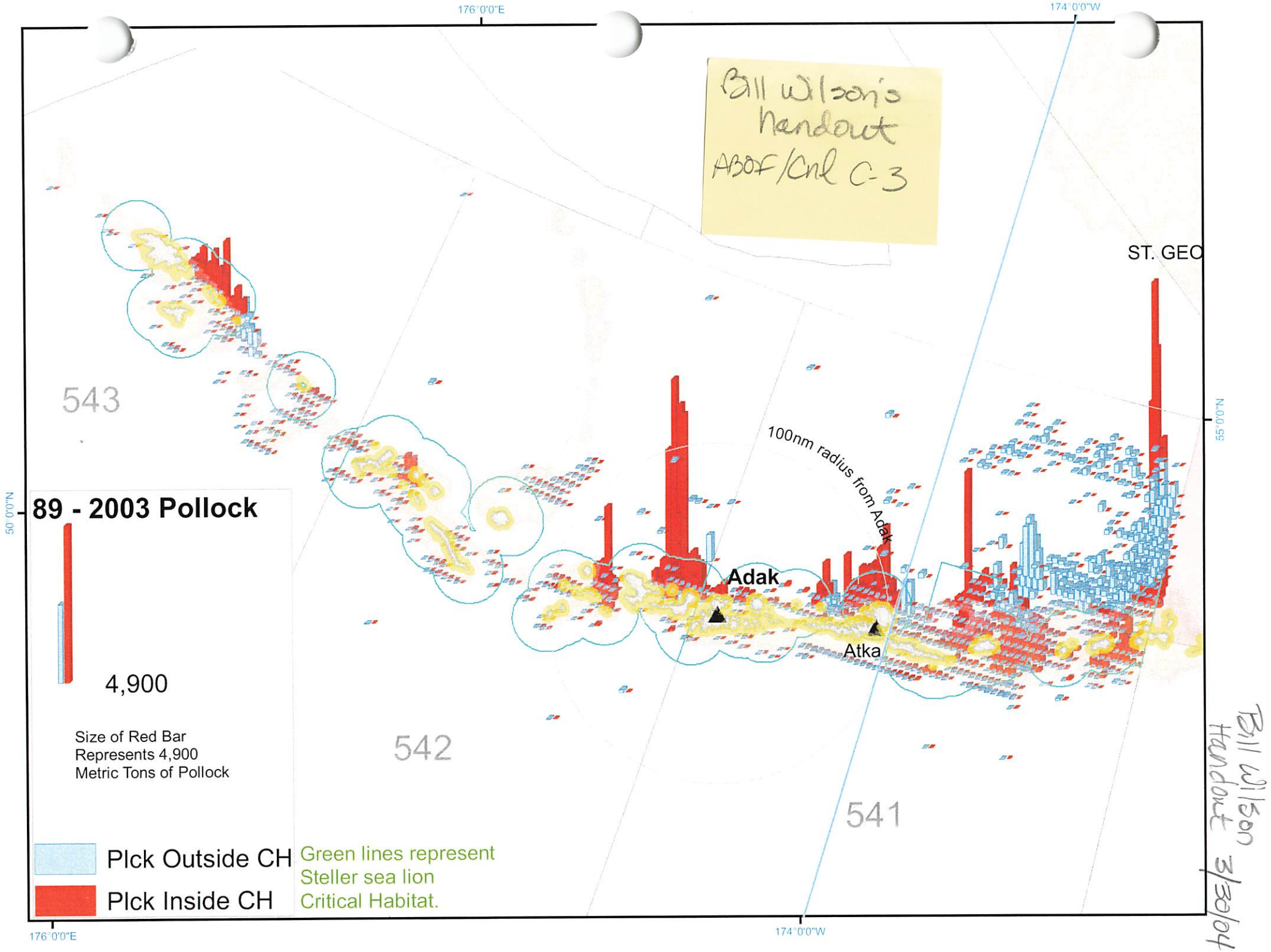
Bill Wilson's handout ABOF/Cnl C-3
176°0'0"E
174°0'0"W
55°0'0"N
50°0'0"N
ST. GEO
543
542
541
100nm radius from Adak
Adak
Atka
89 - 2003 Pollock
4,900
Size of Red Bar
Represents 4,900
Metric Tons of Pollock
Plck Outside CH
Plck Inside CH
Green lines represent
Steller sea lion
Critical Habitat.
Bill Wilson Handout 3/30/04

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
Regional Administrator
Alaska Regional Office

For Further Information Contact

Bill Wilson
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, AK 99501-2252

Ben Muse
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802
(907) 586-7228

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.

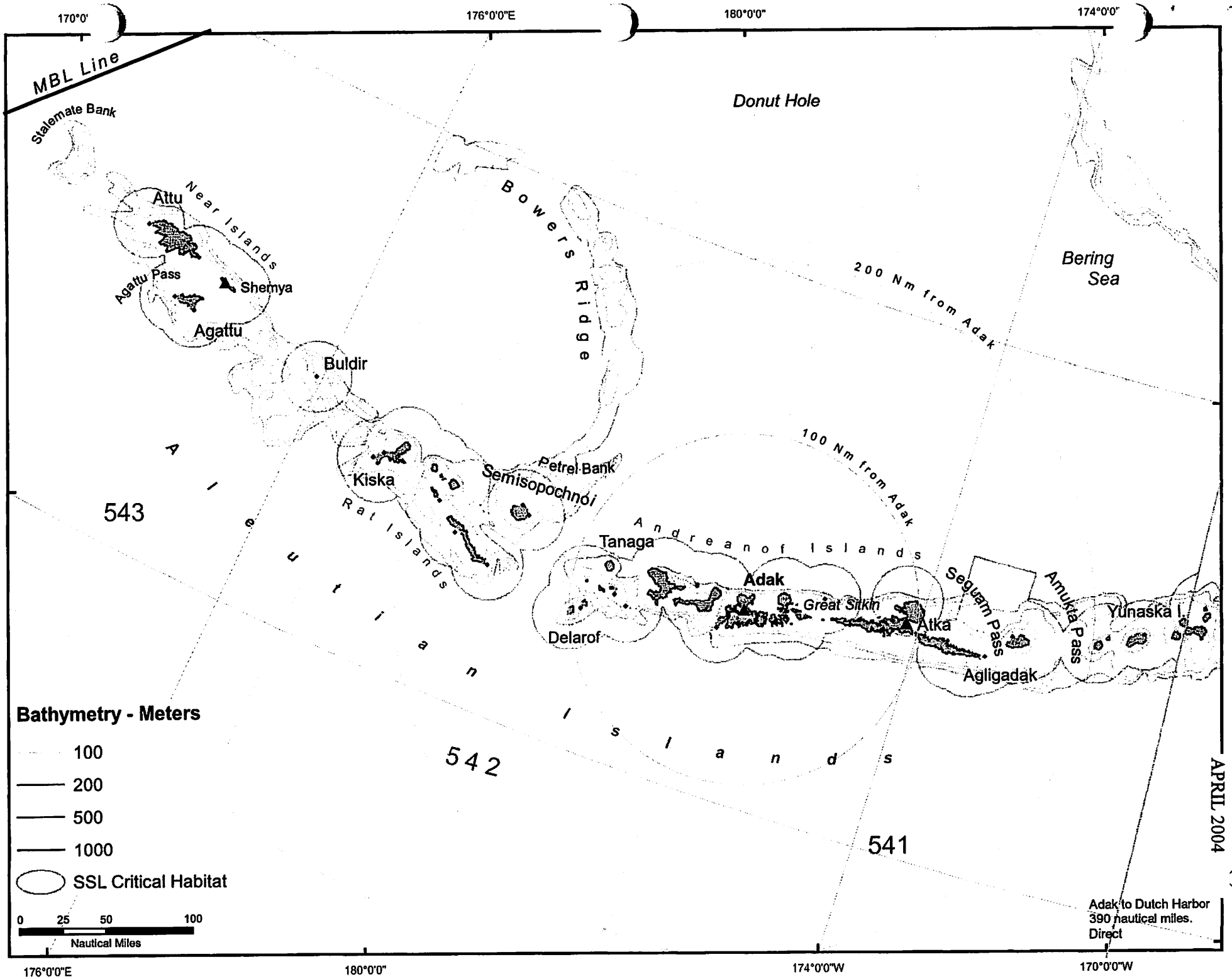
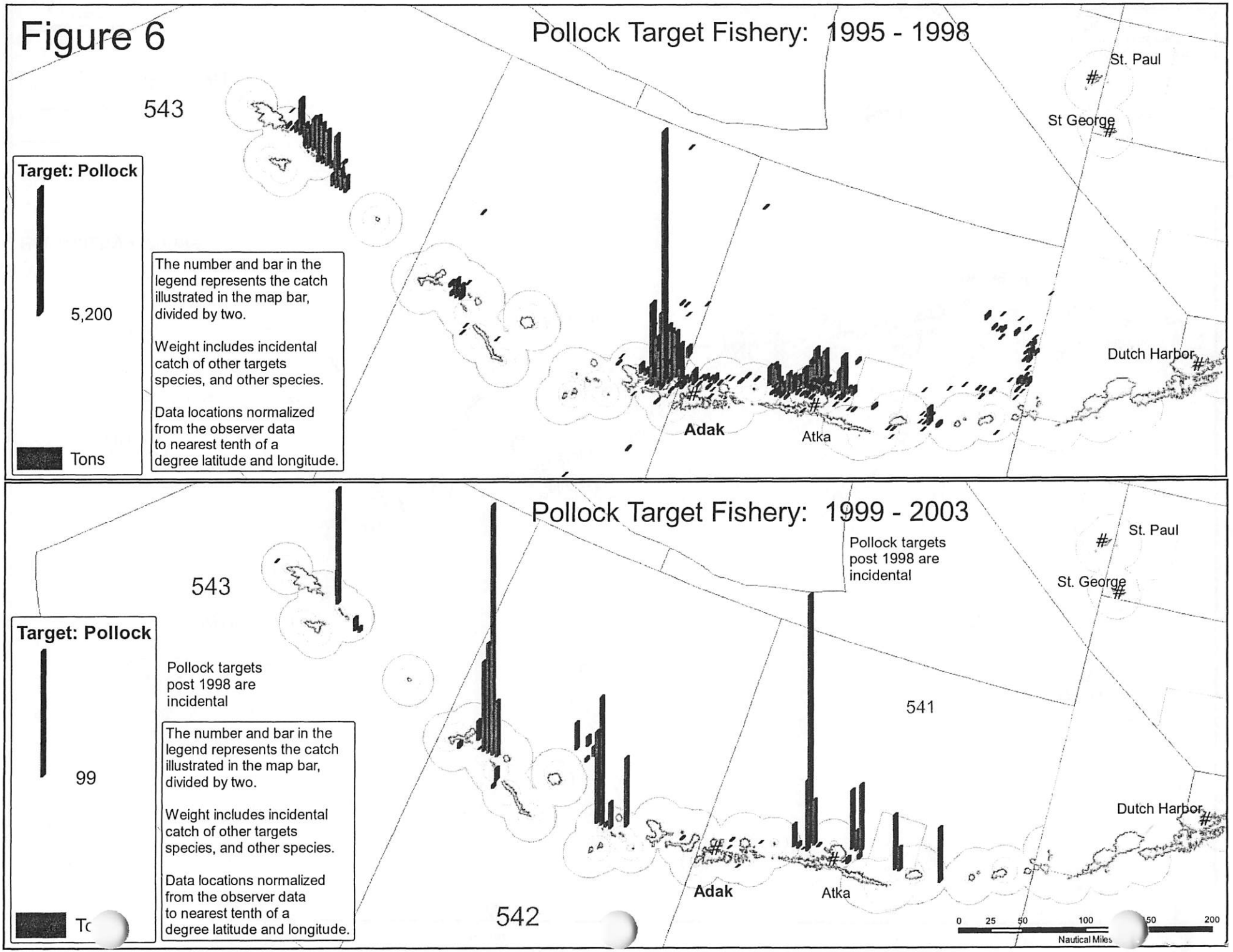
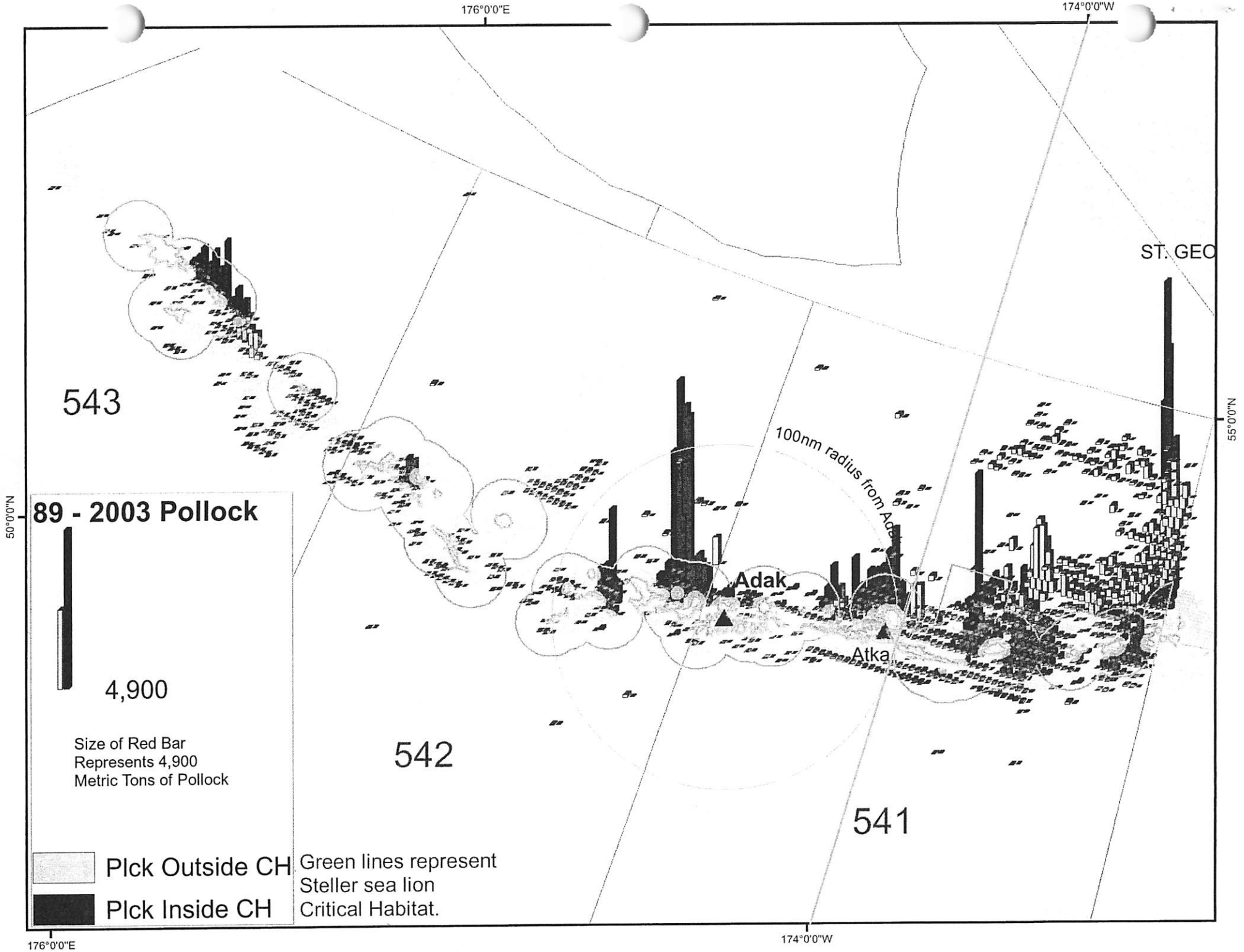

170°0'
176°0'0"E
180°0'0"
174°0'0"
MBL Line
Stalemate Bank
Donut Hole
Attu
Near Islands
Agattu Pass
Shemya
Agattu
Buldir
Bowers Ridge
200 Nm from Adak
Bering Sea
100 Nm from Adak
Kiska
Semisopochnoi
Petrel Bank
Rat Islands
Andreanof Islands
Tanaga
Adak
Great Sitkin
Atka
Seguam Pass
Amukta Pass
Yunaska I.
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
AGENDA C-3(d)
APRIL 2004
176°0'0"E
180°0'0"
174°0'0"W
170°0'0"W

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 Miles


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

AGENDA C-5
APRIL 2004

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Executive Director

ESTIMATED TIME
4 HOURS

DATE: March 24, 2004

SUBJECT: Central Gulf of Alaska Rockfish Demonstration Program

ACTION REQUIRED

Develop alternatives and elements for analysis.

BACKGROUND

In February 2004, the Council first considered the Section 802 of Title VIII of the Consolidated Appropriations Act of 2004, which directed the Secretary of Commerce to develop a rockfish demonstration program for the Central Gulf of Alaska rockfish fisheries in consultation with the Council. At that time, NOAA Fisheries staff presented a discussion paper concerning considerations for implementation of such a program (Item C-5(a)), including the entire text of the legislation. In response to the directive of the legislation, the discussion paper, and public testimony, the Council deferred action on this issue and requested industry stakeholders to propose alternatives and elements that would establish the demonstration program for consideration at this meeting. Since February 2004, industry stakeholders have submitted a proposed alternative with options to establish the demonstration program (Items C-5(b)). If the Council wishes to proceed with the development of this program, alternatives and elements should be defined for the appropriate regulatory analyses.

Section 802
Gulf of Alaska Rockfish Demonstration Program
Considerations for Implementation

Prepared by:
NMFS, Alaska Region Staff
January 2004

Section 802 of Title VIII of the Consolidated Appropriations Act, 2004 would establish a new pilot program recognizing the historic participation of fishing vessels and the historic participation of fish processors for a group of rockfish species harvested in the Central Gulf of Alaska (CGOA). Specifically, this program would recognize the catch histories of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish. The years recognized are: the best 5 out of 7 years from 1996 to 2002 for fishing vessels, and the best 4 of 5 years from 1996 to 2000 for processors. This program also would establish catch limits based on fishing history for other non-rockfish species that are currently harvested with the rockfish species.

Text of Section 802

> SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM. The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

Analysis of Section 802 and Policy Questions

The Council has requested NMFS to provide an overview of how this pilot program could be implemented. Although the legislative language provides a clear time line for implementing the program, it does not provide much guidance on what criteria or mechanisms to use in recognizing fishing or processing history. Furthermore, the legislation directs the Secretary to consult with the North Pacific Fishery Management Council in establishing a pilot program.

Based on the lack of clear direction within the legislative language and the requirement to consult with the Council, a reasonable approach to implementing this section is to seek Council recommendations on specific elements of this program.

Key Policy Questions

Several key questions would need to be resolved through consultation with the Council, including:

1. Would "recognition" mean the establishment of transferable quota shares?
2. Would "catch history" include retained harvests only or would it also account for discards?
3. In order to qualify as a "historic participant," would a harvester need to meet a minimum landing amount? Similarly, would processors need to meet a minimum threshold to qualify?
4. Would "recognition" require the establishment of cooperatives, and if so, how would the cooperatives be set up in terms of specifics such as number of participants, leasing arrangements, etc.?
5. How would processing history be "recognized," given that section 804 of Title VIII prohibits the consideration or establishment of any program to allocate individual processor quotas or processor shares in any fishery other than the Bering Sea Aleutian Islands crab fishery?

Guidance from NOAA General Counsel would also be important in dealing with questions that remain unanswered by the legislative language. For example, the legislation expressly recognizes processing history from 1996 to 2000, but does not indicate whether other years can be considered. Also, the legislation does not expressly authorize explicitly linking a processor and a specific class or group of harvesters. A linkage would be required between harvesters and processors participating in the 5 percentage set aside fishery because harvesters would be required to deliver their harvests to processors not eligible to participate in the pilot program. Any program that is developed that would require an explicit processor-harvester cooperative linkage other than the 5 percent set aside fishery, would require additional legislative authority before it could be implemented.

Section 802 requires setting aside up to 5 percent of the total allowable catch (TAC) in the Pacific ocean perch, northern rockfish, and pelagic shelf rockfish fisheries to catcher vessels that are not eligible to participate in the pilot program. That 5 percent set aside would have to be delivered to shore-based fish processors also ineligible to participate in the pilot program. If catcher vessels that are eligbile to participate chose not to participate in the pilot program they would not be authorized to fish in the 5 percent set aside rockfish fisheries. The legislation is unclear, however as to whether the 5 percent set aside for rockfish is intended to accommodate both target and incidental catch needs by non-qualified vessels. We probably can infer from the language that if catcher vessels eligible to participate in the pilot program choose not to do so, they would not be authorized to fish in the 5 percent set aside rockfish fisheries, but this is another point requiring clarification.

The legislation also is ambiguous as to whether rockfish taken by a qualified vessel as incidental catch in another fishery (e.g., cod or flatfish) could be delivered to a non-qualified CGOA rockfish processor along with the vessel's target catch. Similarly, could a non-qualified vessel

deliver incidental catch of rockfish to a qualified processor? The legislation also does not indicate whether rockfish catch taken incidentally while targeting on other species would count towards a vessel's qualifying catch.

This section also establishes catch limits for non-rockfish species, and non-target rockfish species that are harvested with the specified rockfish fisheries, which "shall be "based on the historic harvesting of such bycatch species." The legislation is not clear if the catch limit would be based on the years 1996 to 2002 for fishing vessels and the years 1996 to 2000 for processors It is also not clear if these catch limits would be based on retained harvests only, or if discards would be considered in the computation. Equally unclear is whether this catch limit would be established for all participants, whether it would be "allocated" as a form of individual catch allowance, or if there would be some potential for cooperative management of this catch limit among the eligible participants. It is also unclear whether halibut PSC would be accounted for in this program. The pilot rockfish fishery would require its own allocation of halibut to fully realize benefits of rationalizing this fishery.

The pilot program will sunset when a GOA comprehensive rationalization plan is implemented by the Secretary or 2 years from the date of implementation of the pilot program, whichever is earlier.

One step NMFS could undertake immediately would be to establish a registry of catch history and processing history in the CGOA rockfish fisheries. This registry would identify the amount of species harvested by vessel and area for the years in question. This registry could include both retained harvests and retained harvested and discarded based on ADF&G fish ticket and observer blend data estimates. A similar registry could be established for processing history in the CGOA rockfish fisheries. This registry would be the basis for any subsequent allocations or for use in the formation of cooperatives once the Council recommends specific implementation details.

March 24, 2004

Ms. Stephanie Madsen, Chairman
North Pacific Fishery Management Council
605 West 4th Ave.
Anchorage, AK 99501
FAX: 907-271-2817

RE: CGOA rockfish pilot program

Dear Ms. Madsen,

In response to the Council's request that the stakeholders and proposers give further input on the proposed Central Gulf of Alaska rockfish pilot program the historical participants have drafted the attached document. In developing this outline, we have worked on the assumption that history is not permanently transferable since this is a temporary program. We have also tried to limit the elements and options to those which are appropriate for a temporary, trial program.

Our proposal uses the legislative language (Section 802) as well as Senator Stevens' floor language to define the program. The proposal addresses the entry level fishery, defines historical fish processors as an AFA cooperative model, and establishes catch limits for non-rockfish and non-target rockfish species based on historical usage for the pilot program.

We hope that the program can be kept relatively simple so that it can be implemented quickly. The program is intended to help stabilize Kodiak's fishery economy, extend the work year for processing jobs in Kodiak, and recognize the historical participation of the catcher-processor sector. It is also hoped that the pilot program will allow better conservation and management of the Central Gulf of Alaska rockfish fishery.

Thank you for consideration of our proposal. Please find attached our specific recommendations.

Sincerely,

Julie A. Bonney

Julie Bonney
Director, AGDB

Ed Luttrell
Director, GFF

CGOA Rockfish Pilot Program
Elements and Options
March 24, 2004

SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM. The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

Set-asides:

Prior to allocation of catch history to the sectors, NMFS shall set aside:

- ICA: An Incidental Catch Allocation (ICA) of POP, Northern rockfish and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the pilot program
- Entry Level Fishery: A percentage of POP, Northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program, as mandated in the Congressional language. For the first year of this program, this set-aside will be 3 percent of each of these target rockfish species. If this amount is taken in the first year, the set-aside will be increased to 5% in the second year.

Entry-Level Fishery:

Catcher Vessel Participation:

Vessels that can participate in the Entry Level fishery are those vessels that did not qualify for the CGOA rockfish pilot program.

Processor Participation:

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

Fishery participation:

Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a contract with a non-qualified processor for a market.

NMFS will determine:

- Whether limits need to be imposed on vessel participation
- If limits need to be imposed, determine the appropriate number of vessel that would be allowed to fish in the entry level fishery

- If more vessels apply then the fishery can support, a lottery will occur to determine the participants.
- Entry permits are non-transferable and much be fished by the named vessel

Sector Definitions:

- Trawl catcher vessel
- Trawl catcher processor
    - A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

Rationalized Areas

- History is allocated for the CGOA only (NMFS statistical areas 620 and 630)

Sector Allocations:

- Catch history is determined by the sector qualified catch in pounds as a proportion of the total qualified catch in pounds.
- Sector allocation is based on individual qualified vessel histories with the drop-2 provision at the vessel level.

Each sector is allocated catch history based on:

1. The sum of all catch history of vessels in that sector for the years 1996-2002, drop two, whether the vessels earned a CGOA LLP endorsement or not.
2. The sum of all catch history of vessels in that sector for which earned a valid, permanent, fully transferable CGOA LLP endorsement, for the years 1996-2002 drop two.
    - Suboption: include history of vessels which hold a valid interim endorsement on implementation of the program

Target species:

- Qualified target species history is allocated based on retained catch, excluding meal.
- History will be allocated to each sector for POP, Northern rockfish and pelagic shelf rockfish caught in the CGOA while targeting any one of these species during the qualifying period, including incidental catch of these species caught while targeting another of these target rockfish species.
- Different years may be used for determining the history of each of the three rockfish species.

Secondary species:

- Secondary species history is allocated based on total catch while targeting the primary rockfish species listed above.
- History will be allocated to each sector for sablefish, shortraker/rougheye rockfish and thornyheads
- Pacific cod history will be allocated to vessels that fish on the inshore Pacific cod quota.
- All non-allocated secondary species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, atka mackerel and other rockfish. For the CPs that fish on the offshore-Pacific cod quota, Pacific cod will be managed by MRA.
- Secondary species allocations will be based on:
    1. Total catch by sector of the secondary species caught while targeting rockfish divided by the total catch of secondary species by all sectors over the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program.

2. Percentage of catch by sector of the secondary species within the rockfish target fisheries divided by the total number of years in the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program.

Prohibited species (halibut mortality):

- Allocation to the pilot program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the years '96-'02 by the number of years (7). This allocation will be divided between sectors based on:
  1. The actual usage of each sector
  2. The relative amount of target rockfish species allocated to each sector.

Allocation from Sector to Vessel

- Within each sector, history will be assigned to LLP holders that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Target species:

Each LLP holder will receive an allocation of history equivalent to their proportion of the total of the sector qualifying history.

Secondary species:

1. Each LLP holder will receive an allocation of each allocated secondary species equivalent to their proportion of the total sector qualifying history of that secondary species
2. Each LLP holder will receive an allocation of sector history proportional to their allocation of target rockfish history

Different options may be chosen for each sector

PSC (halibut mortality)

Each LLP holder will receive an allocation of halibut mortality equivalent to their proportion of the sector rockfish history

Allocations of secondary species:

1) Must be fished in conjunction with the primary species allocations.
   (Compliance monitored at offload)
2) May be fished independently of the primary species allocations.

Coop provisions

Duration of cooperative agreements is 2 years, with the pilot rockfish program expiring at the end of two years or when Comprehensive GOA rationalization is implemented.

For all sectors

- The coop membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all coop fish.
- Coop members shall internally allocate and manage the coop's allocation per the Contract.
- Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the coop to the extent permitted under the Contract.
- The Contract must have a monitoring program. Monitoring and enforcement requirements would be at the coop level. Coop members are jointly and severally responsible for coop vessels harvesting in the aggregate no more than their coop's allocation of rockfish species, secondary species and PSC mortality, as may be adjusted by inter-coop transfers.
- Coops may adopt and enforce fishing practice codes of conduct as part of their membership agreement.
- Coop membership agreements shall allow for the entry of other eligible harvesters into the coop under the same terms and conditions as agreed to by the original agreement.
- Coops will report annually to the Council as per AFA.

CP sector:

History is allocated to the current owner of the LLP of the vessel that earned the history.

- Owners may fish their allocation independently if the vessel has a CGOA endorsement, or may enter into a cooperative arrangement with other owners.
- More than one coop may form within the sector
- Any number of eligible LLP owners may form a coop
- Allocations may be transferred between coops of at least three LLP owners each.

CV sector:

- Voluntary co-ops may form between eligible harvesters in association with processors.
- Catcher vessel coops must be associated with an eligible processor.
- An eligible processor is a processing facility that has purchased 250 MT of aggregate Pacific Ocean Perch, Northern Rockfish, and Pelagic Shelf rockfish harvest per year, for 3 years, from 1996 to 2001.
- A harvester is eligible to join a cooperative in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the year's 1996 –2001 drop 1 year (processor chooses the year to drop, same year for all vessels)
- Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery during the two-year pilot program. Those vessels that opt out of the program will be penalized 10 to 20% of their historical share. The penalty share will be left with the vessel's associated cooperative. The vessel's remaining share will be fished in an open access fishery environment and must be delivered to one of the qualified processors.
- If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.
- The harvesters that enter into a coop membership agreement shall be the members of the coop. The processor will be an associate of the cooperative but will not be a cooperative member.
- A pre-season Contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an allocation of Historical Shares.
- Coop membership agreements will specify that processor affiliated vessels cannot participate in price setting negotiations except as permitted by general antitrust law.

- Processors are limited to 1 co-op per plant.
- Catcher vessel cooperatives are required to have at least:
  a) 50-75 percent of the eligible Harvest Share for each co-op associated with its processor
  b) Any number of eligible harvesters (allows single person co-op)

General provisions concerning leasing of historical shares:

Shorebased Transfer provisions
Coops may engage in inter-Cooperative transfers (leases) of historical shares during the 2-year coop period to other Cooperatives with agreement of the associated qualified processor.

CP Transfer provisions
CP historical shares may be transferred (leased) within coops and between coops with at least three LLP owners each.

Sector Transfer provisions
CP historical shares may be leased to CV cooperatives. CV historical shares may not be leased to CP cooperatives.

All transfers would be temporary and history would revert to the original LLP at the beginning of the next year.

Coop harvest use caps

CV coops:
Control of harvest share by a CV co-op shall be capped at:

Option 1: 30% of aggregate POP, Northern Rockfish and PSR for the CV sector
Option 2: 40% of aggregate POP, Northern Rockfish and PSR for the CV sector
Option 3: 50% of aggregate POP, Northern Rockfish and PSR for the CV sector
Option 4: No cap

CP coops:
Control of harvest share by a CP co-op shall be capped at:

Option 1: 50% of aggregate POP, Northern Rockfish and PSR for the CP sector
Option 2: 60% of aggregate POP, Northern Rockfish and PSR for the CP sector
Option 3: 75% of aggregate POP, Northern Rockfish and PSR for the CP sector
Option 4: No cap

Eligible CPs will be grandfathered at the current level

Shoreside processor use caps
Shoreside processors shall be capped at the entity level.
No processor shall process more than:

Option 1: 30% of aggregate POP, Northern Rockfish and PSR for the CV sector
Option 2: 40% of aggregate POP, Northern Rockfish and PSR for the CV sector
Option 3: 50% of aggregate POP, Northern Rockfish and PSR for the CV sector
Option 4: No cap

Eligible Processors will be grandfathered.

Program Review

Program review the first and second year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters, processors and communities. Conservation benefits of the program would also be accessed.

Sideboards

Sideboard alternatives
After analysis of these alternatives, the CP and CV sectors will determine the most effective option(s).

Opt out provision: Qualifying LLP owners may choose to opt out of the program on an annual basis. The history of these owners will stay with the sector. Owners which opt out of the program will not be sideboarded in other fisheries.

Qualifying LLP owners which participate in the CGOA rockfish pilot program are limited, in July, in the following fisheries:

CGOA flatfish (all), AI POP, BSAI other flatfish, BSAI yellowfin sole, BSAI pacific cod, WGOA rockfish, WYAK rockfish

1. To fisheries in which the LLP participated in July from 1996 to 2002 for:
    1. Any one year
    2. Any two years

2. To a maximum percentage of total catch by target, and PSC by target (BSAI) or deep or shallow water complex (GOA) during the month of July in any one year from 1996-2002

    - Suboption: Apply to all vessels (not just CGOA participants)

As a separate option, the CP sector could choose to fish its sector allocation under the current management regime, with the rockfish fishery starting on July 1st.