

MEMORANDUM

TO: Council and Board Members

FROM: David Witherell
Fishery Biologist

DATE: February 2, 2000

SUBJECT: Habitat Areas of Particular Concern

ACTION REQUIRED

Status report on analysis to protect habitat areas of particular concern (HAPC).

BACKGROUND

The Magnuson-Stevens Act requires that fishery management plans identify and describe essential fish habitat (EFH), recommend measures to conserve and enhance EFH, and minimize to the extent practicable, adverse impacts from fishing on EFH. In June 1998, the Council adopted amendments to fishery management plans that describe essential fish habitat for managed species, as phase one in the EFH process. EFH is defined on the basis of general distribution, and is described as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. Phase two in this process is to identify additional habitat areas of particular concern (HAPC) and establish conservation measures to protect HAPC.

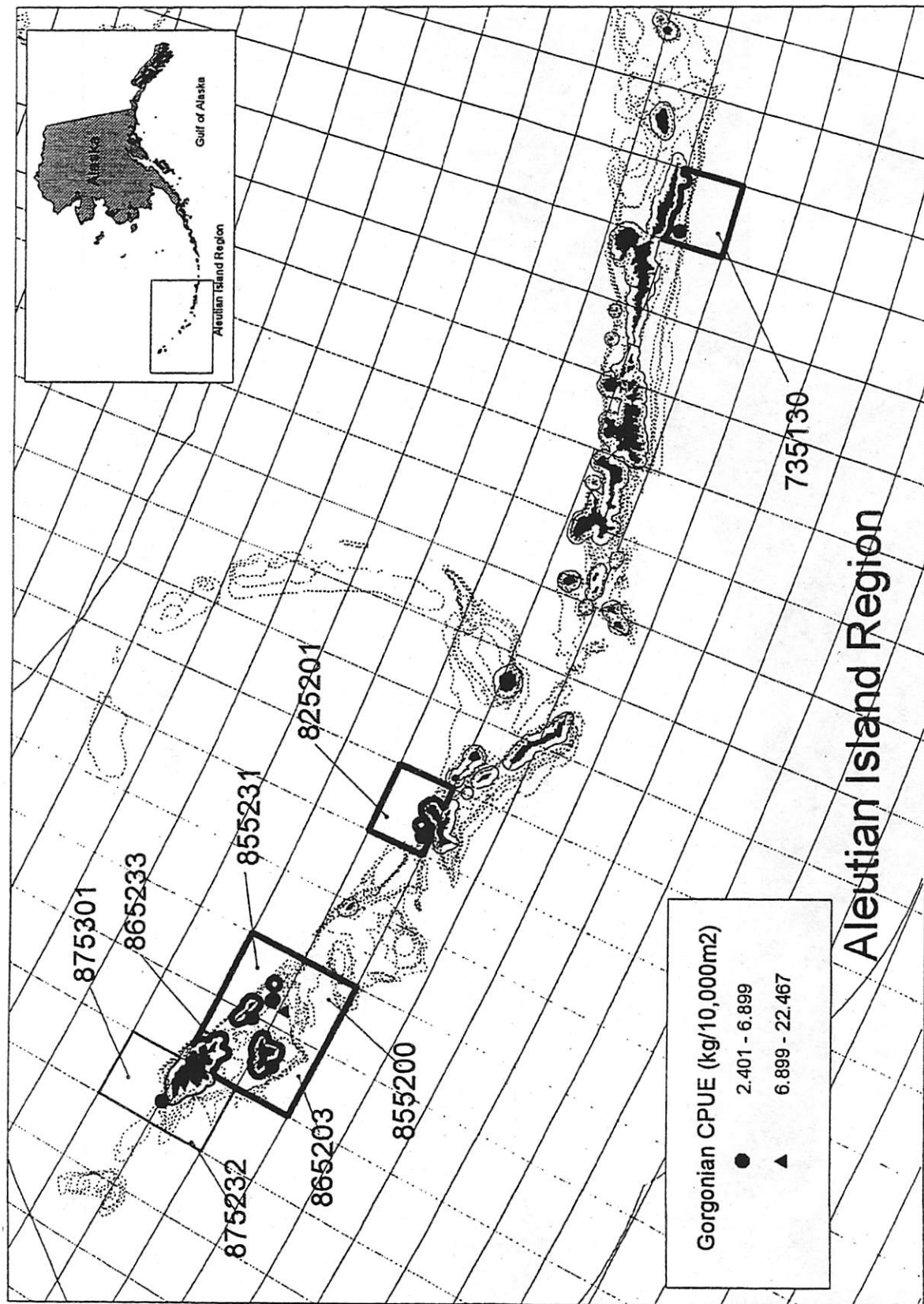
In February, the Council will make initial review of an amendment that may identify additional HAPC, and take two management measures to protect HAPC from fishing effects. The first measure being considered would potentially prohibit directed fishing for certain HAPC biota (corals, sponges, kelp, rockweed, and mussels). The second measure would establish several marine protected areas where Gorgonian corals are found in abundance. Gorgonian corals have been shown to be important shelter for rockfish and other fish species, very long lived, easily damaged by fishing gear, and slow to recover from damage. The areas under consideration are shown in the attached figures (Item 4a). The executive summary is attached as Item 4b.

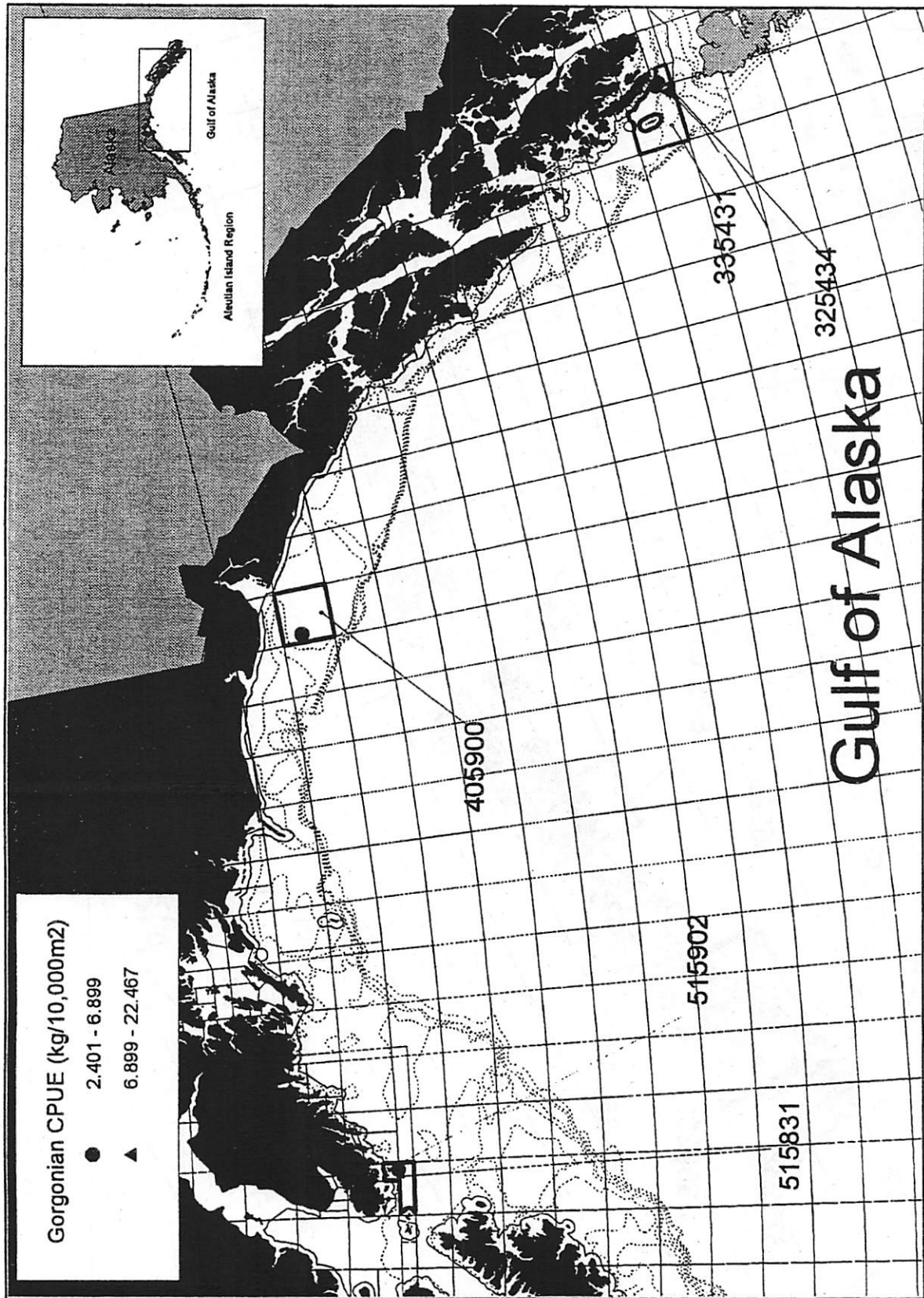
Conservation and protection of HAPC biota would be more comprehensive if applied to State waters and State managed fisheries as well. To assist the Council's habitat protection measures, the Board of Fisheries could assist by mirroring actions taken by the Council on HAPC (final action scheduled for April). Based on alternatives being considered, the Board may want to consider the following measures.

1. Prohibit or restrict the harvest of specific HAPC biota in State waters. Although corals, sponges, kelp, rockweed, and mussels have commercial potential, they are important fish habitat.
2. Prohibit fishing within the marine habitat protection areas adopted by the Council to protect coral habitat. If the Council recommends that certain areas be closed to fishing, then it would be up to the Alaska Board of Fisheries to take this action with regards to crab fisheries and other fisheries not under Council jurisdiction. Note that a golden king crab fishery occurs throughout the Aleutian

Islands using longlined pots (see adjacent figure). Under the BSAI king and Tanner crab FMP, closed areas are a category 2 measure, meaning that the regulation can be adopted by the Board after following criteria set forth in the FMP. Note that one of the criteria for closed waters is "the need to protect critical habitat for target or non-target species".

3. Prohibit fishing in State waters adjacent to these marine protected areas. Note that Gorgonian coral has been found in high abundance immediately adjacent to State waters in the Attu, Kiska, and Dixon Entrance areas.





Executive Summary

This Environmental Assessment/Regulatory Impact Review (EA/RIR) addresses alternatives to protect and conserve essential fish habitat (EFH) of finfish, mollusks, and crustaceans. The Magnuson-Stevens Act mandates that any fishery management plan (FMP) must include a provision to minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. The action identified in this EA/RIR is to define and identify additional habitat areas of particular concern (HAPC) in the North Pacific and implement management measures to minimize adverse impacts of fishing and non-fishing threats on HAPC to the extent practicable. These HAPC areas and management measures would be included in the five FMPs: the BSAI groundfish, GOA groundfish, BSAI crab, scallop, and salmon FMPs. The alternatives analyzed in the EA/RIR are highlighted in the following table.

Alternative 1: Status Quo. The FMPs would not be amended to add additional HAPC types and areas, and no additional measures would be taken to protect HAPC from potential effects caused by fishing and non-fishing activities.

Alternative 2: Amend the FMPs to include additional HAPC types and areas, and take additional measures to protect HAPC from potential effects caused by fishing and non-fishing activities.

A. Proposed HAPC habitat types

1. Seamounts and pinnacles
2. Ice edge
3. Shelf break or shelf edge domain
4. Biologically-consolidated fine-grained sediments

B. Proposed specific HAPC areas

1. A deep basin in Prince William Sound
2. The Chrikov Basin north of St. Lawrence Island
3. The red king crab bycatch areas around Kodiak Island

C. Options for Fishery Management Actions. *Note that both Option 2 and Option 3 can be adopted.*

Option 1. Status quo. No additional fishery management actions to protect HAPC from fishing impacts would be taken.

Option 2. Reclassify living substrate HAPC biota, which are currently either not covered by the FMP (i.e., BSAI coral), or are categorized in the groundfish plans as non-specified species (and hence have no catch limits or reporting requirements).

Suboption A: Classify selected HAPC biota as a prohibited species. This would specifically prohibit retention of all corals, sponges, kelp, rockweed, and mussels, all of which have commercial potential. Reporting requirements for this HAPC biota may be similar to other prohibited species.

Suboption B: Classify HAPC biota as a new category. This would allow specific management measures to be implemented to protect HAPC biota, without necessarily prohibiting incidental harvest or retention as a target fishery. Reporting of HAPC biota caught incidentally in groundfish fisheries may be required.

Option 3. Establish marine protected areas in areas of Gorgonian coral abundance.

Suboption A: Prohibit fishing in these areas by all gear types.

Suboption B: Prohibit fishing in these areas by bottom fishing gears (trawl, longline, dredge, pot, dinglebar), but allow fishing with some gears (jig, troll).

The goal of these FMP amendments is to provide additional protection of EFH from potential adverse effects due to fishing and non-fishing related activities through the identification of HAPCs. The information on HAPC conservation recommendations provided by NMFS or the Councils should encourage avoidance of activities that may adversely affect fish habitat in these areas. Conservation recommendations may advise the use of environmentally sound engineering and management practices (e.g., seasonal and gear restrictions, specific dredging methods, and disposal options) for all fishing and non-fishing related activities. If implemented by the action agencies, EFH/HAPC conservation recommendations provided by a Council or NMFS will improve the conservation of important aquatic habitats and the associated ecosystem. All of the alternatives to the status quo would be expected to benefit fish populations and their habitats, provide for improved long-term productivity of the fisheries, and benefit the vulnerable marine ecosystems.

Some of the proposed HAPC habitat types and areas ranked higher than others relative to the criteria specified in the guidelines for essential fish habitat. Analysis indicated that seamounts and pinnacles should receive HAPC type designation. Additionally, the deep basin in Prince William Sound should be designated as a specific HAPC area. Designation of HAPC areas could also include the Nearshore Bristol Bay closure area, the Pribilof Island Habitat Conservation Area, and the Sitka Pinnacles Marine Reserve. These areas meet most, if not all, of the criteria specified for HAPC designation.

Proposed management measures would reduce adverse impacts of fishing on HAPC. The option to prohibit harvest of some HAPC species would constitute a preventative approach, in that it would prevent a commercial fishery for these HAPC species from developing. Large amounts of coral have been commercially harvested in the past for jewelry, but recent catch records show that none has been reported taken in recent years.

The option to prohibit fishing on areas of gorgonian coral abundance would protect this vulnerable HAPC from adverse impacts due to fishing. These corals have been shown to be 1) important shelter for rockfish and other fish species; 2) very long lived; 3) easily damaged by fishing gear; and 4) slow to recover from damage. Although the proposed closure areas are small, and generally not in areas of high groundfish or crab fishing effort, the fishing industry may incur some operational costs associated with this measure. Nevertheless, it is unlikely that the total catch of all species would be affected by this measure.

To prohibit all fishing in the proposed coral protection areas, the Alaska Board of Fisheries would need to pass complementary regulations for fisheries under their jurisdiction (e.g., lingcod, scallops, salmon, crab). For example, some fishing for golden king crabs currently occurs in the proposed closure areas in the Aleutian Islands. Under the BSAI king and Tanner crab FMP, closed areas are a category 2 measure, meaning that the regulation can be adopted by the Board after following criteria set forth in the FMP. Note that one of the criteria for closed waters is "the need to protect critical habitat for target or non-target species".

None of the alternatives are expected to have a significant impact on endangered, threatened, or candidate species, and none of the alternatives would affect takes of marine mammals. Actions taken to define or protect HAPC are not likely alter the total harvest amounts of groundfish, crab, scallops, or salmon.

None of the alternatives is expected to result in a "significant regulatory action" as defined in E.O. 12866. However, this analysis will be conducted if appropriate for each FMP amendment.

None of the alternatives are likely to significantly affect the quality of the human environment, and the preparation of an environmental impact statement for the proposed action is not required by Section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.



UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 National Marine Fisheries Service
 P.O. Box 21668
 Juneau, Alaska 99802-1668

TAB 4
 Supplemental

January 13, 2000

Clarence G. Pautzke
 Executive Director, North Pacific
 Fishery Management Council
 605 W. 4th Avenue, Suite 306
 Anchorage, Alaska 99501-2252

RECEIVED

JAN 19 2000

N.P.F.M.C

Dear Clarence:

We are in the process of preparing draft proposed rulemaking to implement Amendment 59 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (GOA Groundfish FMP). As passed by the Council in June of 1998, Amendment 59 would have closed a 3.1 square nautical mile area off Cape Edgecumbe to fishing for groundfish, halibut and scallops, while commercial and recreational salmon fishing could continue. All anchoring would be prohibited. In consultation with Council staff, the proposed closure area has been renamed the Sitka Pinnacles Marine Reserve.

Originally, the proposed Sitka Pinnacles closure was considered as part of the EFH amendments, which amended all five of the North Pacific fishery management plans. However, the Council split the closure off as a separate amendment package. In the process of developing the draft notice of proposed rulemaking, we have become aware of a jurisdictional problem with Amendment 59. Under the GOA Groundfish FMP, we cannot prohibit fishing for species other than groundfish, nor anchoring by vessels other than vessels fishing for groundfish. A mandatory Federal prohibition on scallop fishing would require a change to the Fishery Management Plan for Scallop Fisheries off Alaska (Scallop FMP), while a similar mandatory Federal prohibition on anchoring by salmon vessels would require an amendment to the FMP for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP). We can, however, prohibit halibut fishing through separate regulations implementing the Northern Pacific Halibut Act, without changing any Federal fishery management plan.

In the case of scallop fishing, the lack of a Scallop FMP amendment prohibiting fishing for scallops in the Sitka Pinnacles Marine Reserve would not affect the reserve in any real way, because it contains no known scallop beds. Furthermore, scallop fishing in Southeast Alaska (State Registration Area A) has not been allowed under State regulations since July 23, 1994, the effective date of 5 AAC 38.120, which repealed the fishing season



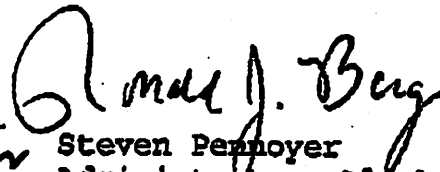
for scallops in Area A. If the Council wishes to request the State to further strengthen the closure, it could propose an agenda change to the State Board of Fish (BOF). According to BOF rules, this request would have to be submitted no later than 45 days before the first or last meeting of its cycle.

The inability to prohibit anchoring by salmon boats under Amendment 59 is more of a concern, because such anchoring was one of the problems identified as leading to potential degradation of the pinnacles habitat. NMFS is working with the State to implement this prohibition with additional State regulations. The State Board of Fish, at its February 14-25 meeting in Sitka, will take up a proposal to prohibit salmon fishing altogether in the proposed reserve, and anchoring by salmon boats will also be considered under that agenda item.

An alternate approach would be to close the area to fishing for scallops and anchoring by salmon boats through separate amendments to the Scallop FMP and the Salmon FMP, accompanied by Federal rulemaking, but we prefer the State to take action, as the State has been delegated responsibility for managing these fisheries.¹ Also, the proposed prohibition on anchoring by salmon vessels in the Sitka Pinnacles Marine Reserve is naturally linked with the State's consideration of whether to close the area to fishing altogether, which would in effect create a small marine reserve, as the proponents of this measure intended.

Therefore, we propose to proceed with a modified Amendment 59 and with rulemaking prohibiting groundfish fishing in the Sitka Pinnacles Marine Reserve; to proceed with rulemaking under the Northern Pacific Halibut Act to prohibit fishing for halibut in the reserve; to continue working with the State on the salmon anchoring prohibition; and to leave it to the Council's discretion whether to work with the State on further action on the scallop question.

Sincerely,


For Steven Penoyer
Administrator, Alaska Region

¹Amendment 3 to the Scallop FMP, effective July 1998, deferred all management measures (including closed waters) to the State of Alaska.