MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: January 28, 1999

SUBJECT: Steller Sea Lions

ESTIMATED TIME
8 HOURS

ACTION REQUIRED

(a) Receive NMFS report on implementation of emergency rule.
(b) Recommend actions as appropriate for 1999.
(c) Review alternatives and options for implementation in 2000.

BACKGROUND

In December, the Council reviewed the Biological Opinion (Section 7 consultation) from NMFS, which concluded with a 'Jeopardy Finding' relative to the pollock fisheries in both the BSAI and the GOA. In order to allow these fisheries to be prosecuted in 1999, the Council took emergency action to implement measures consistent with NMFS' proposed Reasonable and Prudent Alternatives (RPAs). The RPAs, in summary, proposed spatial and temporal distribution of the pollock fisheries as well as additional closure areas around specific rookery and haul-out sites used by sea lions. For the BSAI, the Council's actions include: (1) separating the pollock fisheries into four seasons (A1, A2, B, and C seasons), with a limit of 30% of the total TAC coming from any one season; (2) reducing the overall roe season fishery to 40% of the annual total TAC; (3) limiting the overall A season removals from the sea lion critical habitat area/catcher vessel operational area (CH/CVOA) to 62.5% of the total TAC for those seasons; (4) eliminating a directed pollock fishery in the Aleutian Islands subarea; and, (5) expanding closure areas around rookery and haul-out sites.

For the GOA, the Council also created four seasons with limits on the percentage of the TAC which can be taken from any one season, expanded the closure areas around rookery and haul-out sites, and established a 300,000 pound trip limit for pollock in the western and central Gulf areas. The specific motion adopted by the Council, including details related to the above measures, is attached as Item C-1(a).

These measures will be implemented by emergency rulemaking for the 1999 fisheries, as detailed in the Federal Register Notice, Item C-1(b). Follow-up amendments will have to be prepared for the year 2000 and beyond and could include similar, or additional, measures for sea lion protection. A letter from Steve Pennoyer, dated January 22, 1999 (attached as Item C-1(c)) details the issues for Council consideration.

At the June 1999 meeting, the Council will need to take final action on permanent regulations to protect Steller sea lions for 2000 and beyond, as well as adopt additional emergency rules for the second half of 1999. So at this meeting, the Council will develop and recommend final alternatives for analysis.

Council motion on emergency rule to protect Steller sea lions, December 1998.

"There is considerable scientific uncertainty regarding the relationships between the pollock fisheries and the Western population of Steller sea lions. This uncertainty lies at the heart of the concerns expressed by the AP and the SSC. The Council recognizes and shares these concerns. This uncertainty has placed the industry at risk, and forced the Council to react to Endangered Species Act concerns in a very compressed time frame and make critical decisions based on incomplete and conflicting data. This is not acceptable.

Nonetheless, as the SSC has noted, the Endangered Species Act involves a fundamental shift in the burden of proof and some basic facts are clear: (1) The Western population of Steller sea lions is greatly reduced; (2) the Western population has been listed as endangered; (3) pollock forms a large part of the contemporary diet of Steller sea lions; and (4) pollock fisheries remove and disperse potential prey. In view of the importance of the pollock fisheries, the Council is compelled to take immediate action to address the Endangered Species Act issues. Therefore, the Council adopts the following measures for emergency action in 1999:

A) <u>Aleutian Islands</u>

Close the Aleutian Islands area to directed pollock fishing.

B) <u>Bering Sea</u> (general rules - Item 7 contains more specific rules for each sector)

1. Establish a quarterly system of seasonal sector allocations (among A1, A2, B, and C seasons). Seasons to start on January 20, February 20, August 1, and September 15, respectively.
   a) No pollock fishing between November 1 through January 19.
   b) CH/CVOA = critical habitat/catcher vessel operational area (excluding NW corner)

2. The combined A1+A2 harvest for the non-CDQ fisheries is set at 40% of the annual non-CDQ TAC.

3. Set the A1 and A2 seasonal allocations at 27.5% and 12.5%, respectively, of each sector allocation in the non-CDQ fisheries.

4. No more than 30% of the annual TAC may be harvested in any single season.

5. Five-day closed period between the A1 and A2 seasons.

6. Allow rollover from one season to the next if it doesn't boost the following season's harvest over the 30% of annual TAC seasonal limit.

7. Establish seasonal harvest measures from inside Bering Sea CH/CVOA as follows:

   ***Catcher-processor Sector*:**

   a) Neither A1 or A2 harvest in CH/CVOA may exceed 40% of the respective A1 or A2 apportionments for the catcher-processor sector.

   b) Prohibited from fishing in CH/CVOA in the B and C seasons.

Catcher Vessels Delivering to Motherships:

a) Single A season beginning February 1. 50% may come from the CH/CVOA.

b) B season starting September 1 (no C season). 50% may come from the CH/CVOA.

Inshore Sector:

a) Of the overall A1/A2 inshore cap, no more than 70% shall come out of the CH/CVOA.

b) In the B and C seasons fishing in CH/CVOA is limited to 80% of the inshore sector seasonal allocations.

c) Vessels delivering onshore that are 99 ft LOA or less shall not be excluded from the CH/CVOA during Sept 1 through March 31 during any time that the Bering Sea onshore pollock season is open. The intent would be to close the CH/CVOA to larger boats prior to the sector's CH/CVOA cap being reached leaving sufficient quota remaining within the CH/CVOA to allow smaller boats to fish for the duration of the onshore fishery while others would be fishing outside the CH/CVOA.

CDQ Sector:

a) Harvests in A1 and A2 seasons, combined, may not exceed 45% of the CDQ allocation. Closed periods do not apply.

b) Harvests in B and C seasons to be conducted as under present regulations.

8. Existing stand-down requirements of the A season (relative to non-pollock fisheries) shall be removed.

9. Exempt Cape Sarichef from sea lion closures.

C. <u>Gulf of Alaska</u>

1. Establish the following seasons and allocations:

Season	Start Date	Allocation
A	Jan. 20	30%
B	June 1	20%
C	Sept. 1	25%
D	No later than 10/1; no sooner than 5 days after close of C season	25%

a) Rollover allowed, subject to 30% rule, and November 1st closure still applies.

2. Limit the A season harvest from the Shelikof critical foraging area in accordance with the method described in the Final Biological Opinion (p. 122), i.e.:(Shelikof survey estimate/Total GOA survey estimate, multiplied by A season TAC).

3. Pollock Trawl Exclusion Zones:

   Adopt the pollock trawl exclusion zones proposed by NMFS in the Biological Opinion with the following exceptions for 1999:

   Cape Barnabas; Gull Point; Rugged Island; Point Elrington; Cape Ikolik; Needles; Mitrofania; and Sea Lion Rocks.

4. Trip limits:

   Establish a 300,000 lb trip limit for directed pollock fishing in the W/C GOA.

D. Other Actions

These measures are being adopted as an Emergency Rule in accordance with the MSFCMA. They will be in effect for 180 days. In reviewing the possible extension of these measures for an additional 180 day period, the Council will pay great attention to NMFS' response to the following:

1. The Council requests that NMFS, in consultation with the Council, the Marine Mammal Commission, ADF&G, and other relevant management agencies, coordinate an independent scientific review of the biological data, Biological Opinion, and other relevant information relating to factors affecting Steller sea lions and their prey. The purpose of the scientific review is to provide guidance to the Council as it prepares to address the long-term aspects of the Steller sea lion situation through the plan amendment process. The Council requests that the scientific peer review be completed by April 1, 1999.

2. The Council requests that NMFS reconstitute the Steller Sea Lion Recovery Team to address concerns such as those expressed by the SSC to ensure that the Council has an appropriate additional source of advice as the Council prepares for long-term treatment of Steller sea lion issues.

3. The Council requests that NMFS prepare and submit a budget proposal for the FY 2000 budget for a sustained research program to investigate: the efficacy of the emergency actions adopted by the Council; sea lion dietary and foraging patterns; sea lion/fishery interactions; and current trends in sea lion population dynamics.

4. It is the intent of the Council that the NMFS move as quickly as possible to develop National Standards for Vessel Monitoring Systems (VMS) so that such systems can be required on fishing vessels engaged in the trawl fisheries of the Bering Sea and Gulf of Alaska. Furthermore, it is also Council intent that in developing the National Standards that the NMFS consult with affected states, Councils and other federal and enforcement agencies with the intent that the U.S. Coast Guard and other regional enforcement agencies have timely and efficient access to VMS data.

The Council recognizes that these management measures represent an incremental step, and are for 1999 only. To fully comply with both the ESA and MSFCMA requirements, amendments to the BSAI and GOA FMPs will be necessary. Such FMP amendments may need to consider additional measures to satisfy statutory requirements."

time to prepare for coming into compliance making a thirty-day delay in effective date unnecessary.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this emergency interim rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 15, 1999.

Andrew A. Rosenberg,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

50 CFR CHAPTER VI

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, a definition of "American Fisheries Act" is added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

American Fisheries Act (AFA) (applicable through July 19, 1999) means Title II—Fisheries, Subtitles I and II, as cited within the Omnibus Appropriations Bill FY99 (Pub. L. 105–277).

* * * * *

3. In § 679.20, paragraph (d)(1)(iv) is added to read as follows:

§ 679.20 General limitations.

* * * * *

(d) * * *

(1) * * *

(iv) *American Fisheries Act harvest limitations (applicable through July 19, 1999).* (A) If the Regional Administrator determines that any harvest limitation of groundfish other than pollock, established under section 211(b)(2) (A) or (C) of the American Fisheries Act for catcher/processors identified in section 208(e)(1) through (20) of that Act, has been or will be reached, the Regional Administrator may establish a directed fishing allowance for the species or species group applicable only to those identified catcher/processors.

(B) In establishing a directed fishing allowance under paragraph (d)(1)(iv)(A) of this section, the Regional Administrator shall consider the amount of the harvest limitation established under section 211(b)(2) (A) or (C) of the American Fisheries Act that will be taken as incidental catch by those catcher/processors identified in section 208(e) (1) through (20) of that Act in directed fishing for other species.

4. In § 679.21, paragraphs (e)(3)(v) and (e)(7)(ix) are added to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(e) * * *

(3) * * *

(v) *American Fisheries Act prohibited species catch limitations (applicable through July 19, 1999).* The aggregate amounts of any crab, halibut or herring trawl PSC limit caught by the catcher/processors identified under section 208(e)(1) through (20) of the American Fisheries Act and counted against the bycatch allowances specified for the fishery categories defined under paragraphs (e)(3)(iv)(B) through (E) of this section shall be limited to the amounts established under section 211(b)(2)(B) of that Act and published in the **Federal Register** under paragraph (e)(6) of this section.

* * * * *

(7) * * *

(ix) *Closures under the American Fisheries Act prohibited species catch limitations (applicable through July 19, 1999).* When the Regional Administrator determines that the catcher/processors identified under section 208(e)(1) through (20) of the American Fisheries Act have caught the amount of any crab, halibut, or herring prohibited species catch limitation specified under paragraph (e)(3)(v) of this section, directed fishing for groundfish by those vessels will be prohibited in the applicable area defined under this paragraph (e)(7), except for pollock with pelagic trawl gear.

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5. In § 679.50, paragraph (c)(5) is added to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 21, 2000.

* * * * *

(c) * * *

(5) *Observer coverage under the American Fisheries Act (applicable through July 19, 1999).* Any catcher/processor listed under section 208(e)(1) through (20) of the American Fisheries Act is required to have two observers aboard the vessel any day it harvests, receives, or processes groundfish. One of the two observers must meet the qualifications described at paragraph (h)(1)(i)(D) of this section.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990115017–9017–01; I.D. 011199A]

RIN 0648–AM08

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; revision to 1999 interim harvest specifications; technical amendment to Steller sea lion no-trawl zones; request for comments.

SUMMARY: NMFS issues an emergency interim rule implementing reasonable and prudent alternatives to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify their critical habitat. This emergency rule would implement three types of management measures for the pollock fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA): Measures to temporally disperse fishing effort, measures to spatially disperse fishing effort, and pollock trawl exclusion zones around important Steller sea lion rookeries and haulouts. These emergency measures are necessary and must be effective before the start of the BSAI and GOA pollock fisheries on January 20, 1999, or NMFS will be obligated under the Endangered Species Act to close all fishing for pollock until such measures are in place.

DATES: Effective January 20, 1999, through July 19, 1999. Comments must be received by February 22, 1999.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Biological Opinion

(BO) on the pollock fisheries of the BSAI and GOA and the Atka mackerel fishery of the Aleutian Islands Subarea, and the Environmental Assessment/ Regulatory Impact Review (EA/RIR) prepared for the emergency rule may be obtained from the same address. The BO is also available on the Alaska Region home page at http://www.fakr.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.*, implemented by regulations appearing at 50 CFR part 679. Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679 respectively.

Purpose and Need for Action

NMFS issued a BO dated December 3, 1998, and revised December 16, 1998, on the pollock fisheries of the BSAI and GOA and the Atka mackerel fishery of the Aleutian Islands Subarea. The BO concluded that the BSAI and GOA pollock trawl fisheries, as currently managed, are likely to (1) jeopardize the continued existence of the western population of Steller sea lions and (2) adversely modify its critical habitat. The clause "jeopardize the continued existence of" means "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species" (50 CFR 402.02). The clause "adversely modify its critical habitat" means "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical" (50 CFR 402.02). The BO also concluded that the Atka mackerel fishery, as modified by recent regulatory changes, is not likely to jeopardize the continued existence of Steller sea lions or their critical habitat.

In 1990, NMFS designated the Steller sea lion as a threatened species under the Endangered Species Act of 1973. The designation followed severe declines throughout much of the GOA and Aleutian Islands region. In 1993, NMFS defined critical habitat for the species to include (among other areas), the marine areas within 20 nautical miles (nm) of major rookeries and haulouts of the species west of 144° W longitude. In 1997, NMFS recognized two separate populations, and reclassified the western population (west of 144° W longitude) as endangered. Counts of adults and juveniles in the western population of Steller sea lions declined from about 110,000 to about 30,500 between the late 1970s and 1990, a decline of 72 percent. The decline has continued, with counts of adults and juveniles declining 27 percent from 1990 to 1996, and an additional 9 percent from 1996 through 1998. Similarly, counts of pups dropped by 19 percent from 1994 through 1998. The absolute magnitude of the decline has been smaller in recent years because the western population is already at a severely reduced level. However, the continued decline remains a serious problem.

Multiple factors have contributed to the decline, but considerable evidence indicates that lack of available prey is a major problem. Foraging studies confirm that Steller sea lions depend on pollock as a major prey source, and sea lions may be particularly sensitive to the availability of prey during the winter. The significance of pollock in the diet of sea lions may have increased since the 1970s due to shifts in the Bering Sea ecosystem related to oceanographic changes. Pollock are also the target of the largest commercial fisheries in Alaska, fisheries that have grown increasingly concentrated in time and space. This concentration of effort occurs largely in areas designated as Steller sea lion critical habitat and may reduce prey availability at critical times in the life history of sea lions. For these reasons, the BO concluded that the pollock fisheries of the BSAI and GOA may compete with sea lions and either contribute to their decline or impede their recovery. Additional information on Steller sea lions and the pollock fisheries of the BSAI and GOA is contained in the BO and in the EA prepared for this action (See **ADDRESSES**).

The BO concluded that, to avoid the likelihood of jeopardizing the continued existence of the western population of Steller sea lions or of adversely modifying its critical habitat, reasonable and prudent alternatives to the existing pollock trawl fisheries in the BSAI and GOA must accomplish three basic principles: (1) Temporal dispersion of fishing effort, (2) spatial dispersion of fishing effort, and (3) pollock trawl exclusion zones around Steller sea lion rookeries and haulouts. The BO also contained examples of specific management measures that would implement the three basic principles.

At its December, 1998 meeting, the Council deliberated on various management measures to implement the principles described in the BO. After significant debate and public comment, the Council voted to adopt a series of emergency measures to protect Steller sea lions. After review, NMFS has determined that the Council's recommended measures, with certain modifications, adhere to the principles identified in the BO. The Council's motion forms the basis for the management measures contained in this emergency rule.

Elements of the Emergency Rule

Aleutian Islands Closure

The emergency rule closes the Aleutian Islands Subarea to directed fishing for pollock. This closure, recommended by the Council as part of its emergency rule recommendation, is consistent with the principles contained within the BO. In light of its recommendation to close the Aleutian Islands Subarea to directed fishing for pollock, the Council also recommended that the pollock total allowable catch (TAC) for the Aleutian Islands Subarea be reduced to 2,000 metric tons (mt) to provide for incidental catch of pollock by vessels participating in other groundfish fisheries. This TAC recommendation, if approved by NMFS, will be published in the final 1999 BSAI harvest specifications.

Pollock Trawl Exclusion Zones

This emergency rule prohibits directed fishing for pollock within either 10 or 20 nm of rookeries and haulouts in the Bering Sea Subarea and GOA. The location, size, and period of each exclusion zone are set out in the Tables 12 and 13 of 50 CFR part 679 of the codified text. The size of the exclusion zones in each area reflects the relative widths of the continental shelf. In the Bering Sea Subarea, the shelf is relatively wide and exclusion zones have radii of 20 nm. In the GOA, the shelf is narrower and exclusion zones have radii of 10 nm.

NMFS approved these sites on the basis of ten Steller sea lion counts

conducted since 1979 during the reproductive season (summer) and non-reproductive season (winter). NMFS used the following criteria to identify and approve sites that require exclusion zones and to determine the period of the closure:

1. Rookeries

All rookery sites have 10 or 20 nm year-round pollock trawl exclusion zones.

2. Summer Haulouts

Haulouts with greater than 200 sea lions in a summer survey since 1979 and less than 75 sea lions in winter surveys since 1979 have 10 or 20 nm pollock trawl exclusion zones effective May 1 through October 31.

3. Winter Haulouts

Haulouts with less than 200 sea lions in summer surveys since 1979 and greater than 75 sea lions in a winter survey since 1979 have 10 or 20 nm pollock trawl exclusion zones effective November 1 through April 31.

4. Year-Round Haulouts

Haulouts with greater than 200 sea lions in a summer survey since 1979 and greater than 75 sea lions in a winter survey since 1979 have year-round 10 or 20 nm pollock trawl exclusion zones.

The Council's emergency rule recommendations contained all of the pollock exclusion zones put forth by NMFS in the BO with one exception in the Bering Sea Subarea and eight exceptions in the GOA.

In the Bering Sea Subarea, the Council recommended no closure for a proposed 20 nm exclusion zone around the Cape Sarichef haulout. The BO states that "some of the principles identified above may be accomplished by an incremental or phased approach if the incremental approach does not jeopardize the continued existence of the western population of Steller sea lions. The phase in of any reasonable and prudent alternative must not be drawn out, and two years is a general guideline with a significant portion occurring in year one."

Consistent with the BO, and based on the above criteria, NMFS has decided to phase in the exclusion zone around this haulout with a 10 nm exclusion zone in 1999 and anticipates extending the exclusion zone to 20 nm for 2000 and beyond.

In the GOA, the Council recommended no closures around Cape Barnabas, Gull Point, Rugged Island, Point Elrington, Cape Ikolik, Needles, Mitrofania, and Sea Lion Rocks. Based on the above criteria, NMFS has decided to implement a 1 year phase-in period for these locations. For 1999, NMFS has decided not to implement exclusion zones at these locations, and anticipates phasing-in 10 nm exclusion zones for 2000 and beyond. The extension of exclusion zones for Cape Sarichef and the eight locations in the GOA would be accomplished through separate rulemaking.

Although the Council's recommended measures included pollock trawl exclusion zones in the Aleutian Islands Subarea, implementation of these exclusion zones becomes unnecessary with the closure of the Subarea to directed fishing for pollock. This emergency rule does not affect existing no-trawl and no-entry zones that apply to all groundfish fisheries. The new exclusion zones established by this emergency rule prohibit directed fishing for pollock only.

Bering Sea Management Measures

1. Fishing Seasons

This emergency rule establishes new fishing seasons for the four sectors of the Bering Sea pollock fishery that are defined in the American Fisheries Act (AFA). These new fishing seasons are summarized in Table 1. This emergency rule also repeals existing fair start provisions that required vessels fishing for pollock in the Bering Sea Subarea to cease fishing for groundfish during the week leading up to each pollock season or face a mandatory stand down period during the first week of the pollock season. The Council has determined that these fair start requirements are no longer necessary given the protections for other fisheries that are contained within the AFA.

TABLE 1.—BSAI POLLOCK FISHING SEASONS BY SECTOR

Fishing season [1]	Industry sector		
	Inshore and catcher/processor	Mothership	Community development quota (CDQ)
A1 Season	Jan. 20–Feb. 15 ...	Feb. 1–April 15	Jan. 20–April 15.
A2 Season	Feb. 20–April 15 ...	Feb. 1–April 15	Jan. 20–April 15.
B Season	Aug. 1–Sept. 15	Aug. 1–Sept. 15	April. 15–Dec. 31.
C Season	Sept. 15–Nov. 1	Sept. 15–Nov. 11 ..	April 15–Dec. 31.

[1] The time of all openings and closures of fishing seasons, other than the beginning and end of the calendar fishing year, is 1200 hours, Alaska local time (A.l.t.).

2. Seasonal Apportionment of TAC

The pollock TAC allocated to each industry sector will be apportioned to the fishing seasons previously identified according to the following formula set out in Table 2. Overages and underages may be "rolled over" to subsequent fishing seasons during the same year, except that the combined fishing activities of all sectors during a fishing season may not exceed 30 percent of the annual TAC.

TABLE 2.—BSAI SEASONAL APPORTIONMENTS OF POLLOCK TAC

Fishing Season	Industry Sector (in percent)		
	Inshore and Catcher/processor	Mothership	CDQ
A1 Season	27.5	40	45
A2 Season	12.5	40	45
B Season	30	30	55

TABLE 2.—BSAI SEASONAL APPORTIONMENTS OF POLLOCK TAC—Continued

Fishing Season	Industry Sector (in percent)		
	Inshore and Catcher/processor	Mothership	CDQ
C Season	30	30	55

3. Critical Habitat/Catcher Vessel Operational Area (CH/CVOA) Conservation Zone

This emergency rule establishes a combined CH/CVOA conservation zone for the purpose of regulating total removals of pollock. This CH/CVOA conservation zone includes the portion of Bering Sea critical habitat known as the Bogoslof foraging area and the portion of the CVOA that extends eastward from the Bogoslof foraging area. The CH/CVOA conservation zone consists of the area of the Bering Sea Subarea between 170°00′ W long. and 163°00′ W long., south of straight lines connecting the following points in the order listed:

55°00′ N lat. 170°00′ W long.;
55°00′ N lat. 168°00′ W long.;
55°30′ N lat. 168°00′ W long.;
55°30′ N lat. 166°00′ W long.;
56°00′ N lat. 166°00′ W long.;
56°00′ N lat. 163°00′ W long.

This emergency rule restricts pollock harvests within the CH/CVOA conservation zone during the A1 and A2 seasons to a percentage of each sector's seasonal TAC apportionment according to the percentages displayed in Table 3.

TABLE 3.—TAC LIMITS WITHIN THE CH/CVOA CONSERVATION ZONE

Fishing season	Industry sector (in percent)			
	Inshore	Catcher/processor	Mothership	CDQ
A1 Season	70	40	50	100
A2 Season	70	40	50	100
B Season		[reserved]		
C Season		[reserved]		

NMFS will monitor catch by each industry sector and close the CH/CVOA conservation zone to directed fishing for pollock by sector when NMFS determines that the specified CH/CVOA limit has been reached. The Council intended that inshore catcher vessels less than or equal to 99 ft (30.2 m) length overall (LOA) would be exempt from CH/CVOA closures from September 1 through March 31 unless the 70 percent cap for the inshore sector has been reached. NMFS will announce the closure of the CH/CVOA conservation zone to catcher vessels over 99 ft (30.2 m) LOA before the inshore sector 70 percent limit is reached. NMFS will implement the closure in a manner intended to leave remaining quota within the CH/CVOA that is sufficient to support directed fishing for pollock by vessels less than or equal to 99 ft (30.2 m) LOA for the duration of the current inshore sector opening.

An emergency rule implemented pursuant to the Magnuson-Stevens Act must not remain in effect for more than 180 days. This emergency rule will expire on July 19, 1999, and does not specify a spatial distribution of pollock TAC for the B and C seasons in the Bering Sea Subarea. NMFS has determined that the spatial dispersion scheme recommended by the Council for the B and C seasons does not adequately meet the principles for reasonable and prudent alternatives outlined in the BO. If the Council submits revised recommendations in a timely manner, NMFS will consider implementing them. In the absence of further recommendations by the Council that provide protections equivalent to or exceeding the principles contained in the BO, NMFS anticipates implementing through subsequent emergency rule the B and C season spatial allocation scheme contained in the BO. Under this scheme, the B and C season TAC allocations would be apportioned among the following three areas based on distribution of exploitable biomass as determined by summer surveys: (1) CH/CVOA conservation zone, (2) east of 170° W long. and outside of the CH/CVOA conservation zone, and (3) west of 170° W long. and north of 56° N lat.

Gulf of Alaska Management Measures

1. Fishing Seasons and TAC Apportionments

This emergency rule establishes new fishing seasons and pollock TAC apportionments in the Western and Central (W/C) Regulatory Areas of the GOA. These new fishing seasons are summarized in Table 4. The TAC for pollock in the combined W/C Regulatory Areas will continue to be apportioned among Statistical Areas 610, 620, and 630 in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys. The pollock fishing season in the Eastern Regulatory Area will be unchanged.

TABLE 4.—POLLOCK FISHING SEASONS AND SEASONAL TAC APPORTIONMENTS FOR THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA

Fishing season	TAC apportionment (percent)	Dates [1]	
		From	To
A Season	30	January 20	April 1.

TABLE 4.—POLLOCK FISHING SEASONS AND SEASONAL TAC APPORTIONMENTS FOR THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA—Continued

Fishing season	TAC apportionment (percent)	Dates [1]	
		From	To
B Season	20	June 1	July 1.
C Season	25	September 1	The date of closure of a statistical area (610, 620, 630) to directed fishing, or October 1, whichever comes first.
D Season	25	Five days after the date of closure of a statistical area (610, 620, 630) to directed fishing in the C season.	November 1.

[1] The time of all openings and closures of fishing seasons, other than the beginning and end of the calendar fishing year, is 1200 hours, A.l.t.

2. Limits on Pollock Catch Within Shelikof Strait

To prevent localized depletions of pollock within Shelikof Strait, an important winter foraging area for Steller sea lions, the emergency rule limits removals from within Shelikof Strait during the A season. For the purpose of this emergency rule, a Shelikof Strait conservation zone is defined as the area bound by straight lines and shoreline connecting the following coordinates in the following order:

58°51′ N lat. 153°15′ W long.;
58°51′ N lat. 152°00′ W long.; and, the intersection of 152°00′ W long. with Afognak Island; aligned counterclockwise around the shoreline of Afognak, Kodiak, and Raspberry Islands to
57°00′ N lat. 154°00′ W long.;
56°30′ N lat. 154°00′ W long.;
56°30′ N lat. 155°00′ W long.;
56°00′ N lat. 155°00′ W long.;
56°00′ N lat. 157°00′ W long.; and, the intersection of 157°00′ W long. with the Alaska Peninsula.

This area overlaps portions of statistical areas 620 and 630. The Shelikof Strait conservation zone catch limit is not a separate TAC for this area, but a limit on allowable removals from this area. Either one or both of the statistical areas could be closed to directed fishing upon attainment of the specific TACs before the Shelikof Strait catch limit is reached.

NMFS will determine the A season catch limit for the Shelikof Strait conservation zone by calculating a ratio equal to the most recent estimate of pollock biomass in Shelikof Strait divided by the most recent estimate of total pollock biomass in the GOA. NMFS will then multiply by the overall pollock TAC for the GOA and further multiplied by the A season apportionment of 30 percent. For 1999, NMFS has specified an interim Shelikof Strait catch limit of 15,857 mt (see the revised 1999 interim specifications below). When NMFS determines that the A season pollock removals from within the Shelikof Strait conservation zone have reached this specified limit, NMFS will prohibit directed fishing for pollock in Shelikof Strait.

3. W/C GOA Trip Limits

The Council recommended that NMFS establish a 300,000 lb trip limit for catcher vessels harvesting pollock in the directed pollock fisheries of the Western or Central Regulatory Areas of the Gulf of Alaska (W/C GOA). However, NMFS' recordkeeping and reporting requirements currently require that catch and landings be reported in metric tons (mt). NMFS is, therefore, rounding the Council's recommended 300,000 lb trip limit to the nearest equivalent in mt and establishing a trip limit of 136 mt. The emergency rule prohibits the operator of a catcher vessel fishing for groundfish in the W/C GOA from retaining on board more than 136 mt of pollock harvested in the W/C GOA. In addition, to prevent the large scale use of tender vessels to avoid the trip limit restriction, this rule also prohibits vessels operating as tenders from retaining on board more than 272 mt (the equivalent of 2 fishing trips) of unprocessed pollock that was harvested in the W/C GOA. This 136 mt trip limit does not exempt vessels from existing regulations that require 100 percent retention of pollock when directed fishing for pollock is open. A vessel operator must cease fishing for pollock during a fishing trip before the 136 mt trip limit is reached in order to avoid a violation of either the 136 mt trip limit or the 100 percent retention requirement for pollock.

Revised 1999 Interim Harvest Specifications for Pollock in the BSAI and GOA

The regulatory changes in this emergency rule require revision of the 1999 interim specifications of pollock TAC for the BSAI and GOA. Existing regulations at 50 CFR 679.20(c)(2) do not require that interim harvest specifications for pollock in the BSAI and GOA be temporally or spatially dispersed. However, the BO concluded that the current program for managing the BSAI and GOA pollock fisheries could jeopardize Steller sea lions or their critical habitat. Therefore, to allow the Bering Sea and GOA pollock fisheries to commence on January 20, 1999, this emergency rule also adjusts the 1999 interim specifications for pollock to comport with the reasonable and prudent management measures outlined above.

The specifications for Bering Sea Subarea pollock in Table 1 of the 1999 interim harvest specifications (64 FR 50, January 4, 1999) are replaced by the following Table 6. The interim specifications for pollock were changed for two reasons: (1) To comport with the temporal and spatial dispersions required by the BO, and (2) to incorporate the Council's final 1999 TAC recommendations for pollock, which are reduced from the 1999 proposed specifications.

TABLE 6.—REVISED INTERIM 1999 TAC AMOUNTS FOR POLLOCK IN THE BERING SEA SUBAREA

Species and component	Area	A1 Season [1]		A2 Season	
		Interim TAC	CH/CVOA limit	Interim TAC	CH/CVOA limit
Pollock:					
Inshore	BS	115,394	[2] 80,776	52,452	[2] 36,716
Offshore catcher/processor and catcher vessel total	BS	92,316	36,926	41,962	16,785
Listed catcher/processors [3]	BS	84,469	33,787	38,395	15,358
Listed catcher vessels [3]	BS	7,847	3,139	3,567	1,427
Mothership	BS	33,569	16,785	n/a	n/a
CDQ	BS	44,640	44,640	n/a	n/a

[1] The mothership and CDQ sectors have a single A season apportionment equal to 40 and 45 percent of their annual TAC allocations, respectively.
[2] Under the emergency rule, NMFS will close the CH/CVOA conservation zone to inshore vessels greater than 99 ft (30.2 m) LOA while maintaining a sufficient CH/CVOA allowance to support fishing activities by inshore catcher vessels under 99 ft (30.2 m) LOA for the duration of the current opening. However, once the specified CH/CVOA limit is reached, all inshore vessels will be prohibited from engaging in directed fishing for pollock inside the CH/CVOA conservation zone.
[3] Section 210(c) of the AFA requires that not less than 8.5 percent of the directed fishing allowance allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

The first seasonal allowances for W/C GOA pollock in Table 1 of the 1999 Interim Harvest Specifications (64 FR 46, January 4, 1999) are replaced by the following Table 7:

TABLE 7.—REVISED FIRST SEASONAL ALLOWANCES OF POLLOCK IN THE WESTERN (W) AND CENTRAL (C) REGULATORY AREAS OF THE GULF OF ALASKA (GOA)

Species and area	Interim TAC
Pollock:	
W (610)	6,936
C (620)	11,652
C (630)	9,156
W/C Subtotal	27,744
Shelikof Strait Subtotal [1]	15,857

[1] The pollock catch limit for the Shelikof Strait conservation zone is determined by calculating the ratio of the most recent estimate of pollock biomass in Shelikof Strait (489,900 mt) divided by the most recent estimate of total pollock biomass in the GOA (933,000 mt). This ratio will then be multiplied by the overall pollock TAC for the GOA (100,920 mt) and multiplied by the A season apportionment of 30 percent.

Technical Amendment to Steller Sea Lion No-Trawl Zones

This emergency interim rule also makes technical changes to the existing no-trawl zones set out in Tables 4 and 6 50 CFR part 679 by suspending them and by adding Tables 13 and 14 to 50 CFR part 679.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this emergency interim rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This emergency interim rule has been determined to be not significant for purposes of E.O. 12866.

Failure to have the measures contained in this rule in place by January 20, 1999, would force delay of the start of the pollock fisheries of the BSAI and GOA with significant costs to industry. This would occur because without these measures, the December 16, 1998, BO would require that to protect Steller sea lions, no pollock fishing occur. Thus, notice and comment procedures for this rule would prevent NMFS from performing its necessary function of allowing the fishery to be prosecuted while protecting this endangered species. As such, NMFS finds that the immediate need to effect the provisions of this rule by January 20, 1999, constitutes good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be impracticable and contrary to the public interest. The need for these measures to be in place by January 20, 1999, as explained above, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the requirement for a 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this emergency interim rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 15, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

50 CFR CHAPTER VI

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.7, paragraph (b) is suspended and paragraph (i) is added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(i) *Prohibitions specific to the GOA (applicable through July 19, 1999)*—(1) *Southeast Outside trawl closure (applicable through July 19, 1999).* Use any gear other than non-trawl gear in the GOA east of 140° W long.

(2) *Western/Central GOA Pollock trip limit (applicable through July 19, 1999).* Retain on board a catcher vessel at any time, more than 136 mt of unprocessed pollock, or retain on board a tender vessel at any time, more than 272 mt of unprocessed pollock, harvested in the Western or Central Areas of the GOA.

3. In § 679.20, paragraphs (a)(5)(i)(A) and (a)(5)(ii)(B) are suspended, and new paragraphs (a)(5)(i)(C) and (a)(5)(ii)(C) are added to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(C) *BSAI seasonal allowances (applicable through July 19, 1999)—(1) Inshore.* The portion of the Bering Sea Subarea pollock TAC allocated to the inshore component under Section 206(b) of the American Fisheries Act will be divided into four seasonal allowances corresponding to the four fishing seasons set out at § 679.23(e)(4)(i), as follows: A1 Season, 27.5 percent; A2 Season, 12.5 percent, B Season, 30 percent, C Season, 30 percent. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator provided that overall pollock removals from all sectors during a fishing season do not exceed 30 percent of the combined annual TAC of pollock.

(2) Catcher/processor. The portion of the Bering Sea Subarea pollock TAC allocated to the catcher/processor component under Section 206(b) of the American Fisheries Act will be divided into four seasonal allowances corresponding to the four fishing seasons set out at § 679.23(e)(4)(ii), as follows: A1 Season, 27.5 percent; A2 Season, 12.5 percent; B Season, 30 percent; C Season, 30 percent. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator, provided that overall pollock removals from all sectors during a fishing season do not exceed 30 percent of the combined annual TAC of pollock.

(3) Mothership. The portion of the Bering Sea Subarea pollock TAC allocated to the mothership component under Section 206(b) of the American Fisheries Act will be divided into three seasonal allowances corresponding to the three fishing seasons set out at § 679.23(e)(4)(iii) as follows: A Season, 40 percent; B Season, 30 percent; C Season, 30 percent. Within any fishing year, underage or overage of any seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator provided that overall pollock removals from all sectors during a fishing season do not exceed 30 percent of the combined annual TAC of pollock.

* * * * *

(ii) * * *

(C) *GOA seasonal allowances (applicable through July 19, 1999).* Each apportionment established under paragraph (a)(5)(ii)(A) of this section will be divided into four seasonal allowances corresponding to the four fishing seasons set out at § 679.23(d)(3) as follows: A Season, 30 percent; B Season, 20 percent; C Season, 25 percent; D Season, 25 percent. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator, provided that a revised seasonal allowance does not exceed 30 percent of the annual TAC apportionment.

* * * * *

4. In § 679.22, paragraphs (a)(7) and (b)(2) are suspended and (a)(11) and (b)(3) are added to read as follows:

§ 679.22 Closures.

(a) * * *

(11) *Steller sea lion protection areas, Bering Sea Subarea and Bogoslof District (applicable through July 19, 1999)—(i) Year-round trawl closures.* Trawling is prohibited within 10 nm of each of the eight Steller sea lion rookeries shown in Table 12 to this part.

(ii) *Seasonal trawl closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm of each of the four Steller sea lion rookeries shown in Table 12 to this part.

(iii) *Pollock closures (applicable through July 19, 1999).* Directed fishing for pollock is prohibited within 10 or 20 nm of each of the 25 Steller sea lion haulout and rookery sites shown in Table 12 to this part. The radius in nm and time period that each closure is in effect are shown in Table 12 to this part.

(iv) *Critical Habitat/Catcher Vessel Operational Area (CH/CVOA) conservation zone (applicable through July 19, 1999)—*(A) *General.* Directed fishing for pollock by vessels catching pollock for processing either by the inshore, offshore catcher processor, or mothership component is prohibited within the CH/CVOA conservation zone for the duration of a fishing season when the Regional Administrator announces by notification in the **Federal Register** that the criteria set out in paragraph (a)(7)(iv)(C) of this section have been met by that industry component.

(B) *Boundaries.* The CH/CVOA conservation zone consists of the area of the Bering Sea Subarea between 170°00′ W long. and 163°00′ W long., south of straight lines connecting the following points in the order listed:

55°00′ N lat. 170°00′ W long.;
55°00′ N lat. 168°00′ W long.;
55°30′ N lat. 168°00′ W long.;
55°30′ N lat. 166°00′ W long.;
56°00′ N lat. 166°00′ W long.; and,
56°00′ N lat. 163°00′ W long.

(C) *Criteria for closure—(1) General.* The directed fishing closures identified in paragraph (a)(7)(iv)(A) of this section will take effect when the Regional Administrator determines that the harvest of a seasonal allowance of pollock reaches a percentage specified in the following table:

Fishing season	Industry component (in percent)		
	Inshore	Catcher/ processor	Mothership
A1 Season	70	40	50
A2 Season	70	40	50
B Season		[reserved]	
C Season		[reserved]	

(2) Inshore catcher vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will close directed fishing to inshore catcher vessels greater than 99 ft (30.2 m) LOA prior to reaching the inshore CH/CVOA limit to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) LOA inside the CH/CVOA conservation zone for the duration of the inshore seasonal opening. During the A1 and A2 seasons, the Regional Administrator will estimate how much of the inshore A1 and A2 seasonal allowance is likely to be harvested by catcher vessels less than

or equal to 99 ft (30.2 m) LOA and reserve a sufficient amount of the inshore CH/CVOA allowance to accommodate fishing by such vessels after the closure of the CH/CVOA conservation zone to vessels greater than 99 ft (30.2 m) LOA. The CH/CVOA conservation zone will be closed to directed fishing for all inshore catcher vessels when the inshore limit specified in paragraph (a)(7)(iv)(C)(*1*) of this section has been met.

(b) * * *

(3) *Steller sea lion protection areas—(applicable through July 19, 1999)*—(i) *Year-round trawl closures.* Trawling is prohibited in the GOA within 10 nm of the nine Steller sea lion rookeries shown in Table 13 to this part.

(ii) *Pollock closures (applicable through July 19, 1999).* Directed fishing for pollock is prohibited within 10 nm of each of the 45 Steller sea lion haulout and rookery sites shown in Table 13 to this part. The radius in nm and time period that each closure is in effect are shown in Table 13 to this part.

(iii) *Shelikof Strait conservation zone (applicable through July 19, 1999).*—(A) *General.* Directed fishing for pollock is prohibited within the Shelikof Strait conservation zone during the A season defined at § 679.23(d)(3) when the Regional Administrator announces through notification in the **Federal Register** that the A season catch of pollock from within the Shelikof Strait conservation zone reaches the amount determined by paragraph (b)(2)(iii)(C) of this section.

(B) *Boundaries.* The Shelikof Strait conservation zone consists of the area bound by straight lines and shoreline connecting the following coordinates in the following order:

58°51′ N lat. 153°15′ W long.
58°51′ N lat. 152°00′ W long.

and the intersection of 152°00′ W long. with Afognak Island; aligned counterclockwise around the shoreline of Afognak, Kodiak, and Raspberry Islands to

57°00′ N lat. 154°00′ W long.
56°30′ N lat. 154°00′ W long.
56°30′ N lat. 155°00′ W long.
56°00′ N lat. 155°00′ W long.
56°00′ N lat. 157°00′ W long.

and the intersection of 157°00′ W long. with the Alaska Peninsula.

(C) *Determination of catch limit.* The pollock catch limit for the Shelikof Strait conservation zone will be published in the annual specifications under § 679.20(c) and is determined by calculating a ratio equal to the most recent estimate of pollock biomass in Shelikof Strait divided by the most recent estimate of total pollock biomass in the GOA. NMFS will then multiply by the overall pollock TAC for the GOA and further multiplied by the A season apportionment of 30 percent.

* * * * *

5. In § 679.23, paragraphs (d)(2) and (e)(2) are suspended, and new paragraphs (d)(3) and (e)(4) are added to read as follows:

§ 679.23 Seasons.

* * * * *

(d) * * *

(3) *Directed fishing for pollock (applicable through July 19, 1999).* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following four seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20, through 1200 hours, A.l.t., April 1;

(ii) *B season.* From 1200 hours, A.l.t., June 1, through 1200 hours, A.l.t., July 1;

(iii) *C season.* From 1200 hours, A.l.t., September 1, within a statistical area until the date of closure of the statistical area to directed fishing, or 1200 hours, A.l.t., October 1, whichever comes first.

(iv) *D season.* From 1200 hours, A.l.t., five days after the closure of the C season in a statistical area until 1200 hours, A.l.t., November 1.

(e) * * *

(4) *Directed fishing for pollock in the Bering Sea Subarea (applicable through July 19, 1999).—(i) Inshore and offshore catcher/processor components.* Subject to other provisions of this part, directed fishing for pollock by vessels catching pollock for processing by the inshore component and by the offshore catcher processor component in the Bering Sea Subarea is authorized only during the following four seasons:

(A) *A1 season.* From 1200 hours, A.l.t., January 20, through 1200 hours, A.l.t., February 15;

(B) *A2 season.* From 1200 hours, A.l.t., February 20, through 1200 hours, A.l.t., April 15;

(C) *B season.* From 1200 hours, A.l.t., August 1, through 1200 hours, A.l.t., September 15; and,

(D) *C season.* From 1200 hours, A.l.t., September 15, through 1200 hours, A.l.t., November 1.

(ii) *Mothership component.* Subject to other provisions of this part, directed fishing for pollock by vessels catching pollock for processing by the offshore mothership component in the Bering Sea Subarea is authorized only during the following three seasons:

(A) *A season.* From 1200 hours, A.l.t., February 1, through 1200 hours, A.l.t., April 15;

(B) *B season.* From 1200 hours, A.l.t., August 1, through 1200 hours, A.l.t., September 15; and,

(C) *C season.* From 1200 hours, A.l.t., September 15, through 1200 hours, A.l.t., November 1.

* * * * *

6. Tables 4 and 6 to 50 CFR part 679 are suspended and Tables 12 and 13 are added to read as follows:

TABLE 12 TO 50 CFR PART 679

[Steller sea lion protection areas [1] in the Bering Sea Subarea [2] are identified in the following table. Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.]

Management area/island/site	Boundaries to				Directed fishing for pollock prohibited within . . . (nm)		Trawling prohibited within . . . (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Bering Sea								
Walrus	57°11.00′	169°56.00′	.....	.....	20	20	.....	10
Uliaga	53°04.00′	169°47.00′	53°05.00′	169°46.00′	.....	20	.....	.....
Chuginadak	52°46.50′	169°42.00′	52°46.50′	169°44.50′	.....	20	.....	.....
Kagamil	53°02.50′	169°41.00′	.....	.....	.....	20	.....	.....
Samalga	52°46.00′	169°15.00′	.....	.....	.....	20		
Adugak	52°55.00′	169°10.50′	.....	.....	20	20	.....	10
Umnak/Cape Aslik	53°25.00′	168°24.50′	.....	.....	20	20	.....	.....

TABLE 12 TO 50 CFR PART 679—Continued

[Steller sea lion protection areas [1] in the Bering Sea Subarea [2] are identified in the following table. Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.]

Management area/island/site	Boundaries to				Directed fishing for pollock prohibited within . . . (nm)		Trawling prohibited within . . . (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Ogchul	53°00.00′	168°24.00′	.....	.....	20	20	.....	10
Bogoslof/Fire Island	53°56.00′	168°02.00′	.....	.....	20	20	.....	10
Emerald	53°17.50′	167°51.50′	.....	.....	.....	20	.....	.....
Unalaska/Cape Izigan	53°13.50′	167°39.00′	.....	.....	20	20	.....	.....
Unalaska/Bishop Pt	53°58.50′	166°57.50′	.....	.....	20	20	.....	.....
Akutan/Reef-lava	54°07.50′	166°06.50′	54°10.50′	166°04.50′	20	20	.....	.....
Old Man Rocks	53°52.00′	166°05.00′	.....	.....	20	20	.....	.....
Akutan/Cape Morgan	54°03.50′	166°00.00′	54°05.50′	166°05.00′	20	20	20	10
Rootok	54°02.50′	165°34.50′	.....	.....	.....	20	.....	.....
Akun/Billings Head	54°18.00′	165°32.50′	54°18.00′	165°31.50′	20	20	20	10
Tanginak	54°12.00′	165°20.00′	.....	.....	20	.....	.....	.....
Tigalda/Rocks NE	54°09.00′	164°57.00′	54°10.00′	164°59.00′	20	20	.....	.....
Unimak/Cape Sarichef	54°34.50′	164°56.50′	.....	.....	10	10	.....	.....
Aiktak	54°11.00′	164°51.00′	.....	.....	20	.....	.....	.....
Ugamak	54°14.00′	164°48.00′	54°13.00′	164°48.00′	20	20	20	10
Round	54°12.00′	164°46.50′	.....	.....	.....	20	.....	.....
Sea Lion Rock (Amak)	55°28.00′	163°12.00′	.....	.....	20	20	20	10
Amak+rocks	55°24.00′	163°07.00′	55°26.00′	163°10.00′	20	20	.....	.....

[1] Three nm NO TRANSIT ZONES are described at 50 CFR 227.12(a)(2) of this title.
[2] Closure zones around many of these sites also extend into statistical area 610 of the Gulf of Alaska Management Area.

TABLE 13 TO 50 CFR PART 679 (EFFECTIVE THROUGH JULY 19, 1999)

[Steller sea lion protection areas [1] in the Gulf of Alaska [2] are identified in the following table. Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.]

Management area/island/site	Boundaries to				Directed fishing for pollock prohibited within . . . (nm)		Trawling prohibited within . . . (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Gulf of Alaska								
Bird	54°40.50′	163°18.00′	.....	.....	10	10	.....	.....
South Rocks	54°18.00′	162°41.50′	.....	.....	10	10	.....	.....
Clubbing Rocks	54°42.00′	162°26.50′	54°43.00′	162°26.50′	10	10	.....	10
Pinnacle Rock	54°46.00′	161°46.00′	.....	10	.....	10	.....	10
Sushilnoi Rocks	54°50.00′	161°44.50′	.....	.....	.....	10	.....	.....
Olga Rocks	55°00.50′	161°29.50′	54°59.00′	161°31.00′	10	10	.....	.....
Jude	55°16.00′	161°06.00′	.....	.....	10	10	.....	.....
The Whaleback	55°16.50′	160°06.00′	.....	.....	10	10	.....	.....
Chernabura	54°47.50′	159°31.00′	54°45.50′	159°33.50′	10	10	.....	10
Castle Rock	55°17.00′	159°30.00′	.....	.....	.....	10	.....	.....
Atkins	55°03.50′	159°19.00′	.....	.....	10	10	.....	10
Spitz	55°47.00′	158°54.00′	.....	.....	.....	10	.....	.....
Kak	56°17.00′	157°51.00′	.....	.....	.....	10	.....	.....
Lighthouse Rocks	55°47.50′	157°24.00′	.....	.....	10	10	.....	.....
Sutwik	56°31.00′	157°20.00′	56°32.00′	157°21.00′	.....	10	.....	.....
Chowiet	56°00.50′	156°41.50′	56°00.50′	156°42.00′	10	10	.....	10
Nagai Rocks	55°50.00′	155°46.00′	.....	.....	10	10	.....	.....
Chirikof	55°46.50′	155°39.50′	55°46.50′	155°43.00′	10	10	.....	10
Puale Bay	57°41.00′	155°23.00′	.....	.....	10	10	.....	.....
Takli	58°03.00′	154°27.50′	58°02.00′	154°31.00′	.....	10	.....	.....
Cape Gull	58°13.50′	154°09.50′	58°12.50′	154°10.50′	.....	10	.....	.....
Sitkinak/Cape Sitkinak	56°34.50′	153°51.50′	.....	.....	10	10	.....	.....
Kodiak/Cape Ugat	57°52.00′	153°51.00′	.....	.....	10	10	.....	.....
Shakun Rock	58°32.50′	153°41.50′	.....	.....	10	10	.....	.....
Twoheaded Island	56°54.50′	153°33.00′	56°53.50′	153°35.50′	10	10	.....	.....
Cape Douglas	58°51.50′	153°14.00′	.....	.....	.....	10	.....	.....

TABLE 13 TO 50 CFR PART 679 (EFFECTIVE THROUGH JULY 19, 1999)—Continued

[Steller sea lion protection areas [1] in the Gulf of Alaska [2] are identified in the following table. Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.]

Management area/island/site	Boundaries to				Directed fishing for pollock prohibited within . . . (nm)		Trawling prohibited within . . . (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Latax Rocks	58°42.00′	152°28.50′	58°40.50′	152°30.00′	10	10		
Ushagat/SW	58°55.00′	152°22.00′				10		
Ugak	57°23.00′	152°15.50′	57°22.00′	152°19.00′		10		
Sea Otter Island	58°31.50′	152°13.00′			10	10		
Long	57°47.00′	152°13.00′			10			
Kodiak/Cape Chiniak	57°37.50′	152°09.00′			10	10		
Sugarloaf	58°53.00′	152°02.00′			10	10		10
Sea Lion Rocks (Marmot)	58°21.00′	151°48.50′			10	10		
Marmot	58°14.00′	151°47.50′	58°10.00′	151°51.00′	10	10		10
Perl	59°06.00′	151°39.50′			10	10		
Outer (Pye) Island	59°20.50′	150°23.00′	59°21.00′	150°24.50′	10	10		10
Steep Point	59°29.00′	150°15.00′				10		
Chiswell Islands	59°36.00′	149°34.00′			10	10		
Wooded Island (Fish)	59°53.00′	147°20.50′			10	10		
Glacier Island	60°51.00′	147°09.00′			10	10		
Seal Rocks	60°10.00′	146°50.00′			10	10		
Cape Hinchinbrook	60°14.00′	146°38.50′				10		
Hook Point	60°20.00′	146°15.50′				10		
Cape St. Elias	59°48.00′	144°36.00′			10	10		

[1] Three nm NO TRANSIT ZONES are described at 50 CFR 227.12(a)(2) of this title.
[2] Additional closures along the Aleutian Island chain that extend into statistical area 610 of the Gulf of Alaska are displayed in Table 13 to this part.

[FR Doc. 99-1378 Filed 1-15-99; 5:01 pm]
BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981021264-9016-02; I.D. 092998A]

RIN 0648-AL29

Fisheries of the Exclusive Economic Zone Off Alaska; Season and Area Apportionment of Atka Mackerel Total Allowable Catch

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; 1999 interim Atka mackerel specifications.

SUMMARY: NMFS issues regulations that divide the Atka mackerel total allowable catch (TAC) specified for the Aleutian Islands Subarea (AI) into two seasonal allowances; reduce the percentage of Atka mackerel TAC harvested from Steller sea lion critical habitat (CH) over a 4-year period in the Western and Central Districts of the AI; and extend the seasonal no-trawl zone around Seguam and Agligadak rookeries in the AI Eastern District into a year-round closure. This action is necessary to avoid potential jeopardy to the continued existence of Steller sea lions due to fishery-induced localized depletions of Atka mackerel, a primary prey species for Steller sea lions. This action is intended to foster the recovery of Steller sea lions and to further the conservation goals of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective January 19, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) pursuant to the FMP. General regulations governing U.S. fisheries appear at 50 CFR part 600. The FMP is implemented by regulations appearing at 50 CFR part 679 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Act. Fishing for Atka mackerel (*Pleurogrammus monopterygius*) is governed by the FMP and its implementing regulations.

Background

The purpose and need for this action were described in the preamble to the proposed rule published on November 9, 1998 (63 FR 60288). That document and the EA/RIR/FRFA describe the conservation and management events leading to this action. In summary, the number of Steller sea lions (*Eumetopias jubatus*) west of 144°W. long. in the Gulf of Alaska (GOA) and the BSAI has declined severely during the last several decades. In 1997, NMFS recognized these animals as a separate and endangered population. NMFS has

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

January 22, 1999

Mr. Richard B. Lauber
Chairman, North Pacific
Fishery Management Council
605 West 4th Avenue
Anchorage, Alaska 99501-2252

Dear Rick:

The emergency interim rule passed by the Council in December 1998 and implemented by NMFS significantly reduced the potential for competition between the endangered western population of Steller sea lions and the pollock fisheries in the Bering Sea and Aleutian Island Management Area (BSAI) and the Gulf of Alaska (GOA). These measures satisfied the reasonable and prudent alternative (RPA) principles included in our agency's Biological Opinion (BO) dated December 3, 1998, and revised December 16, 1998 with respect to the 1999 A season fisheries. We believe the process of working with the Council and the public to achieve our management and conservation goals has again proven to be very effective.

However, some of the RPA principles included in the BO have not yet been addressed through Council or agency action, and must be considered for the latter half of 1999 and beyond. To avoid determinations of jeopardy and/or adverse modification, all the RPA principles set out in the revised BO must be satisfied before August 1, the beginning of the B season in the BSAI. Consequently, the emergency rule must be revised and extended to cover the second half of 1999, and permanent rulemaking is required to implement RPAs for 2000 and beyond. For the February 1999 meeting, we are looking to the Council for final recommendations of alternatives for analysis. We believe that the second emergency rule and the permanent regulations can be addressed through initial consideration of alternatives at the April 1999 meeting with final Council action at the June 1999 meeting. The following discussion describes the issues and principles remaining for Council consideration:

Spatial distribution of catch in the B and C seasons.

Annual summer groundfish surveys have shown that during the B season, a disproportionate amount of pollock is removed from the CH/CVOA conservation zone relative to the total biomass present

within that area. The disparity is inconsistent with the RPA principle that catch be distributed in proportion to biomass.

The RPA examples identified broad geographic areas to be used in dispersing catch in a manner consistent with the distribution of the stock. The Council motion did not address the 170°W long. line suggested by the RPA example, nor did it provide an equivalent or better alternative. Therefore, this RPA principle must be considered further in the upcoming Council meetings if jeopardy and adverse modification are to be avoided for the 1999 Bering Sea B and C seasons. NMFS will provide the Council the best available information on biomass distribution using recent summer survey results so that this principle may be addressed for the second half of 1999 and on a permanent basis for 2000 and beyond.

Continued reduction of cap inside the CH/CVOA complex in the A1 and A2 seasons.

For the A1 and A2 seasons, the portion of the cap that can be taken from the CH/CVOA complex has been limited to 62.5%. In accordance with the RPA principles, further reduction of this cap will be required for 2000 and beyond. The RPA example included a reduction to 50% for these seasons by 2000.

Pollock trawl exclusion zones.

In the Bering Sea Subarea, the Council recommended no closure for a proposed 20 nm exclusion zone around the Cape Sarichef haulout. The BO states that "some of the principles identified above may be accomplished by an incremental or phased approach if the incremental approach does not jeopardize the continued existence of the western population of Steller sea lions. The phase in of any reasonable and prudent alternative must not be drawn out, and two years is a general guideline with a significant portion occurring in year one." Consistent with the BO, NMFS has decided to phase in the exclusion zone around this haulout with a 10 nm exclusion zone in 1999 and anticipates extending the exclusion zone to 20 nm for 2000 and beyond, absent other management alternatives submitted by the Council that are both compelling and equivalent in terms of sea lion protection.

In the Gulf of Alaska, the Council recommended no closures for Cape Barnabas, Gull Point, Rugged Island, Point Elrington, Cape Ikolik, Needles, Mitrofania, and Sea Lion Rocks. Based on the incremental approach identified above, NMFS has decided not to implement exclusion zones at these locations for 1999. However, NMFS anticipates phasing-in 10 nm exclusion zones at these sites for 2000 and beyond, absent other management alternatives submitted by the Council that are both compelling and equivalent in terms of sea lion protection.

Rollover provisions.

The RPA principle dealing with rollovers of unharvested catch allowances from one season to the next season in the first BO draft was limited to cases where a full seasonal allowance was not caught due to the premature closure of the fishery by management. This limit was included to ensure that rollovers were not used by fishery sectors to indirectly adjust seasonal catches in a manner that might violate principles of seasonal and spatial dispersion. This RPA principle was modified to address this concern in a manner more consistent with operational realities in the fishery that may lead to unharvested catch amounts. With respect to rollovers, the revised BO requires that:

1. The combined catch by all sectors during any single season may not exceed 30 percent of the annual pollock TAC.

2. The combined A1 and A2 season catch by each non-CDQ sector may not exceed 40 percent of the annual allocations to each sector.

3. Catch within the CH/CVOA conservation zone may not exceed 62.5 percent of the combined annual TAC specified for both the A1 and A2 seasons.

Within any fishing year, underage or overage of a particular sector's seasonal allowance may be added to or subtracted from subsequent seasonal allowances, provided that these provisions are not violated. However, the revised BO and the Council's emergency rule motion did not address all of the operational issues related to rollovers. Therefore, to assure that rollovers during the 1999 fishing year are implemented in a manner consistent with the BO principles, NMFS will apply the following additional criteria when making adjustments for overages and underages of a particular sector's seasonal allowance.

Rule 1: The CH/CVOA catch limits specified for a sector are not separate TAC allowances but simply the upper-bound limit of allowable catch within the CH/CVOA conservation zone. As such, unharvested portions of a sector's CH/CVOA limit will not be rolled over from the A1 to the A2 season. Only unharvested amounts of a sector's overall seasonal TAC allowance may be rolled over into subsequent seasons. In effect, this means that rollovers from A1 to A2 will only increase the TAC allowance that may be taken from areas outside of the CH/CVOA conservation zone.

Rule 2: Overage of a sector's A1 seasonal allowance will be deducted entirely from the A2 TAC allowance and not from the subsequent B or C season TAC allowances. This

rule is necessary to prevent a sector's combined A1 and A2 catch from exceeding the 40 percent limit.

Rule 3: Success in meeting the 62.5 percent CH/CVOA catch limit for the A1 and A2 seasons will be evaluated by examining the catch of all sectors combined. Excessive overage of the 62.5 percent CH/CVOA limit during the A1 season may require corresponding reductions in the A2 CH/CVOA limits for the sectors responsible for the overage.

For the year 2000 and beyond, we may be able to develop a mechanism to accommodate rollovers of a sector's unharvested CH/CVOA catch limit from one season to the next. Because the RPA principle requires that removals from all sectors combined cannot exceed 62.5 percent for the A1 and A2 seasons, we cannot make a determination as to whether CH/CVOA rollovers can be accommodated until CH/CVOA catch data from all sectors can be collected and analyzed. Due to current recordkeeping and reporting requirements and observer coverage levels, we are not currently able to rapidly collect and analyze catch position information for vessels operating in the inshore and mothership sectors. These problems could be overcome in 2000 by establishing greater temporal separation between the A1 and A2 seasons and/or by revising inshore and mothership observer coverage levels and reporting requirements.

Starting date for the B season in the Bering Sea.

The Council's emergency rule established an August 1 B season starting date in the Bering Sea. However, a fishery during the first half of August would overlap with groundfish surveys conducted during the summer months. As those surveys are conducted using vessels that also participate in the fishery the overlap creates a potential conflict. The surveys are essential to stock assessment and, therefore, to TAC-setting and management of all of the groundfish fisheries. NMFS is evaluating this potential problem and possible solutions, but we can not rule out a possible need for some type of adjustment to move the B season starting date back to August 15 for some or all fishery sectors. We will discuss this further with you at the upcoming meeting.

W/C GOA management issues

The management of small pollock quotas in the Western and Central (W/C) Regulatory Areas of the GOA has been a problem of longstanding NMFS and Council concern. In 1998, the Council recommended, and NMFS implemented, stand down requirements for catcher vessels transiting between the BSAI and W/C GOA. However, the effectiveness of these stand down requirements in limiting sudden influxes of effort in the W/C GOA is dependent on concurrent season opening dates in the BSAI and W/C GOA. The

season dates contained in the Council's emergency rule are such that none of the Bering Sea and GOA seasons are completely concurrent. Especially problematic is the June season in the W/C GOA which will occur when all sectors of the Bering Sea fishing fleet will be idle. For example, the June seasonal allowance for Area 610 is only 4,625 mt. Even with the Council's 300,000 lb (136 mt) trip limit for the W/C GOA this seasonal allowance will only support 34 individual fishing trips of 136 mt. Over 100 pollock catcher vessels based in the Bering Sea will be idle during this time period and if even a small number of these vessels chose to fish in the GOA significant overages could occur.

During the drafting of the emergency rule, NMFS considered implementing a revised stand down requirement that was proposed during public testimony at the December 1998 Council meeting. This proposal would have prohibited catcher vessels from fishing in both the BSAI and GOA during equivalent seasons. However, due to the absence of a specific recommendation from the Council we chose not include this proposal in the emergency rule. Consequently, we will be forced to proceed cautiously and conservatively with the management of the quotas in the W/C GOA. This may mean pollock openings of 24 hours or less during some areas and seasons in the W/C GOA. The Council may wish to take further action to limit sudden influxes of effort into the W/C GOA and prevent the sort of pulse fishing that has plagued this area in the past.

W/C GOA trip limits

The Council recommended, and NMFS implemented in the emergency rule, a W/C GOA trip limit of 300,000 lb (136 mt). However, the Council's recommendation did not address the issue of tendering in the W/C GOA. Operators of large catcher vessels could have evaded the intent of the trip limit by operating as tender vessels and collecting codends caught by other vessels. However, some small catcher vessels in the Kodiak area are reportedly dependent on tenders to market their pollock catch. To allow limited tendering but prevent the large-scale use of tender vessels in the W/C GOA as a means to evade the trip limit restriction, NMFS decided to prohibit tender vessels from retaining on board no more than the equivalent of two fishing trips or 272 mt at any time. However, the Council may wish to give further attention to the issue of trip limits for tender vessels and recommend different restrictions if appropriate.

In addition, the W/C GOA trip limit does not address vessels that only operate within State waters and do not harvest any pollock in Federal waters. It may be appropriate to request the State of Alaska to implement parallel trip limit restrictions for pollock taken inside State waters.

Emergency rulemaking and permanent rulemaking.

Management measures to address the above principles must be implemented through emergency rulemaking for the second half of 1999 and implemented on a permanent basis for 2000 and beyond. In addition, the existing measures contained in the current emergency rule also must be extended. The following table outlines the issues that must be addressed through emergency rulemaking and permanent rulemaking, respectively:

Issue	Emergency rule for 1999	Permanent rulemaking
Extend all provisions in current emergency rule	X	X
TAC allocation inside and outside of the CH/CVOA complex and E/W of 170° W in the B and C seasons	X	X
Continued reduction of cap inside the CH/CVOA complex in the A1 and A2 seasons		X
Pollock trawl exclusion zones		X
Rollover provisions		X
Starting date for the B season in the BSAI	X	X
W/C GOA management issues	X	X
W/C GOA trip limits	X	X

Independent scientific review of biological data, the Biological Opinion, and other information relating to factors affecting Steller sea lions and their prey.

We are currently discussing with the U.S. Marine Mammal Commission and the Steller Sea Lion Recovery Team the most useful and efficient process for conducting such a review. The Recovery Team met in Seattle on January 19 and 20 to consider their role in matters related to interactions between fisheries and Steller sea lions. The Commission appears to be both interested and willing to conduct such a review. We will apprise the Council of our progress in conducting this review as our plans develop.

Role of the Steller Sea Lion Recovery Team and reconstitution of the Team.

As just noted, the role of the Recovery Team in the matters related to potential fisheries interactions was considered in detail by the Team at their recent meeting in Seattle. The Team

will be sending a letter summarizing their recommended role. The agency will consider the Team's recommendation in the next weeks as it deliberates the specific objectives of the Team and the appropriate composition of the Team for meeting those objectives. Again, we will apprise the Council of our progress at the Council's February and April meetings.

Recommended schedule for Council action

The Council must take final action on Steller sea lion RPAs no later than the June 1999 meeting in order to have a second emergency rule in place by August 1, 1999, and permanent regulations in place by January 2000. Consequently we recommend the Council begin initial consideration of the analysis and alternatives at the April 1999 meeting and take final action at the June 1999 meeting. It may be most effective for the Council to deal with the emergency rule and permanent rule as a single action with two-phase implementation. For the February 1999 meeting, we will look to the Council to provide input on final alternatives for analysis. The December 3, 1998 BO contained one example set of RPAs for consideration. To the extent that the Council wishes analysis of further alternatives, such alternatives should be identified at the February 1999 meeting so that a draft analysis can be completed by April 1999.

Sincerely,

Steven Pennoyer
Administrator, Alaska Region

AGDAAGUX TRIBAL COUNCIL
P.O. BOX 18
KING COVE, AK 99612
PHONE (907) 497-2648 FAX (907) 497-2803

January 27, 1999

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

Dear Sirs:

The Agdaagux Tribe of King Cove, A sovereign Nation located within the borders of the Eastern Aleutian Tribes, in the State of Alaska is writing this letter to the National Marine Fishery Service and the North Pacific Fishery Management Council addressing the recent stellar sea lion regulations which is being imposed on us without any input from the Agdaagux Tribe who has lived, fished, hunted and trapped this region for thousands of years. These regulations are designed to force the local tribally owned small boat trawlers out of business and give the out of state large catcher vessels all of the fish.

These regulations are being imposed on us because of a lawsuit brought forward by a group of environmental activists who in our view do not have a shred of scientific proof or any idea of what is happening to the stellar sea lions.

We know from our observations:

1. In the 1960 's and 1970's and part of the 1980's there were very few codfish or pollock in our area practically zero.
2. There were huge amounts of sea lions in this time frame
3. Our area was rich in shrimp, king crab, and tanner crab.
4. In the latter part of the 1980's the codfish showed up and then the pollock
5. When the codfish and pollock grew in numbers the shrimp and crab declined, and the sea lions.
6. In this same time frame the killer whales doubled and tripled their populations.
7. In the 1950's, 1960's and 1970's we were lucky to see one or two killer whales in the course of a years fishing. We now see them by the hundreds.

8. The shoreline of Unimak Island in the spring is covered with dead whales killed by orcas, this was never seen in the 1960's, 1970's and the early part of 1980.
9. When the huge out of state trawlers (1000 to 5000 horse power rating) towing trawls bigger than a football field showed up they caught and killed sea lions by the thousands out in the Aleutians. (as reported)
10. Before the pollock and codfish showed up the sea lions in the middle of the winter had over 12" of fat on them some weighing over 2000 lbs.
11. The stellar sea lions we see now have no fat. Proving that pollock and cod are not good food for them, they are starving with bellies full of pollock.
12. These environmentalists who are trying to make a park out of the State of Alaska and it's waters with no commercial fishing allowed should be ashamed of themselves. Their track record is not good and they are hypocrites, look at the endangered manatee in Florida 2000 left in the world, 250 killed in 1998, 50 known killed by speeding motor boats and probably more. The reason they are not doing something about it is that their are hundreds of thousands of rich pleasure boat owners. They know it is easier to pick on a couple thousand hard working fishermen then take on the millions of boaters in Florida. This is why they are up here, poking their noses into things that they are completely ignorant of and until the facts are in they should go back down below, deal with the manatee. Everyone knows what's killing them, and let the NMFS and the NPFMC and the Eastern Aleutian Tribes and all other tribes that are effected by regulations that threaten their sovereign rights and their very existence. Let us deal with the stellers, get some solid scientific facts, and work with each other and get some tribal input about any regulation that are to be imposed. The Agdaagux Tribe feels that they have a lot to offer and will excerise their sovereign rights in any matter regarding the stellers or any mammal bird or fish that swims, flies, or walks over our sacred land and waters.

Sincerely

Marvin Hoff

Marvin Hoff
President, Agdaagux Tribe

Alaska Groundfish Data Bank — P.O. Box 2298 • Kodiak, Alaska 99615

TO: RICK LAUBER, CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

RE: CENTRAL GULF SEA LION MEASURES

DATE: JANUARY 27, 1999

SENT BY FAX:

PROPOSALS FOR CENTRAL SEA LION MEASURES 1999 AND 2000

SUBMITTED BY GROUNDFISH DATA BANK JANUARY 27, 1999

I. PROPOSED EMERGENCY RULE CHANGES FOR 1999

A. REDUCE THE TONNAGE OF POLLOCK WHICH MAY BE TENDERED BY A VESSEL IN THE CENTRAL GULF FROM 272 MT TO 136 MT. AGDB appreciates NMFS providing for tenders in the Gulf in the current emergency rule. The fact that there had been ongoing pollock tender operations for small vessels had been overlooked at the December NPFMC. These tender arrangements are important to the small vessels they serve.

Central Gulf Tender operations were an item of discussion at AGDB's recent member meeting. There was consensus that some small vessels may be dependent on pollock tenders to remain competitive, but that the tonnage allowed aboard a tender should be 136 MT, the same as the trip limit.

Deliveries from small vessels which have a history of using tenders was reported to range from 45 to 68 MT. It was felt that keeping the tender limit the same as the trip limit would still allow the historic tender operations to continue and also prevent increased use of tenders to escalate the pace of the fishery.

B. IMPLEMENT SEASONAL EXCLUSIVE REGISTRATION IN THE CENTRAL GULF POLLOCK FISHERY. The new pollock fishing seasons in the Gulf of Alaska and Bering Sea are not concurrent which leaves both areas vulnerable to influxes of effort. The implementation of Bering Sea pollock co-ops in all sectors could preclude Gulf non-co-op vessels from moving to the Bering Sea and side boards on Bering Sea co-op vessels could mitigate the amount of effort coming into the Gulf from the Bering Sea.

On the other hand, the AFA provisions allowing shorebased processors which processed less than 2,000 MT in 1996 or 1997 to continue processing up to 2,000 MT annually may create a class of vessels and processors whose only opportunity to increase their pollock deliveries is to send vessels into the Gulf.

We realize the effect of the American Fisheries Act is still uncertain. However, the urgency with which the recent sea lion protective measures were implemented strongly suggests that "waiting to see" if there are notable effort shifts between the Central Gulf and Bering Sea pollock fleets does not seem appropriate.

Even more urgent is the necessity to limit effort in the Central Gulf June pollock fishery. There will be no other pollock fisheries open in the summer and the potential for substantial increases in effort is real.

In order to comply reasonably with the goals of the new protective measures for sea lions it seems imperative to implement exclusive registration by season to prohibit vessels fishing the Bering Sea A2 season from fishing the Gulf June pollock season.

Chris Blackburn • Director • (907) 486-3033 • FAX (907) 486-3461 • e-mail 7353974@mcimail.com

I. PROPOSED POLLOCK RESTRICTIONS FOR THE YEAR 2000

National Marine Fisheries Service has indicated its interest in closing eight haul-outs (Cape Barnabas, Gull Point, Rugged Island, Point Elrington, Cape Ikolik, Needles, Mitrofania and Sea Lion Rocks) in the year 2000. These haul-outs meet the criteria set for selecting haulouts for closure to pollock fishing. At the request of the fleet these critical areas for the safety of small vessels were left open for 1999.

As of the deadline for comments AGDB does not have an alternative proposal. However we do want to point out and suggest the following:

1. The NPFMC has requested that there be a scientific review of to provide guidance for long range measures by April 1, 1999.
2. The SSC expressed dissatisfaction and discomfort with the science available and with the working hypothesis based on a single correlation (pollock catch increased, sea lions decreased) though other correlations have been expressed which may have equal or better correlations than that used in the biological opinion
3. Ecological management requires that management actions to be treated as experiments, yet there is no experimental design to connected with any of the past or current closures.
4. We suggest that there be no changes in the Gulf sea lion protective measures proposed until there is a scientific peer review and research plan for the current closures.
5. We also note that 44 haul-outs and rookeries were listed for closure to pollock fishing in the Central /Western Gulf, including the original rookery closures. The eight haulouts designated for possible closure in the year 2000 represent 18% of the proposed closures -- which means 82% of the proposed closures are now in effect.
6. Before increasing the number of closures AGDB feels it is important to assess during 1999 the spatial and temporal pattern of the pollock fleet to determine if intense fisheries have occurred in a few places or if the measures have resulted in a more desired distribution of the fleet.

Thank you for considering our comments.

Chris Blackburn, Director
Alaska Groundfish Data Bank

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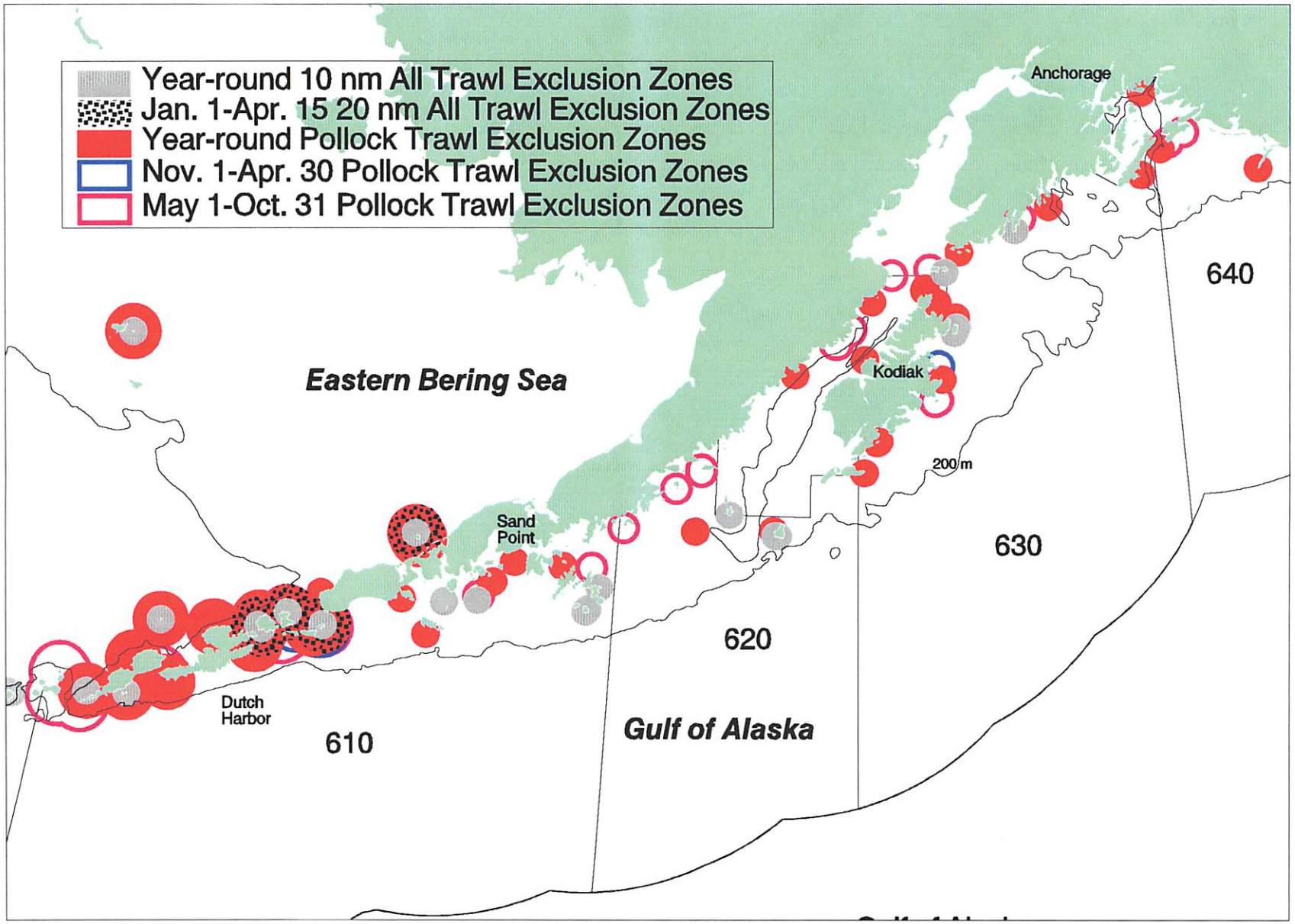
Thank you for considering our comments.

Chris Blackburn, Director
Alaska Groundfish Data Bank

Pollock and All Trawl Exclusion Zones for 1999 in the Eastern Bering Sea and Gulf of Alaska



Alaska Groundfish Data Bank — P.O. Box 2298 • Kodiak, Alaska 99615

TO: RICK LAUBER, CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

RE: GULF SEA LION RPA'S

DATE: JANUARY 31, 1999

DELIVERED BY HAND

AGDB COMMENTS ON PROPOSED CHANGES FOR GULF SEA LION RPA'S IN THE YEAR 2000

The members of AGDB feel strongly that,with the exception of lowering the tender trip limit for pollock, making any changes to the current Sea Lion RPA's is unwarranted at this time. Due to lawsuits and provisions of the Endangered Species Act the new haul out closures and seasonal openings were made without analysis which would have assured that the goal of increasing the spatial and temporal distribution of the fleet. We also realize that the alternative to the current measures may have been no pollock fishery at all.

However, before additional sea lion protective measures are contemplated assessing the efficacy of the current emergency rule provisions seems only prudent. Particularly, since the the working hypothesis is only one of several possible hypothesis and has as much chance of being deleterious as it has of being successful or simply ineffective.

SUMMARY OF COMMENTS DETAILED BELOW

1. TENDER TRIP LIMIT: Reduce the limit for pollock tenders from 272 MT to 136 MT, the same limit set for catcher vessels.
2. SEASONAL EXCLUSIVE REGISTRATION BETWEEN THE CENTRAL GULF AND BERING SEA: Since the pollock opening dates are not synchronous between the Central Gulf and Bering Sea measures to prevent shifts of effort between Central Gulf and Bering Sea are necessary to prevent increasing the intensity of the pollock fishery, particularly in the June Gulf pollock fishery.
3. ANALYSIS: At the least we feel there should be an analysis of the current regulatory changes before further changes are implemented. During 1999 peer review of the current program should be carried out as well as research plans develped.
4. SHELIKOF STRAIT CRITICAL FORAGING AREA: The designation of Shelikof Strait as a critical foraging area for sea lions may well be in error. It is more likely that sea lions were drawn to Shelikof Strait by the vessel and processing discards during the joint venture years rather than to Strait on its own merits. The Long Island haul out counts may also have increased and decreased in response to processing waste.
5. CHANGE THE FRAMEWORK WHICH REGULATES COMMERCIAL FISHING. Sea lion protection measures are only one of the concerns to which the industry must respond. Open access fisheries appear unable to change to meet current and future challenges. Extending the American Fisheries Act provisions to the Gulf of Alaska and other groundfish appears to be the quickest method of changining the framework in which the fisheries operate.
6. DELAY IMPLEMENTING ADDITIONAL HAUL OUT CLOSURES IN THE GULF OF ALASKA until a research plan is developed that includes control sites which are left open. Closing all haul outs where 200 sea lions have ever been counted will not enhance our understanding of or research on sea lions. We suggest the 8 Gulf haul outs scheduled for closure in 2000 may be useful as control sites.

   The trade off between the safety of the small vessels and the needs of sea lions should also be assessed before additional closures are made.

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COMMENT 1. REDUCE THE TONNAGE OF POLLOCK WHICH MAY BE TENDERED BY A VESSEL IN THE CENTRAL GULF FROM 272 MT TO 136 MT. AGDB appreciates NMFS providing for tenders in the Gulf in the current emergency rule. The fact that there had been ongoing pollock tender operations for small vessels had been overlooked at the December NPFMC. These tender arrangements are important to the small vessels they serve.

Central Gulf Tender operations were an item of discussion at AGDB's recent member meeting. There was consensus that some small vessels may be dependent on pollock tenders to remain competitive, but that the tonnage allowed aboard a tender should be 136 MT, the same as the trip limit.

Deliveries from small vessels which have a history of using tenders was reported to range from 45 to 68 MT. It was felt that keeping the tender limit the same as the trip limit would still allow the historic tender operations to continue and also prevent increased use of tenders to escalate the pace of the fishery.

COMMENT 2: . IMPLEMENT SEASONAL EXCLUSIVE REGISTRATION IN THE CENTRAL GULF POLLOCK FISHERY. The new pollock fishing seasons in the Gulf of Alaska and Bering Sea are not concurrent which leaves both areas vulnerable to influxes of effort. The implementation of Bering Sea pollock co-ops in all sectors could preclude Gulf non-co-op vessels from moving to the Bering Sea and side boards on Bering Sea co-op vessels could mitigate the amount of effort coming into the Gulf from the Bering Sea.

On the other hand, the AFA provisions allowing shorebased processors which processed less than 2,000 MT in 1996 or 1997 to continue processing up to 2,000 MT annually may create a class of vessels and processors whose only opportunity to increase their pollock deliveries is to send vessels into the Gulf.

We realize the effect of the American Fisheries Act is still uncertain. However, the urgency with which the recent sea lion protective measures were implemented strongly suggests that "waiting to see" if there are notable effort shifts between the Central Gulf and Bering Sea pollock fleets does not seem appropriate.

Even more urgent is the necessity to limit effort in the Central Gulf June pollock fishery. There will be no other pollock fisheries open in the summer and the potential for substantial increases in effort is real.

In order to comply reasonably with the goals of the new protective measures for sea lions it seems imperative to implement exclusive registration by season to prohibit vessels fishing the Bering Sea A2 season from fishing the Gulf June pollock season.

COMMENT 3: ANALYSIS and DATA NEEDS

Before any further regulations are implemented, AGDB feels that the following work needs to completed:

1. Scientific review to provide guidance for long range measures to be presented to the Council by April 1, 1999. (Recommended by the North Pacific Fishery Management Council).
2. A reach plan that has more than one hypothesis and is clearly laid out and reviewed by industry and outside reviewers for the current new regulations.

3. Analysis of the changes in the 1999 pollock fishery compared to the previous three years.
4. A review of the haul outs closed in the Gulf of Alaska to determine if the criteria developed is appropriate for each haul out closure and the safety of the small boat fleet not jeopardized.

COMMENT 4: SHELIKOF STRAIT CRITICAL FORAGING HABITAT

We request a review of the designation of Shelikof Strait as a critical foraging area. During the joint venture years in Shelikof, according to those who fished there, "every boat had 30 sea lions trailing behind." Sea lions fed on catcher vessel discards the processing waste discarded off the motherships.

It appears most likely that the "critical foraging habitat" was the presence of high amounts of discarded fish and processing waste -- not the Strait itself. Vessels fishing Shelikof now report never seeing a sea lion. I've had some reports from charter vessels that sea lions are in the bays in the winter eating eulachon which is also present in the Strait at that time.

The presence of large schools of pollock in Shelifof is a fairly recent event starting in the mid-1970's. Any dependency of sea lions on Shelikof Strait is a relative recent development which may have been due to anthroprogenic changes in Shelikof during the joint venture years.

AGDB notes that the justification for designating Shelikof Strait as a critical foraging area is based on "Records of incidental take of sea lions in the pollock fishery in this region provide evidence that Shelikof Strait is an important foraging site". (Section 7 Consultation Issued Dec. 3, 1998 -- Page 63 in my copy).

If it is not Shelikof itself, but the anthroprogenic change to the environment caused by joint ventures which was important, than the critical foraging designation should be rescinded.

LONG ISLAND'S sea lion population was noted to have increased during the period the adjacent waters were used for dumping processing waste and to have declined since the dumping stopped. This may be another example of anthroprogenic change effecting sea lions. This haul out site should also be examined as another incidence of sea lions responding to

COMMENT 5: CHANGE THE FRAMEWORK WHICH REGULATES COMMERCIAL FISHING

Providing the spatial and temporal pollock fishery intended by the emergency rule RPA's would not be the concern it is to the industry if the fishery were not an open access fishery.

The call for a major change in the way fisheries have been conducted requires transitioning from the open access concept where racing for fish to compete for share must be replaced by measures that eliminate the race for fish and allow fishermen and processors to focus on reducing bycatch, reducing discards, applying ecological sound methods, protecting marine mammals and improving profits.

WE FEEL IT IS IMPERATIVE THAT THE AMERICAN FISHERIES ACT BE APPLIED TO THE GULF OF ALASKA POLLOCK FISHERY AND PERHAPS TO ALL FISHERIES.

Currently most fishermen and processors are trying to meet the cascading changes in the way fisheries are to be conducted without the tools to meet the challenges. The changes are too great to be absorbed by tinkering with the current system.

COMMENT 6: DELAY THE IMPLEMENTATION OF FURTHER GULF HAUL OUT CLOSURES AND CONSIDER USING THE EIGHT HAUL LEFT OPEN FOR SAFETY AS CONTROL OR COMPARISON SITES

AGDB members, after reviewing the sea lion counts on the East, North and West sides of Kodiak Island, Western Gulf and Eastern Gulf find no justification for closing any of the eight haul outs (Cape Barnabas, Gull Point, Rugged Island, Point Elrington, Cape Ikolik, Needles, Mitrofania and Sea Lion Rocks) which met the criteria for closure to pollock fishing, but were left open in an effort to allow small vessels near shore areas to fish as a safety measure.

We see no reason why the safety issue would be different in the year 2000 than in the year 1999. We did, however, review the sea lion counts for every Gulf rookery and haul out in the current and historic data to examine if there appeared to be compelling reason for closing any of the eight haul outs scheduled for closure in the year 2000.

Even more disturbing is that there is not a research plan to included with the implementation of the emergency rule closures, there is not a research plan to assess in sight to assess the impact and efficacy of the new haul out closures on sea lions or on the fleet and there is not a plan to analyze the data of the last eight years.

If the efficacy of the new haul out closures is to be evaluated there must be control sites which are left open. Below is a review of the count sites by Gulf area followed by tables showing every count made on these count sites. Source of data and Caveats are on the last page of this section behind the tables.

REVIEW OF THE EIGHT HAUL OUTS SCHEDULED FOR CLOSURE IN THE YEAR 2000 BY GULF AREA

I. EAST SIDE KODIAK

A. Twelve haul outs and two rookeries listed as count sites.
   1. Both rookeries closed year round.
   2. Seven haul outs closed: 3 seasonally and 4 year round.
   3. Three haul outs are not scheduled for closure of which two have not ever had a sea lion present during a count and one which has had 10-20 sea lions present during the last five years.
   4. Two haul outs, Gull Point and Barnabas, are scheduled for closure in the year 2000.
      a. Gull Point sea lion counts for the last seven years range from 0 to 111 animals. In 1998 the 70 sea lions counted at Gull Point were 3% of the total sea lions counted on the East Side of Kodiak. Highest count for Gull Point sea lions was 281 in 1985.
      b. Barnabas: No sea lions have been present on Barnabas during the count period for the last four years (1994-98) and only one sea lion was counted each of the previous two years. Highest count for sea lions on Barnabas was 1,598 in 1957.

B. General Status of the East Side of Kodiak based on sea lion counts. 1957 Counts totaled 14,125 sea lions (see caveats on the last page) 1976 counts totaled 7,805 sea lions. 1990 counts totaled 3,144 sea lions and 1991-1998 appear to be ranging from 1,900 to 2,000 sea lions.

C: COMMENT: Neither Gull Point nor Barnabas seem to be significant haul out sites at this point in time. Risking the safety of the small vessels to close Gull Point and Barnabas does not appear to be a justifiable trade off.

II. NORTH KODIAK ISLAND

A. Eight haul outs and two rookeries listed as count sites
   1. Both rookeries closed year round.
   2 Four haul outs closed, one seasonally, three year round.
   3. No other closures contemplated.

B. General Status: 20,360 Sea lions counted in the North Kodiak Island complex in 1957, 11,545 in 1985. Decline continues 1989-1998.

C. COMMENT: No changes in current RPA's requested.

III. WEST KODIAK ISLAND

A. No rookeries. Eighteen haul outs listed as site counts.
   1. Five haul outs closed to pollock fishing, of which three are seasonal closures.
   2. Of the 13 haul outs open, one, Cape Ikolik, is on the list for closure the year 2000.
      a. Cape Ikolik shows counts only for the years 1994-1998. Number of Sea Lions counted ranged from 105 to 47. The 47 sea lions counted in 1998 represent 9.16% of the sea lions counted in the Western Kodiak Island group.
   3. General Status: Few counts prior to 1992. Ten of the 18 haul outs show no counts or a count in only one year. There have been no counts over 1,000 animals in any site counted 92-98.
   4. COMMENT: The West Kodiak Island area does not appear to be a significant haul out area. Since Cape Ikolik has 10% of the sea lions counted in this area it should be reviewed regarding use by the fleet and importance to sea lions and safety of small vessels.

IV. OTHER CENTRAL GULF

A. One rookery, four haul outs of which one is closed to pollock fishing.

B. Highest count was 4,759 sea lions in 1976. 1998 total was 471 sea lions.

C. No changes requested.

V. WESTERN GULF

A. Twenty-four count sites: Four rookeries and twenty haul outs.
   1. Rookeries: All four closed to trawl fishing.
   2. Haul outs: seven closed to pollock fishing, of which four are seasonal closures.
      a. Of the 13 open haul outs, seven have no or less than 10 sea lions counted on the site 1990-1998.
      b. Mitrofania and Sea Lion Rocks are both haul outs scheduled for closure in the year 2000
         1)Mitrofania: The Western Gulf count sites 1989-1998 appear to be stable if not increasing, including Mitrofania. The 247 sea lions counted on Mitrofania in 1998 were 4.6% of the total sea lions counted in the Western Gulf.
            It does not appear that Mitrofania is a significant haul out and the trade off between small vessel safety and protection of 4.6% of sea lions counted on Mitrofania is a reasonable trade off.
         2) Sea Lion Rocks: This does not seem to have ever been a major haul-out based on the counts prior to 1998 -- 372 sea lions in 1957, 243 in 1976. and 152 in 1998. In 1998 the 152 sea lions counted on Sea Lion Rocks were 3% of the sea lions counted in the Western Gulf.
            Not only do Sea Lion Rocks appear to be a small haul out whose sea lion counts have been relative stable, the portion of Western Gulf sea lions using Sea Lion Rocks appear to be minimal and hard to justify jeopardizing small vessels' safety by implementing a closure.

B. General Status of Western Gulf based on sea lion Counts: Overall the Western Gulf Sea Lion Counts appear to be stabilizing. Counts 1990 to 1998 run around 5,000 animals .

C. COMMENT: No changes in the current Western Gulf RPA's seem warranted at this time.

VI. EASTERN GULF

A. Twenty-six count sites. One rookery and 25 haul outs.

1. Rookery closed year round.
2. Of the 24 haul outs, 6 are closed to pollock fishing, another six have not had sea lions present during a count.
3. Three haul outs -- Rugged Island, Point Erlington and the Needle are scheduled to be closed in the year 2000.
    a) All three of the haul outs scheduled for closure show a pattern of decline 1989 to 1990. However all three sites have counts 1989 to 1998 similar or higher than the counts made in 1957 and 1976 and 77. It may be that the earlier counts did not include the same area and/or time used in the recent counts, but if there is reason to believe the early counts are comparable to the recent counts it would appear that there is no reason closing these three haul outs in the year 2000.
    b) The waters outside of Prince William Sound and West Yakutat were once major pollock fishing areas for the Japanese. It is only in the last few years that there has again been fishing effort in these areas. The capacity of the plants processing pollock from this area is small and suited to small vessel deliveries -- but the fishing grounds outside the Sound are open to weather and the need for safe fishing areas is quite acute.

B. COMMENT: There appears no justification for closing the Needle, Point Erlington or Rugged Island on their own merits, and justification for keeping these areas open to provide safety to the small vessels working in this area.

ABOUT THE SEA LION COUNT DATA USED IN THIS PAPER

COUNT SITES INCLUDED: The count sites used were those in the 1994 NOAA Technical Memorandum NMFS-AFSC-71. Aerial and Ship-based Surveys of Steller Sea Lions *(Eumetopias jubatus)* in Southeast Alaska , The Gulf of Alaska, and Aleutian Islands During June and July 1994. This document and the 1992 Count document both organized the counts around Kodiak by West, East and North sides. More sites were counted in 1994 than in 1992.

SOURCES FOR COUNTS

NOAA Technical Memorandum NMFS-AFSC-71. Aerial and Ship-based Surveys of Steller Sea Lions *(Eumetopias jubatus)* in Southeast Alaska , The Gulf of Alaska, and Aleutian Islands During June and July 1994

NOAA Technical Memorandum NMFS-AFSC-17. Aerial and Ship-based Surveys of Steller Sea Lions *(Eumetopias jubatus)* in Southeast Alaska , The Gulf of Alaska, and Aleutian Islands During June and July 1992

NOAA Technical Memorandum NMFS-F/NWC-196. Aerial and Ship-based Surveys of Steller Sea Lions *(Eumetopias jubatus)* in the Gulf of Alaska and Aleutian Islands During June and July 1990

NOAA Technical Memorandum NMFS-F/NWC-176. Aerial and Ship-based Surveys of Steller Sea Lions *(Eumetopias jubatus)* in the Gulf of Alaska and Aleutian Islands During June and July 1989.

LIST of all counts ever made thru 1990 requested from Richard Merrick around 1992. This is not a document, just a list.

DATA CAVEATS

Only the counts from 1989 thru 1998 are identified by date made. Counts earlier than 1989 may not have been taken during the June/July period and therefore may not be comparable to the 1989-1998 counts.

The names of the haul outs and rookeries in the counts prior to 1989 may not refer to the same amount of area as the 1989-1998 counts or even among the earlier years.

The 1996 and 1998 Count data is still considered draft data.

T=Tr[illegible]E, X=Closed, R=Rookery, m-o=closed May to Oct

SEA LION COUNTS - EAST SIDE KODIAK															
	LONG	C.CHINIAK	UGAK	GULL PT.	.BARNABAS	2-HEADED	SUNDSTROM	C.SITKINAK	TUGIDAK	CHIRIKOF	NAGAI RKS	CHOWIET	SUTWIK	UGAIUSHAK	
YEAR	T-X(n-a)	T-X	X(m-o)		T	T-X		T-X		T-R-X	X	T-R-X	T-X(m-o)	T	TOTAL
1957	75	772	318		1598	2738		343		1695		6014		572	14125
1976	0	365	17	145	364	1615		120		2391	657	2000	6	125	7805
1977													20	0	
1978										3699		4419			
1979										5199		4441			
1983					694										
1985	16	873	341	281	107	1240		477		2346	798	2059	224	166	8928
1986								702							
1987						600		0		825		186			
1989	30	0	0	0	0	479		204		1278	233	737	210	138	
1990	93	95	0	91	1	268		234	0	1061	196	897	153	55	3144
1992	114	154	15	46	1	330	0	173	0	770	162	771	115	18	2669
1994	141	191	1	111	0	365	0	87	0	433	331	599	94	23	2376
1996	128	232	0	40	0	216	0	62		360	180	592	132	13	1955
1997	77	113	0	87	0	308	0	138		295	204	538	143	10	1913
1998	70	212	0	70	0	378	0	100		266	313	515	178	19	2121

T=Tr E, X=Closed, R=Rookery, m-o=closed May to Oct

SEA LION COUNTS - NORTH KODIAK ISLAND

	CAPE	SUGAR	ROCKS S.		WEST				SEA LION						
	ELIZABETH	LOAF	USHAGAT	USHAGAT	AMATULI	LATEX RK	SEA OTTER	TONKI C.	ROCKS	MARMOT					
YEAR		T-R-X	T-X(m-o)	T		T-X	X		T-X	T-R-X	TOTAL				
1957	108	11963		789		3334			300	3866	20360				
1976	124	5226	106	902	57	1164	541		432	9862	18414				
1977															
1978		4810								8506					
1979		4374								8450					
1983															
1985		2991	33	1496		1482	335		225	4983	11545				
1986										8819					
1987															
1989	249	1861	2	168		354	450	22	46	2331	5483				
1990	85	1319	0	441	0	519	164	14	93	1766	4401				
1992	102	1184	33	227	0	193	0	1	57	1581	3378				
1994	114	976	27	201	10	230	206	6	62	1091	2923				
1996	88	741	27	111	0	195	171	16	4	1102	2455				
1997	35	625	21	96	0	170	101	0	37	781	1866				
1998	42	646	3	95	0	109	123	0	61	694	1773				

T=Tre E, X=Closed, R=Rookery, m-o=closed May to Oct

SEA LION COUNTS - WESTERN KODIAK ISLAND

	CAPE ALITAK	CAPE IKOLIK	STURGEON HEAD	CAPE UGAT	NOISY	MALINA POIINT	STEEP CAPE	GRANITE CAPE	CAPE ARAMANOF	CAPE UYAK	CAPE DOUGLAS	SHAKUN ROCKS	CAPE NUKSHAK	CAPE UGIAK	CAPE GULL
YEAR				X							X(m-o)	X			X(m-o)
1957															
1976															207
1977															0
1978															
1979															
1983				356											
1985															285
1986															
1987															
1989												0			0
1990										0		140			0
1992	0	64	0	110					0			191	0	0	0
1994	0	62	0	273	0	0	14	0	0	0	0	127	0	0	0
1996	0	105	0	100	0	0	33		0	0	0	107	0	6	0
1997	0	56	0	99	0	0	42		0	0	0	109	0	0	0
1998	0	47	0	128	0	0	34		0	0	n.s	56	0	0	0

SEA LION COUNTS - WESTERN KODIAK ISLAND (continued)

	CAPE KULIAK	TAKLI AREA	PUALE BAY	KILOKAK ROCKS	
YEAR		X(m-o)	X		TOTAL
1957					
1976		1877	1877		
1977		700	15000		
1978					
1979					
1983					
1985		802	834		
1986					
1987					
1989		66	309		
1990		0	387		
1992	0	0	278		643
1994	95	58	265	103	997
1996	2	30	169	120	672
1997	0	34	143	90	573
1998	0	35	136	77	513

T=Tr[illegible]E, X=Closed, R=Rookery, m-o=closed May to Oct

OTHER KODIAK																
		GORE	EAST		NAGAHUT											
	OUTER	POINT	CHUGACH	PERL	ROCKS											
YEAR	R-X			X		TOTAL										
1956				687												
1957	2848	200	20													
1976	3847	535	0	33	344	4759										
1977																
1978	3142															
1979	3155															
1983																
1985																
1986																
1987																
1989	350	25		50	20	445										
1990	589	63	39	97	28	816										
1992	243	4	3	188	0	438										
1994	406	0	0	92	1	499										
1996	319	0	0	239	0	558										
1997	225	0	3	136	0	364										
1998	344	0	0	127	0	471										

T=Tr E, X=Closed, R=Rookery, m-o=closed May to Oct

WESTERN GULF																
	LIGHT-				MITRO-		KUPREAON-	HAY-	WHALE	CASTLE		CHERNA-				SEA LION
	HOUSE RK	ATKULIK	KAK	SEAL CAPE	FANIA	SPITZ	OFF POINT	STACK	BACK	ROCK	ATKINS	BURA	TWINS	NAGAI ISL.		ROCKS
YEAR	X		X(m-o)			T-X(m-o)			X	T-X(m-o)	T-R-X	T-R-X		T		T
1956																
1957						40				600	4995	4806		200		372
1976						25				401		1437		405		243
1977						0					2726					
1978	828									541	3943	2758				
1979	737										5000	1504				
1983																
1985						645				12	1562	487		183		508
1986											1129	456				377
1987										258	84	150		90		
1989	172					156		0	355	79	755	544		22		9
1990	140		185	0	70	126		0	419	75	728	442	0	0		96
1992	97	0	132	0	112	3	24	0	395	89	792	459	0	5		84
1994	105	0	184	0	192	20	75	0	324	153	571	676	0	88		149
1996	114	0	201	0	188	110	52			98	624	422	0	120		219
1997	92	0	235	0	266	21	34	30	343	77	544	729	0	0		192
1998	131	0	236	0	247	27	11	61	317	155	602	624	0	24		174
																152

T=Tre E, X=Closed, R=Rookery, m-o=closed May to Oct

WESTERN GULF (continued)																
	CAPE		WOSNES-	PINNACLE	CLUBBING											
	UNGA	JUDE	ENSKI	ROCK	ROCKS	CHERNI	S. ROCK	BIRD IS	ROCK IS							
YEAR		X		T-R-X(m-o)	T-R-X		X	T-X		TOTAL						
1956																
1957		5042		3142	1556		3607	61								
1976		302		1745	1217		1004	112	54							
1977		0						0								
1978				3692	2663											
1979				2731	1162											
1983																
1985		315		1588	1251		892	170	21							
1986				1932	1023											
1987								668	0							
1989				1366	856		0	34	0							
1990	36	200	1	1305	1021	1	332	134	17	5316						
1992	0	352	0	1092	433	0	232	161	11	4538						
1994	0	410	0	977	931	105	342	347	0	5719						
1996	74	355	0	1027	957	0	345	191	0	5070						
1997	63	435	1	1007	934	0	402	147	0	5534						
1998	147	450	0	865	858	2	408	54	0	5371						

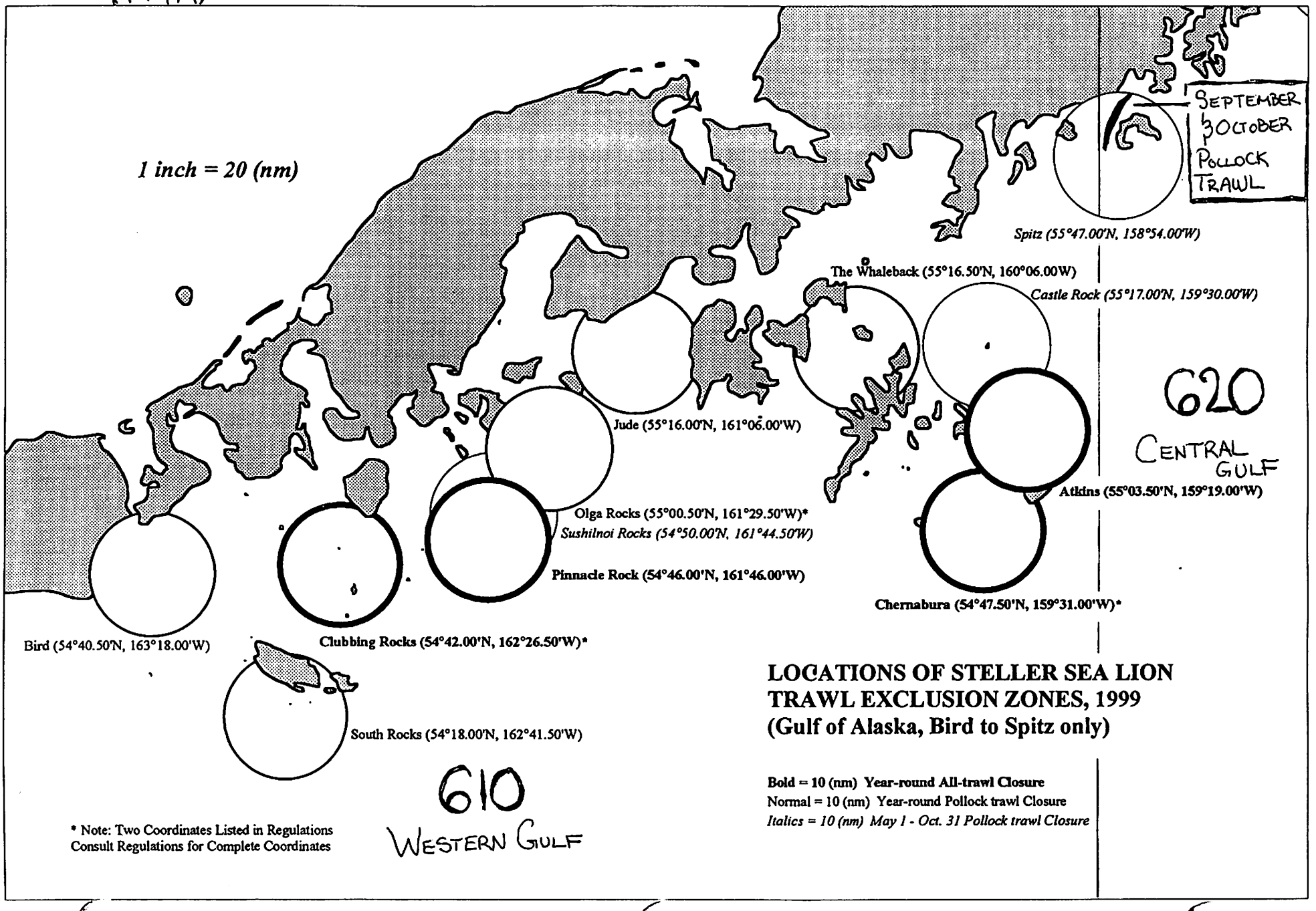
T=Tre[illegible]E, X=Closed, R=Rookery, m-o=closed May to Oct

EASTERN GULF															
	SITKAGI	C. ST.	MIDDLE-		C.HINCH-	SEAL	FISH				POINT		PT.ELR-	CAPE	CAPE
	BLUFFS	ELIAS	TON	HOOK PT.	INBROOK	ROCKS	(WOODED)	PLEIADES	GLACIER	PERRY	ELEANOR	NEEDLE	INGTON	PUGET	JUNKEN
YEAR	T	T-X		X(m-o)	X(m-o)	T-R	T-X		T-X			T	T		
1956															
1957										80		179	250		
1973		1548										234	250		
1976		1628							0			537	725		
1977															
1978															
1979															
1983															
1985															
1986															
1987															
1989		1883	1						0	0	0	668	487		
1990		948					1232	0	0	0	0	196	382	37	0
1992	0	895	9	366	129	784	1005	3	82	0	0	242	332	8	0
1994	0	781	0	155	111	636	649	0	349	0	0	260	299	38	0
1996	n.s	500	0	30	245	544	502	0	54	0	0	126	231	0	0
1997															
1998	n.s	413				730	330								

T=Tre. E, X=Closed, R=Rookery, m-o=closed May to Oct

EASTERN GULF (continued)																
	C. FAIR-	C.RESUR-	PT. LA-	DANGER	GRANITE			AIALIK								
	FIELD	RECTION	TOUCHE	ISLAND	CAPE	STEEP PT	RABBIT IS	CAPE	RUGGED	CHISWELL	SEAL RK					
YEAR						X(m-o)			8	T-X	T-X	TOTAL				
1956																
1957										1930						
1976									150	1106						
1977																
1978																
1979																
1983																
1985																
1986																
1987																
1989									190	456						
1990	51							25	25	408						
1992	104	0						3	153	240	5					
1994	73	0	0	0	0	203	21	27	157	180	58					
1996	70	0	1	0	37	67	0	3	30	115	31					
1997						110	0									
1998																

MELVIN LARSEN – PUBLIC TESTIMONY STELLER SEA LIONS (PMA)



STATEMENT BEFORE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

February 3 – 8, 1999

AP Motion: consider repeal of Pribilof Trawl Closure except for rookery area, for mid-water pollock fisheries only, and require vessels to document that their nets are off bottom. (Motion requiring vessel to document net position passed 11/10/1).

My name is Simeon Swetzof. I am Mayor of the City of St. Paul and a local commercial fisherman. I wanted to comment on the proposal passed by the Advisory Panel 11 to 10 to consider repeal of the Pribilof Trawl Closure zone around the Pribilof Islands for mid-water pollock fisheries. This proposal appears to be in response to the recent restrictions imposed on the pollock fishery in the Aleutian Chain in order to protect the Steller sea lion. The community that I represent is clearly opposed to this proposal. The Council, I believe, labored for over 5 years on this issue before it decided to create the Trawl Closure Zone. It was a well-considered decision and we think that the Council should stay with it.

The Pribilof Islands are home to some of the largest marine mammal and seabird populations in the Northern Hemisphere. The Pribilofs are considered critical habitat for the Steller sea lion and are also home to threatened and depleted species such as kittiwakes, murres, and Northern fur seals. All of these valuable species depend on the health of the fish stocks and forage areas surrounding the Pribilofs and would be threatened by any moves to repeal the Trawl Closure Zone.

Two days ago we heard from Mr. Doug Pengilley of the Department of Fish and Game that there is uncertainty about the health of Red and Blue King Crab stocks around the Pribilofs. Red and Blue King Crab, bairdi, opilio, and hair crab are all critical to St. Paul's crab processing activities and to the crab fleet. I am very concerned that allowing any type of trawling around the Pribilofs could result in additional threats to the livelihood of crab fishermen and processors surrounding the Bering Sea.

Finally, I am concerned that the halibut stocks, which are crucial to the success of the Pribilofs' CDQ fishery, may also be impacted by such a move.

While I understand that this is simply a proposal to consider the repeal of the Trawl Zone, in my opinion given the importance of the Pribilofs as habitat for marine wildlife and various commercial fish stocks, this proposal should not be considered. Thank you Mr. Chairman and Council members.

STELLER SEA LION SCIENCE COALITION

February 3, 1999

Richard B. Lauber
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Lauber:

A key component to management decisions made by the North Pacific Fishery Management Council on Steller sea lions is a clear understanding of the science used to support the jeopardy finding in the National Marine Fisheries Services (NMFS) Endangered Species Act Section 7 Biological Opinion on Steller sea lions. Equally important is an understanding of other scientific information not included in the Biological Opinion. The council has received presentations from NMFS and independent scientists on their scientific research efforts.

However, the fishing industry and the council have not had a similar opportunity to review scientific research being conducted by other researchers. This includes researchers from NMFS, other government agencies such as the United States Geological Service (USGS) and the United States Fish and Wildlife Service (USFW), the State of Alaska, including Alaska Sea Grant, university scientists, and other independent scientists on issues relating to Steller sea lions and the factors that may affect their survival and recovery.

In particular, members of the fishing industry would be interested in receiving brief presentations from these scientists on the current body of knowledge pertaining to Steller sea lions and their population decline, the status of current research projects, the mechanisms used to coordinate research efforts between scientists, and future research proposals.

The council will be reviewing future Steller sea lion management options at its April 19-26 meeting in Anchorage. A briefing held in conjunction with, or immediately before, this meeting would provide members of the council and the fishing industry with an opportunity to review the state of scientific knowledge and research pertaining to Steller sea lions. Information on factors potentially affecting sea lion populations such as changes in oceanographic conditions and measures that could assist in sea lion recovery would be invaluable to the fishing industry and members of the council in their deliberations and management recommendations.

We request that the North Pacific Fisheries Management Council encourage and provide an opportunity for research scientists to brief interested industry and council members on the current body of knowledge pertaining to Steller sea lions and the status of current and pending research efforts.

We view this event as an informational seminar and absolutely not as a replacement for the NPFMC approved scientific independent peer review of the NMFS marine mammal science used to support the Biological Opinion, the finding of jeopardy, and the RPA's.

Sincerely,

Beth Stewart
AEB

Chris Blackburn
AGDB

Paul MacGregor
APA

Steve Hughes
UCB

John Roos
PSPA

Cc: Steven Pennoyer
Director, Alaska Science Region

GREENPEACE

125 Christensen Dr., Suite 2
Anchorage, AK 99501
Tel.: 907-277-8234
Fax: 907-272-6519

Rick Lauber
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

February 3, 1999

RE: Steller Sea Lions, Item C-1

Mr. Chairman and members of the Council:

The following comments are presented on behalf of Greenpeace.

Based on information and recommendations presented by the AP and SSC, I feel it is necessary to underscore some of the concerns Greenpeace has regarding the interaction between the North Pacific groundfish fisheries and Steller sea lions.

As presented in our testimony at the December 1997 and December 1998 Council meetings, Greenpeace supports the jeopardy / adverse modification opinions for the pollock fisheries. We believe that a combination of substantial spatial and temporal changes to the pollock and Atka mackerel fisheries coupled with trawl exclusion zones and proportionate TAC reductions is necessary for the recovery of the Steller sea lion and the long term health of the groundfish fisheries and overall ecosystem. This testimony and our specific recommendations are already a part of the record; in addition, further detailed comments will be forthcoming in response to the current emergency rule.

As a preliminary matter, we would note that there has been a great deal of discussion during this process as to whether the massive trawl fisheries in the BSAI and GOA were the initial, or even ultimate, cause of the decline of the Steller sea lion. That question is largely irrelevant to NMFS's duties under the Endangered Species Act. Rather, under the ESA, the task for NMFS was to determine whether the fishery could impede the recovery, or exacerbate the decline, of the Steller sea lion. Based on the best available information, the agency was forced to answer that question in the affirmative; hence the jeopardy finding. Now, the task for the Council and NMFS is to come up with a set of measures that avoids the negative impacts that the fishery has on sea lion recovery.

In that regard, there are a few key principles and objectives of the Biological Opinion that I should stress. The jeopardy ruling provides the basis for a much-needed and long-overdue restructuring of the pollock fisheries in time and area and reduction of pressure on the most

heavily exploited areas. While we feel there are shortcomings in the RPAs presented by NMFS, the objective behind them—as explained in the Biological Opinion—is to establish new working principles for the explicit spatial-temporal management of the fisheries. In addition, the Biological Opinion affirms the principle that fisheries should be managed in an ecosystem context, explicitly incorporating predator-prey considerations in the TAC setting process. Finally, the Biological Opinion affirms the principle that designated critical habitat merits management protections, and that trawl closure areas are an important and legitimate management tool for reducing the impacts of large-scale trawling in other habitats as well, be they marine mammal or fish habitats.

In determining the provisions for an emergency rule for the second half of 1999, as well as a permanent rule for 2000 and beyond, I would recommend that the specific comments and recommendations presented by Greenpeace and the plaintiff groups during the December 1998 council meeting be forwarded on to NMFS for consideration, in order that the conservation principles be appropriately considered in the decision making process. I would also recommend that other conservation measures to distribute the catch in time and area be considered, such as the amendment considered in the AP recommending a month-long closure between the A1 and A2 Bering Sea pollock fishing seasons. Though shorter than our recommended closure presented in December, this proposal for a month long separation would have slowed down the roe fishery, and would serve as a bare minimum conservation measure to alleviate pressure on winter spawning stocks. To be consistent with the principles and intent of the Biological Opinion, this amendment, which failed by a one-vote margin, should have passed, and should be considered in final rulemaking.

I thank you for the time and opportunity to present this testimony, and Greenpeace looks forward to reviewing and commenting upon future actions by the Council and NMFS regarding Steller sea lion recovery efforts and protection of the North Pacific ecosystem.

Paul Clarke
Greenpeace Oceans Campaign
4649 Sunnyside Avenue N.
Seattle, WA 98103
(206) 632 4326
(206) 546 9849 fax
paul.clarke@dialb.greenpeace.org

RE: Steller Sea Lion Agenda C-1 2/4/99

170 line

Forcing the inshore catcher boat fleet to fish west of 170 will only provide the shorebased processors with product for fishmeal. Even though crude oil is down to less than $10.00 a barrel, the fuel costs and run time for the shorebased fleet to prosecute a fishery west of 170 will make it virtually impossible for a shorebased catcher vessel to make a viable living. The plants that are recipients of this raw product would be hard pressed to create a marketable product. Since the catcher processors are mobile we propose that the council analyze the effects of having the catcher processors only fish west of 170 and let the shorebased catcher vessel continue to work east of 170. This should provide the spatial distribution of the fleet and catch as desired by the biological opinion.

Cape Sarichef

When the Aleutians Aleutians were taken away from us, it was felt among some of us that possibly two things would be accomplished. By giving up a complete fishery and season more concessions would be made by NMFS in regards to the Bering Sea RPA's. Also it was felt that there will be an 800 mile long habitat area that will not have any pollock fishing. This would be a good control area to see if the Stellar Sea Lion counts would start to increase. It is my understanding that the last five years the count has been relatively stable. If there is no pollock fishing and the count starts to drop again this might indicate something. We have no rookery or haulout that will have continued close in fishing to compare with. The Sarichef haulout has had an increasing count without protection from the fishery. I would think that NMFS would need a control area left open to fishing to compare with the effects of the complete closure of the Aleutians. This does not sound like good science to do these wholesale closures without anyway of measuring their effect.

Thank you,

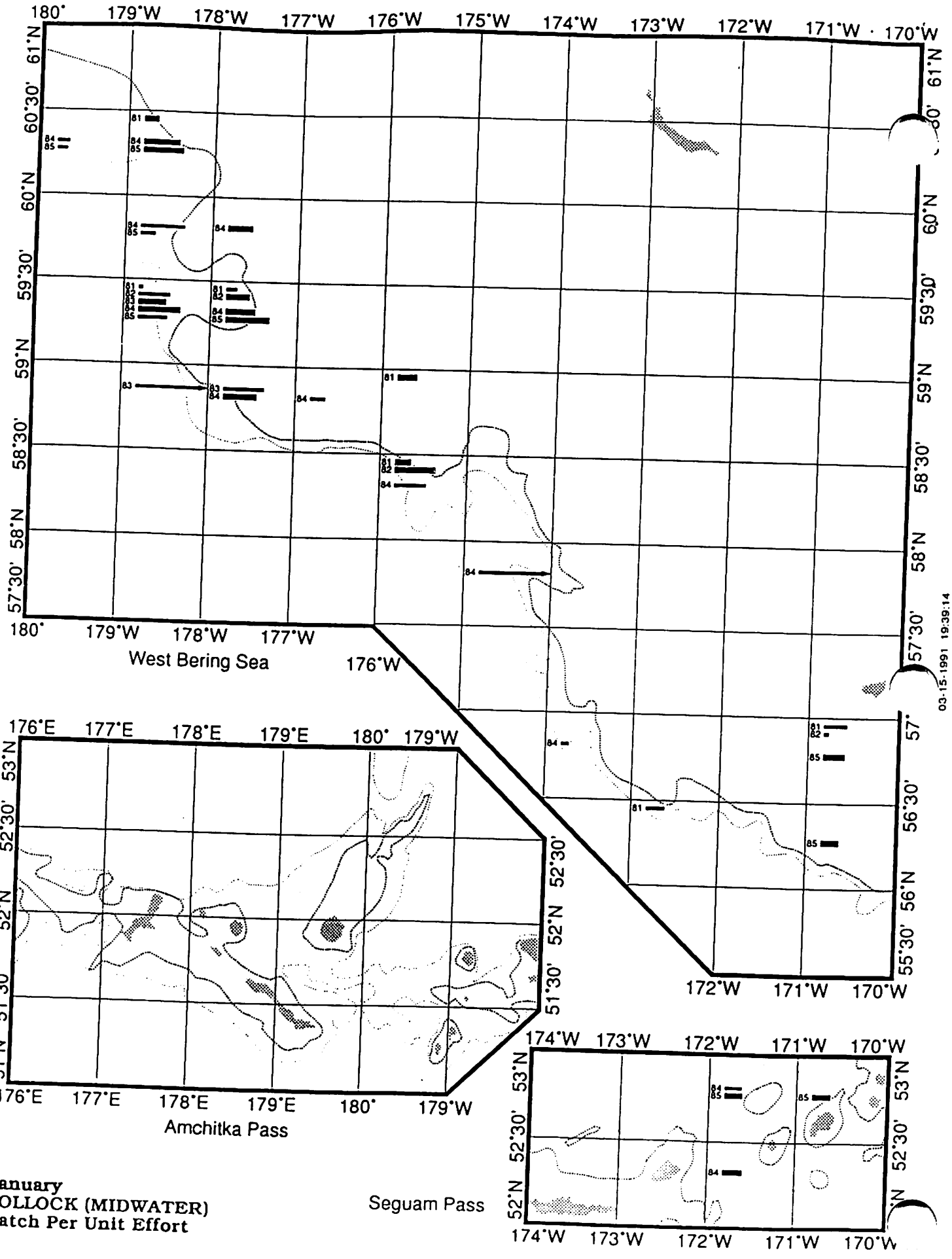
Ken Tippett

Ken Tippett
Fleet Manager
Alaska Boat Co.
Wards Cove Packing

DAVE FRASER
C-1

SECTION III

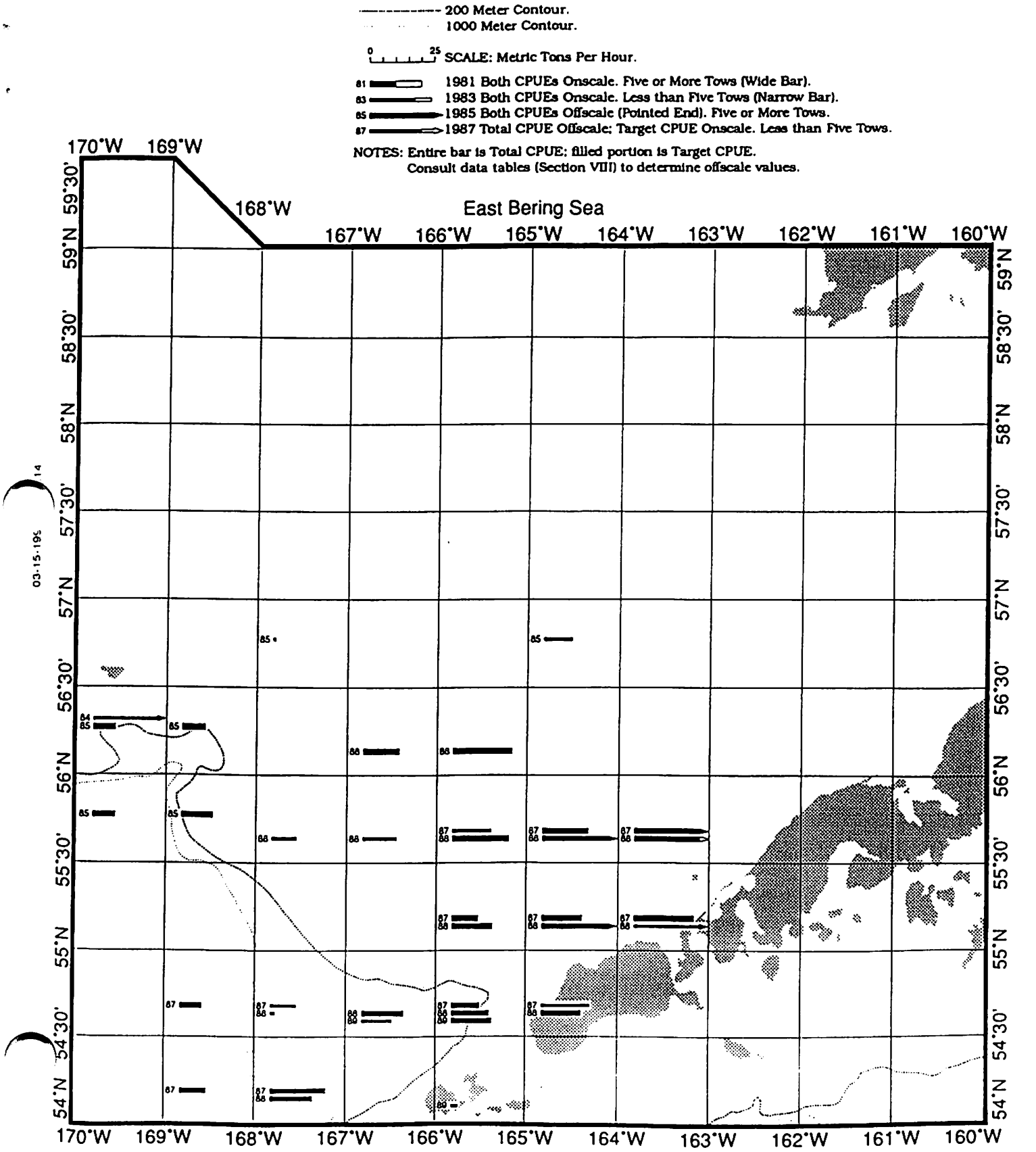
CATCH PER UNIT EFFORT CHARTS

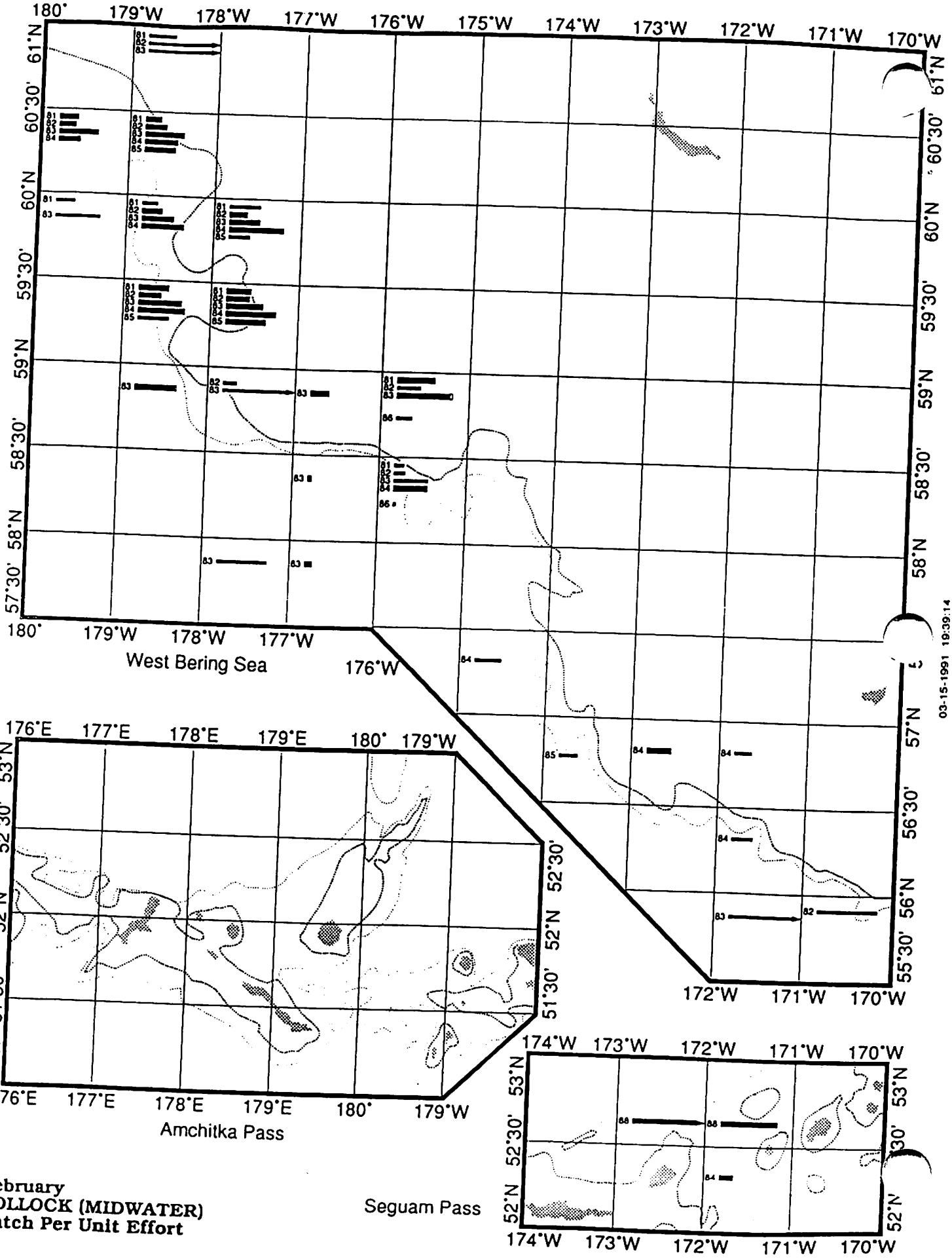


January
POLLOCK (MIDWATER)
Catch Per Unit Effort

IMPORTANT: THESE CHARTS ARE NEITHER INTENDED NOR RELIABLE FOR NAVIGATION.

January
POLLOCK (MIDWATER)
Catch Per Unit Effort





February
POLLOCK (MIDWATER)
Catch Per Unit Effort

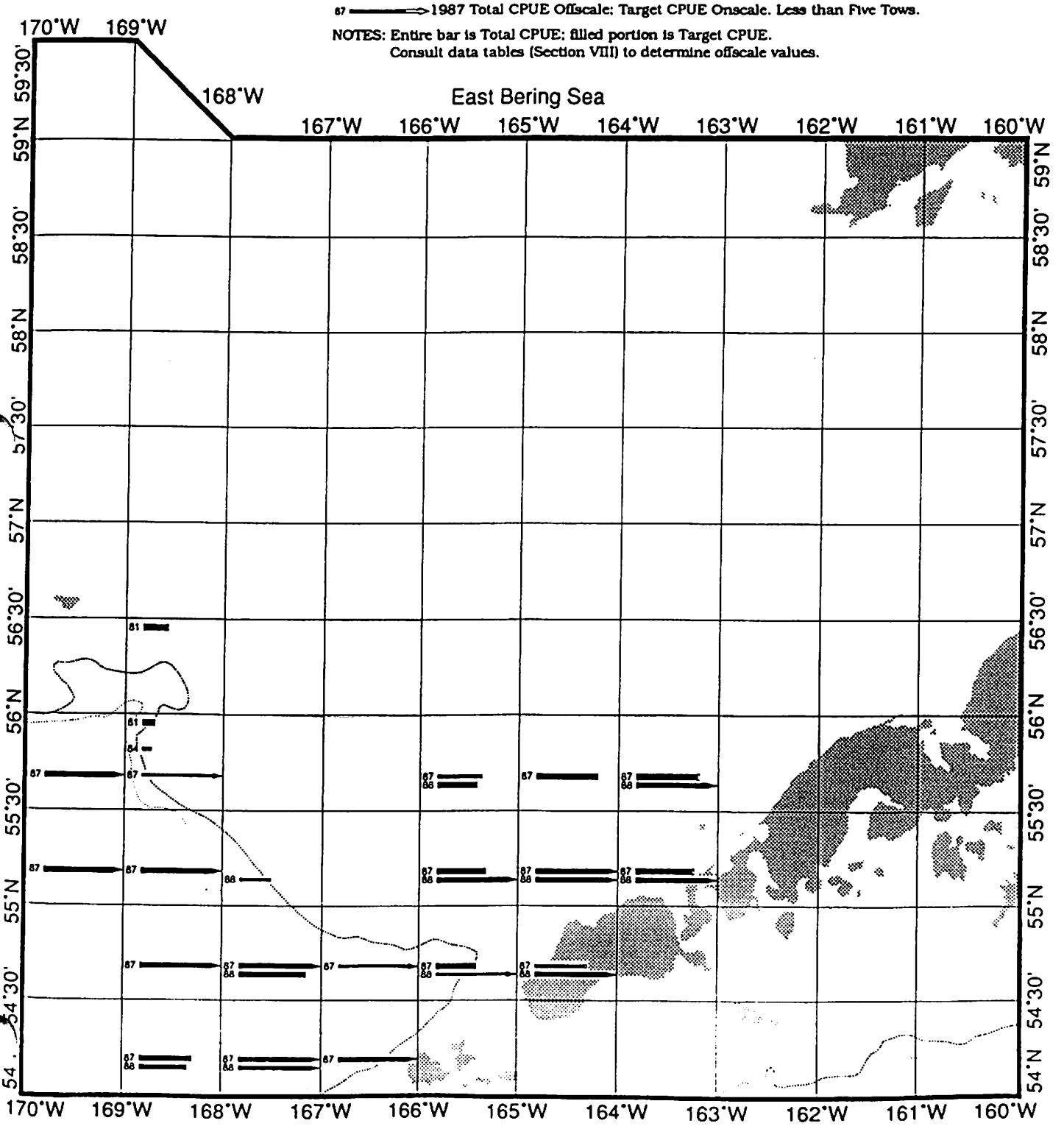
February
POLLOCK (MIDWATER)
Catch Per Unit Effort

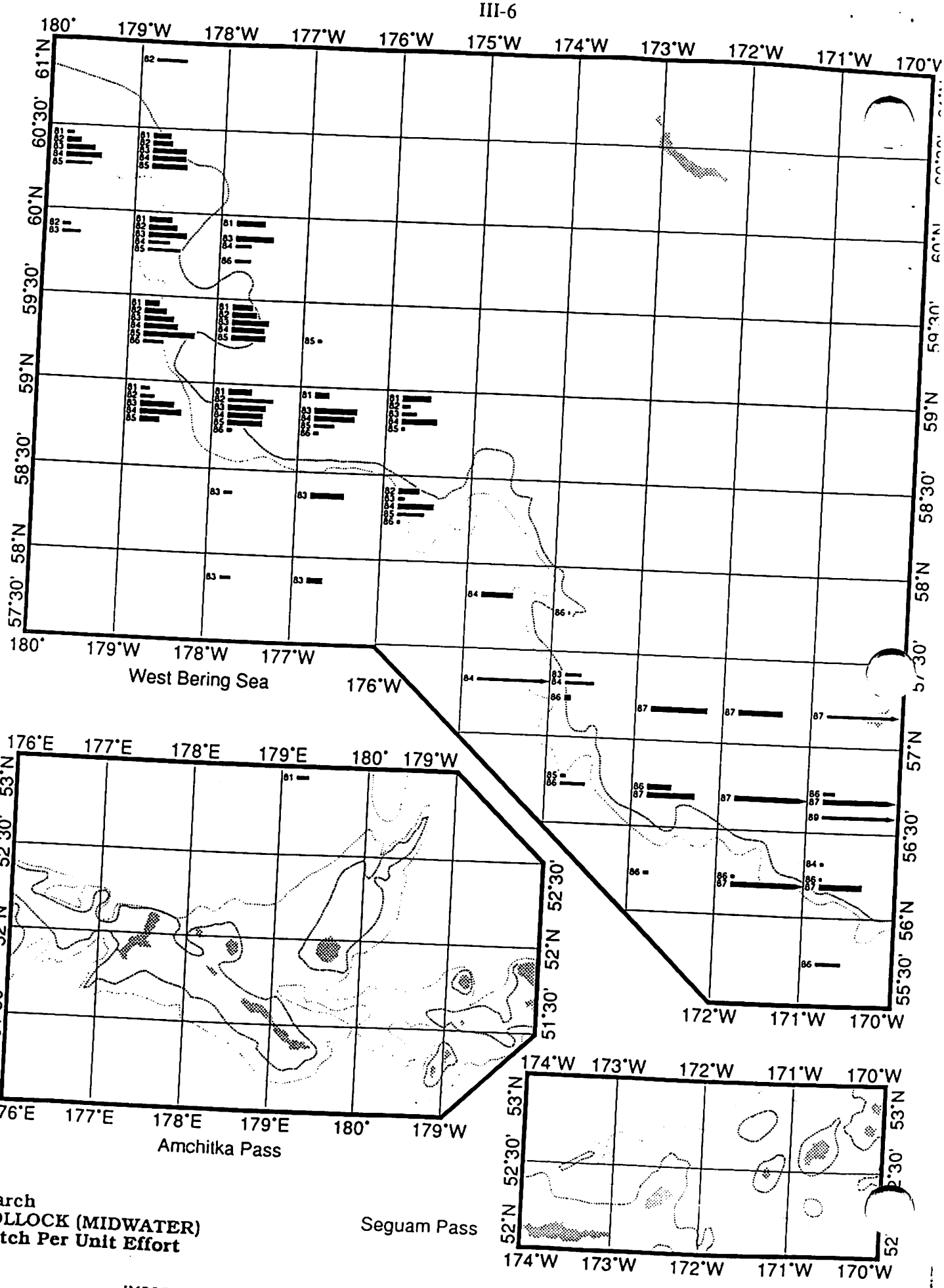
200 Meter Contour.
1000 Meter Contour.

0 25 SCALE: Metric Tons Per Hour.

81 1981 Both CPUEs Onscale. Five or More Tows (Wide Bar).
83 1983 Both CPUEs Onscale. Less than Five Tows (Narrow Bar).
85 1985 Both CPUEs Offscale (Pointed End). Five or More Tows.
87 1987 Total CPUE Offscale; Target CPUE Onscale. Less than Five Tows.

NOTES: Entire bar is Total CPUE; filled portion is Target CPUE.
Consult data tables (Section VIII) to determine offscale values.

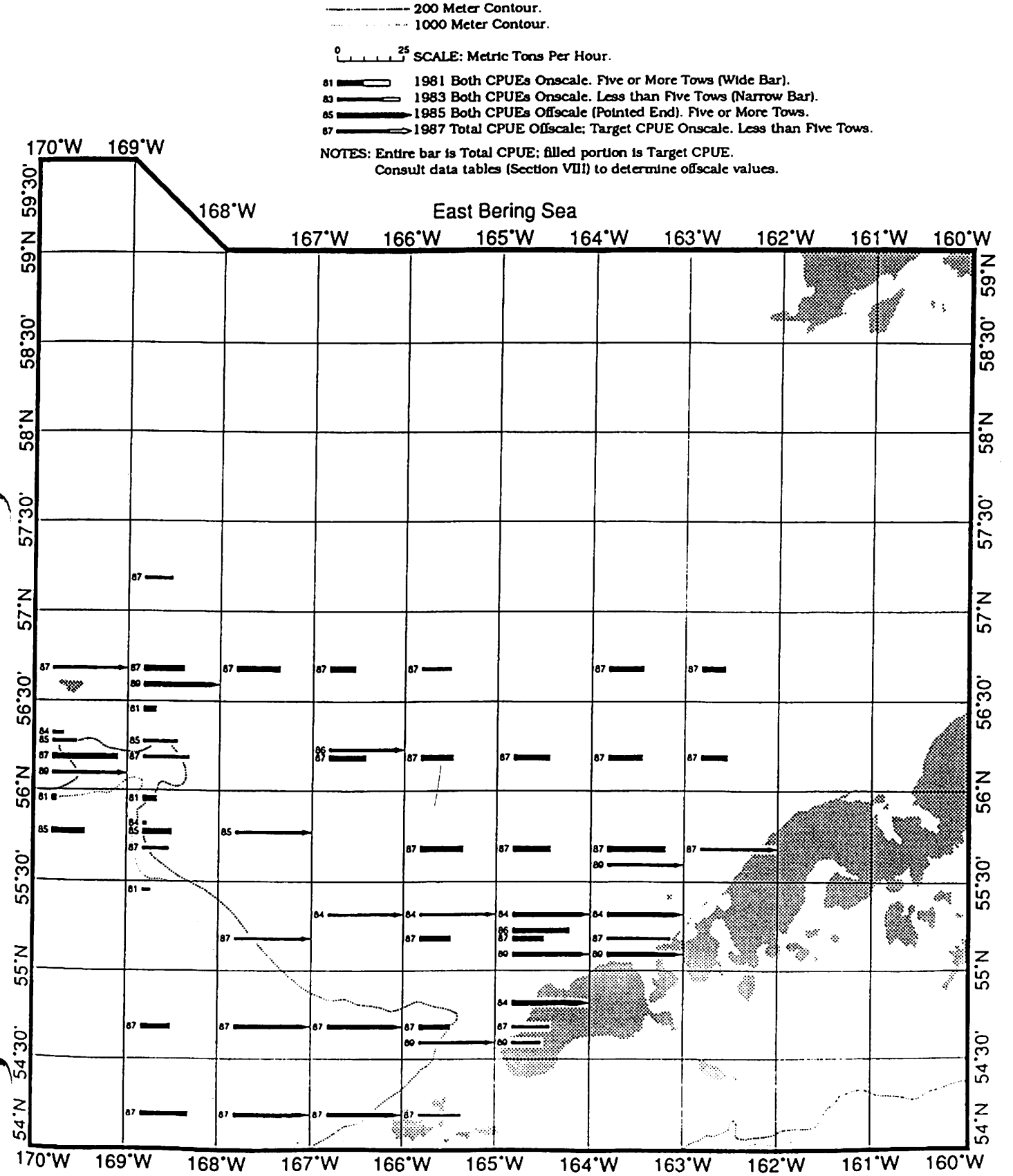




March
POLLOCK (MIDWATER)
Catch Per Unit Effort

IMPORTANT: THESE CHARTS ARE NEITHER INTENDED NOR RELIABLE FOR NAVIGATION.

March
POLLOCK (MIDWATER)
Catch Per Unit Effort



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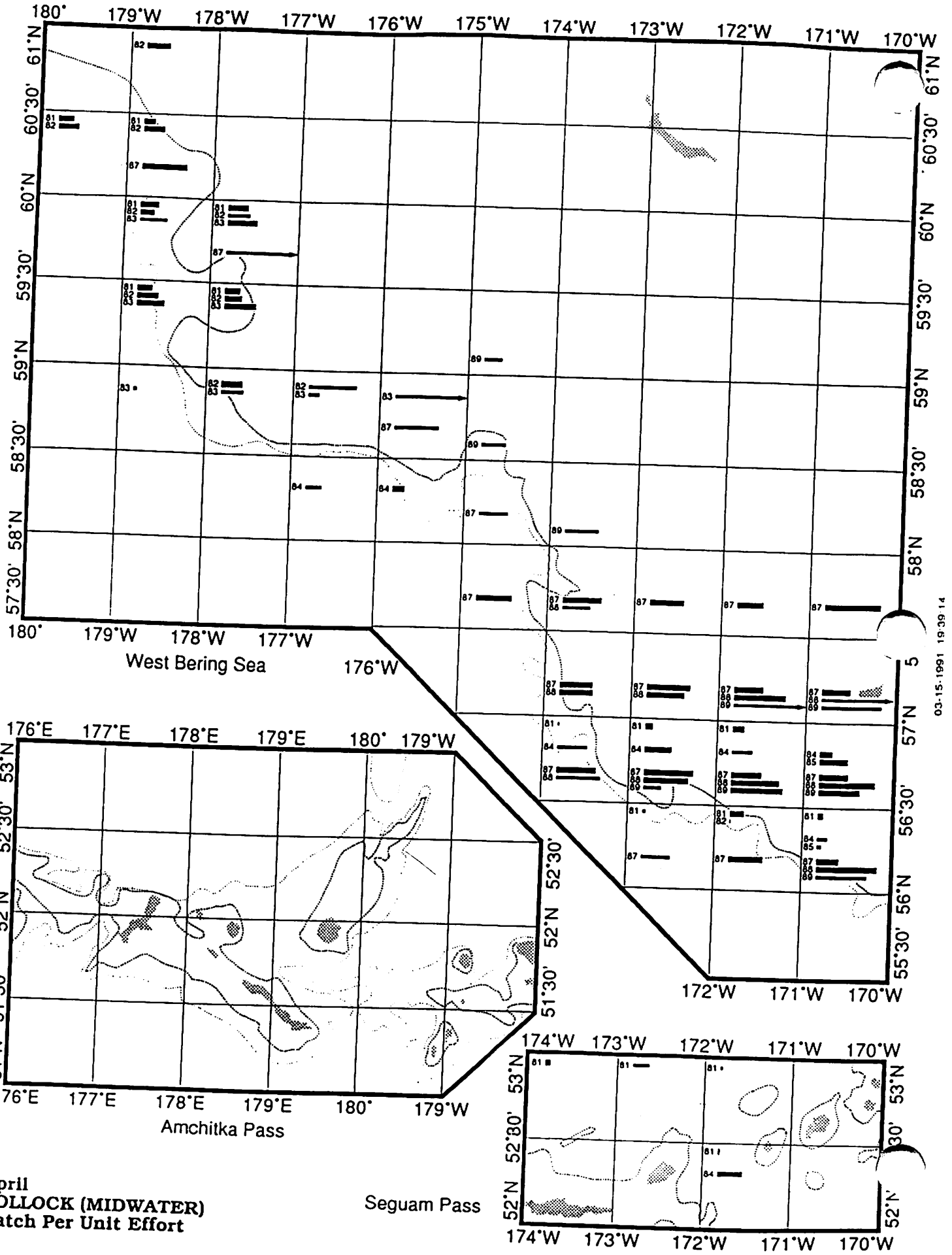
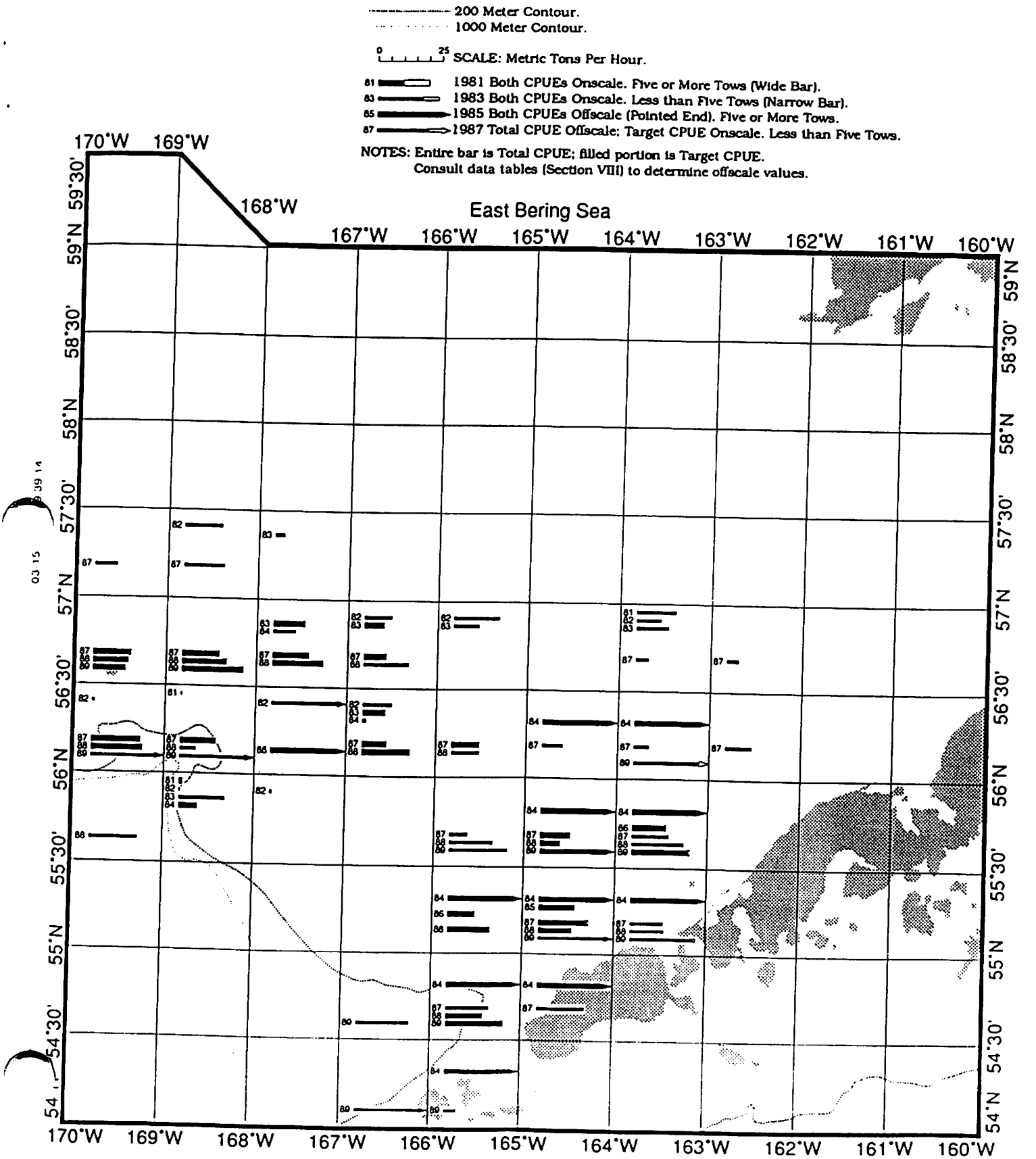
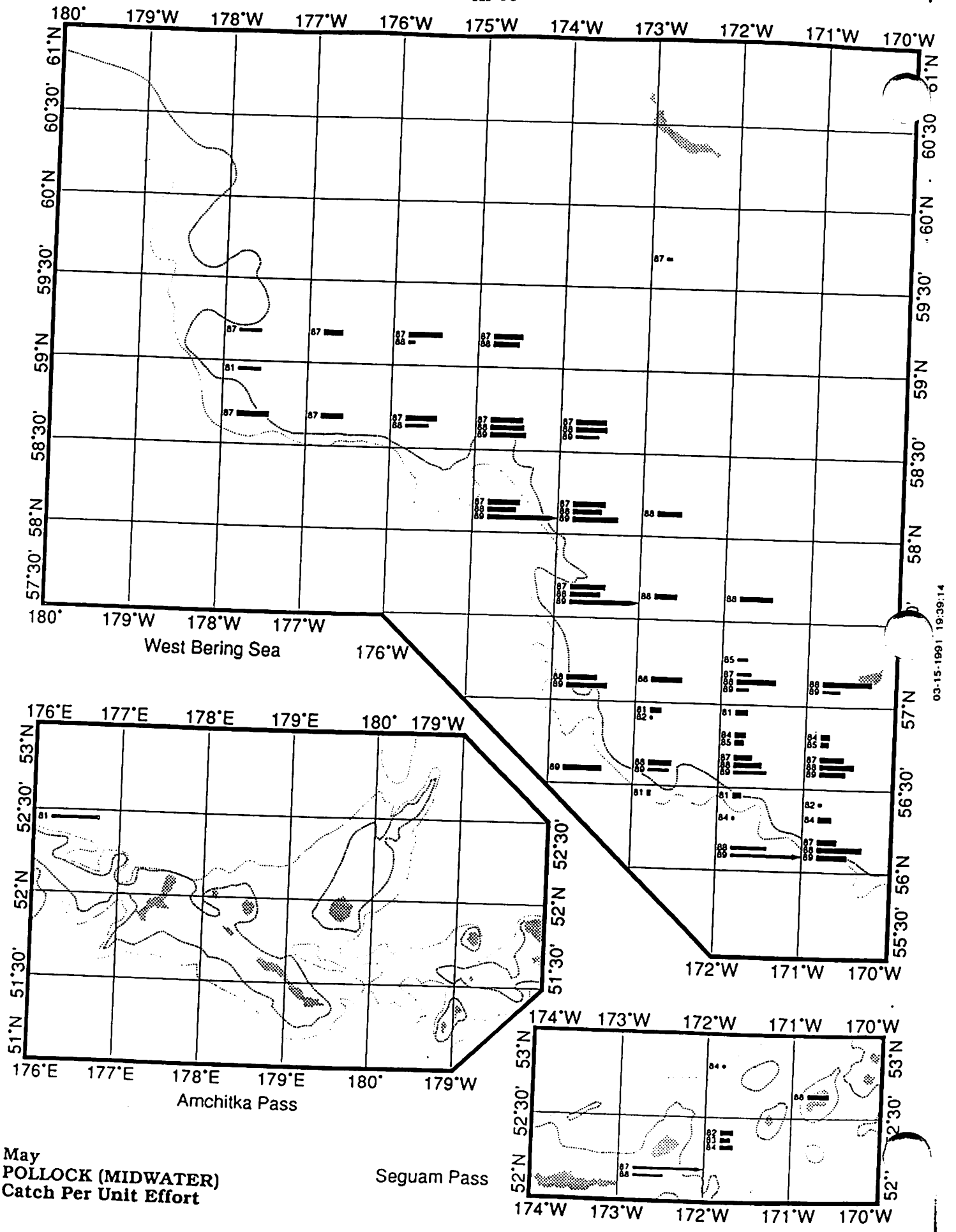


April
POLLOCK (MIDWATER)
Catch Per Unit Effort

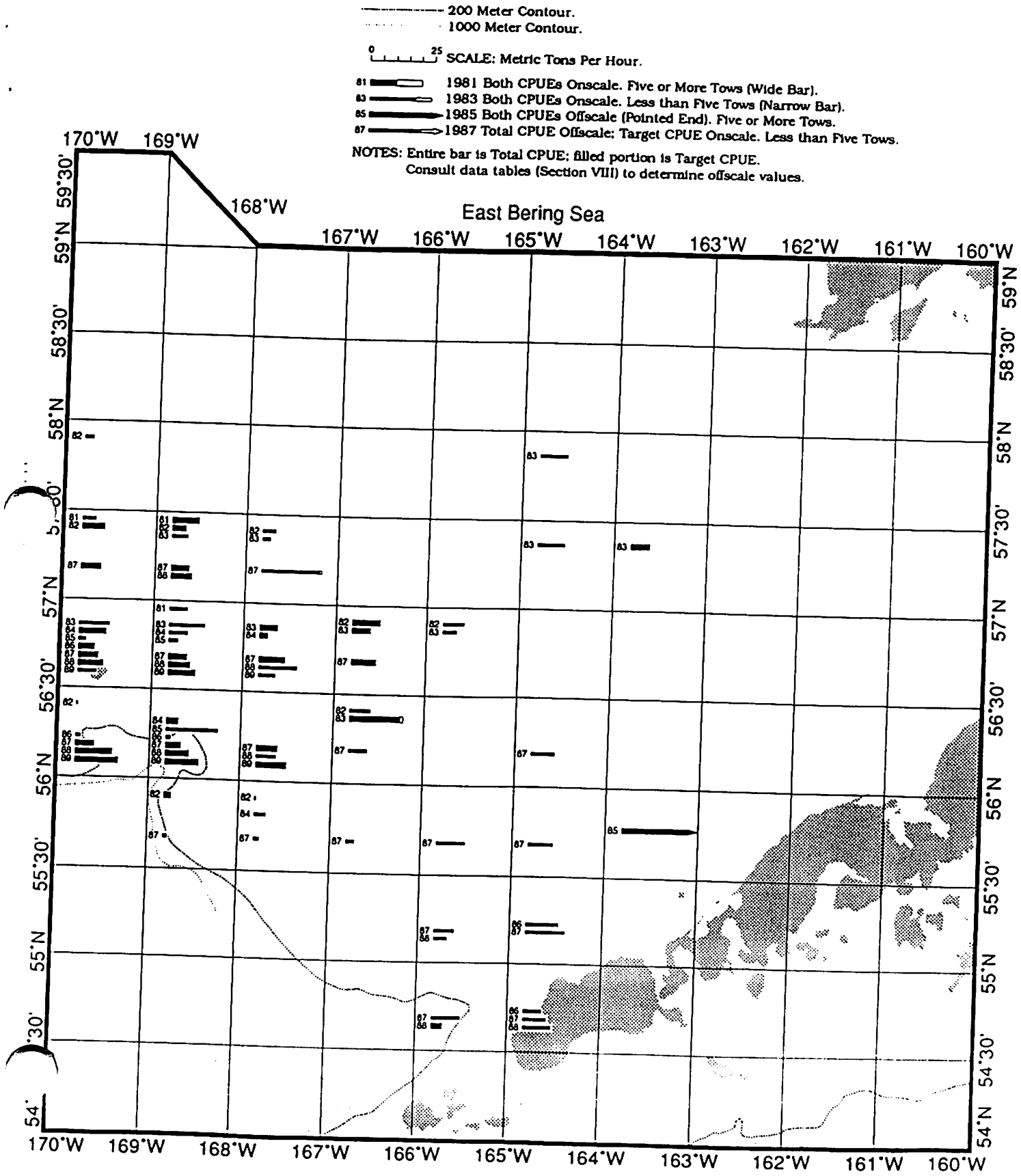
April
POLLOCK (MIDWATER)
Catch Per Unit Effort

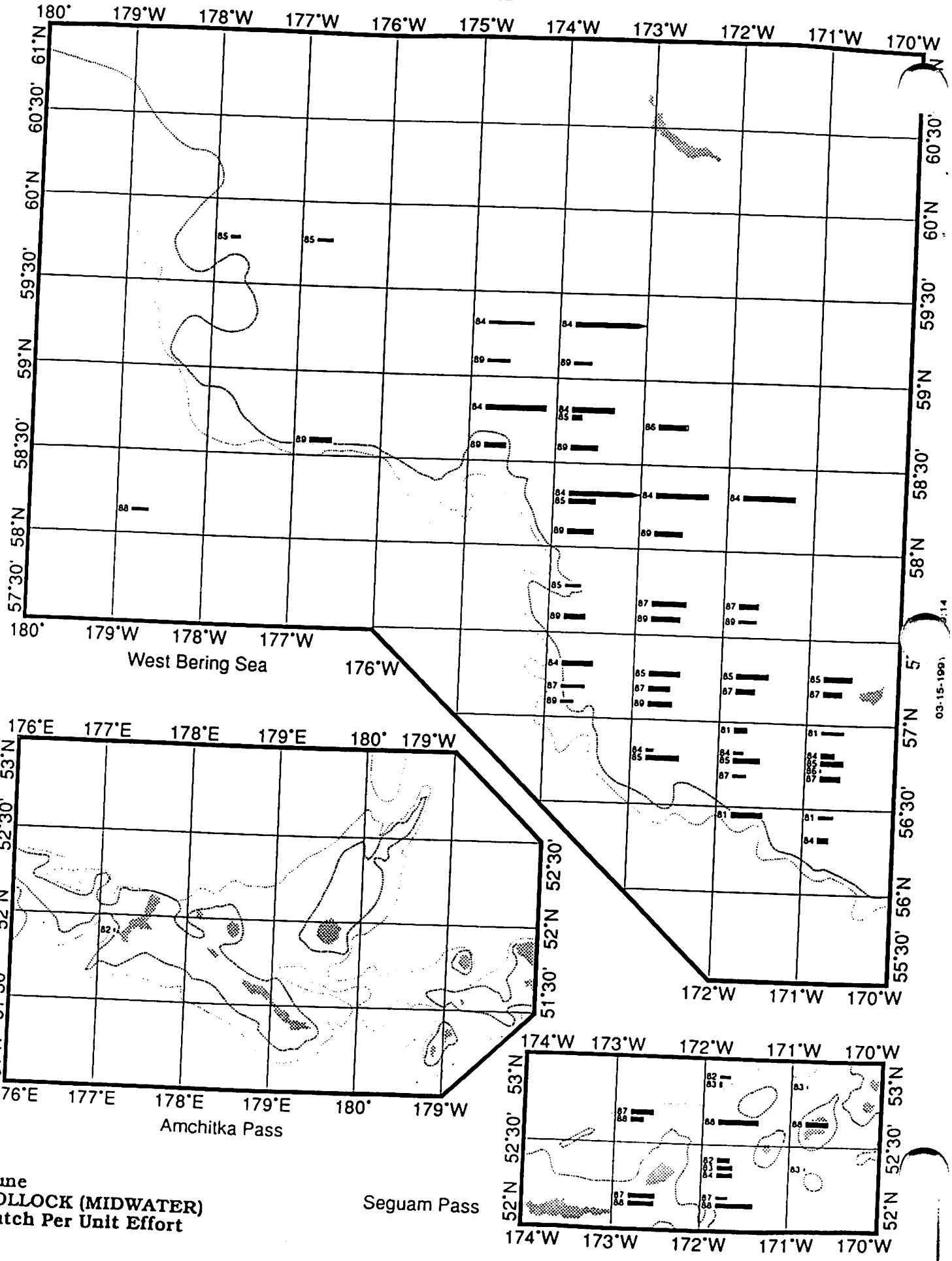




May
POLLOCK (MIDWATER)
Catch Per Unit Effort

May
POLLOCK (MIDWATER)
Catch Per Unit Effort





June
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Catch Per Unit Effort

June
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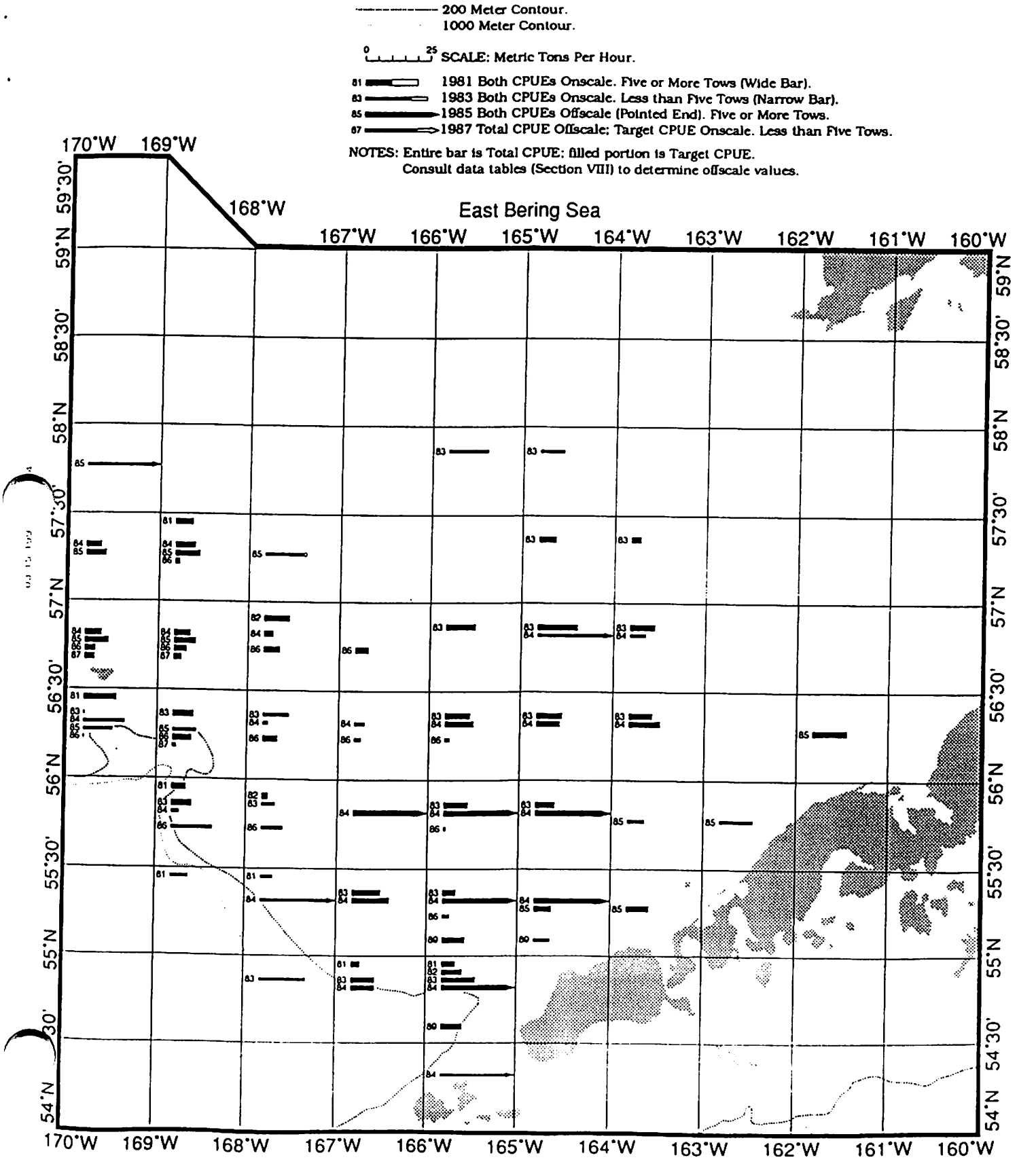
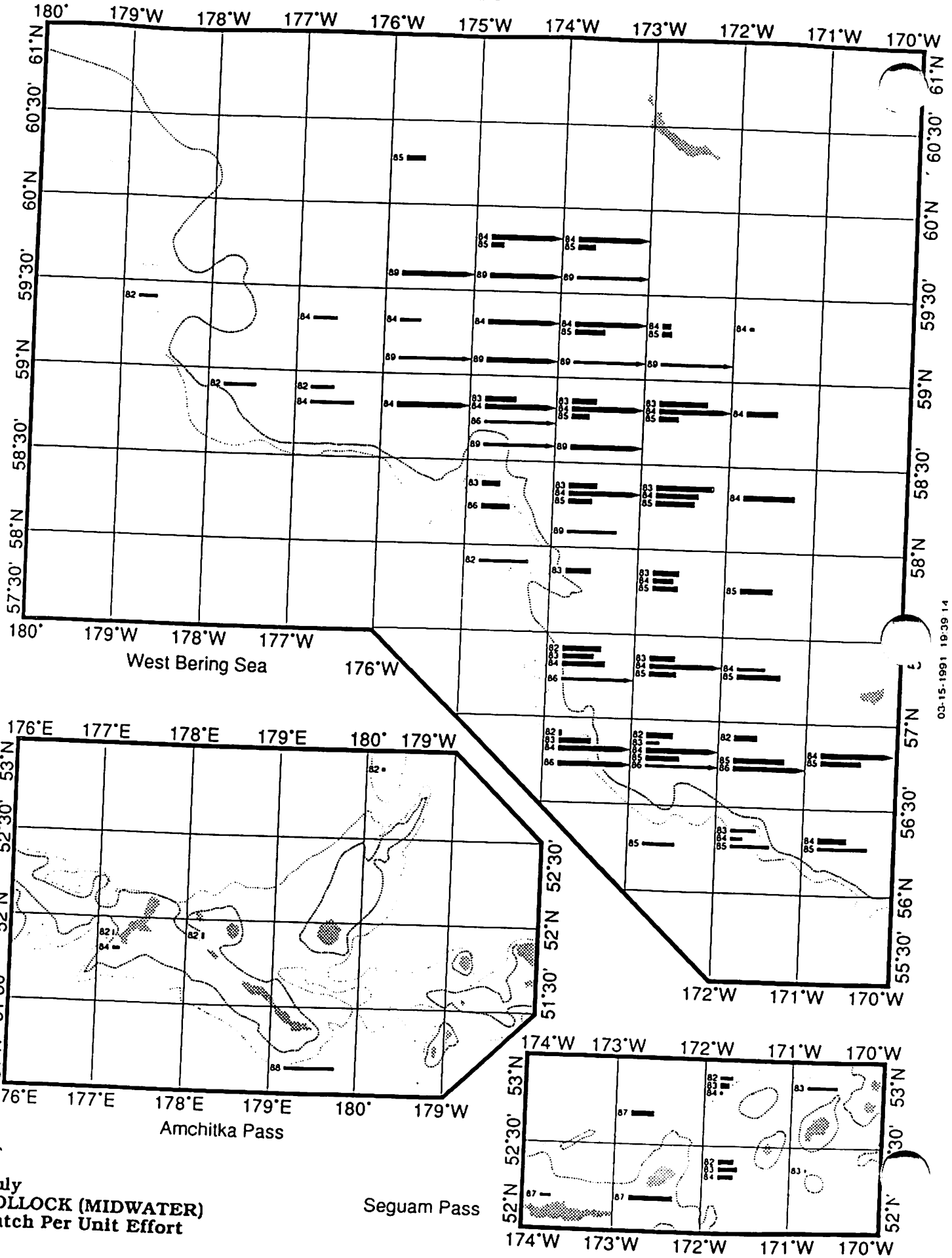
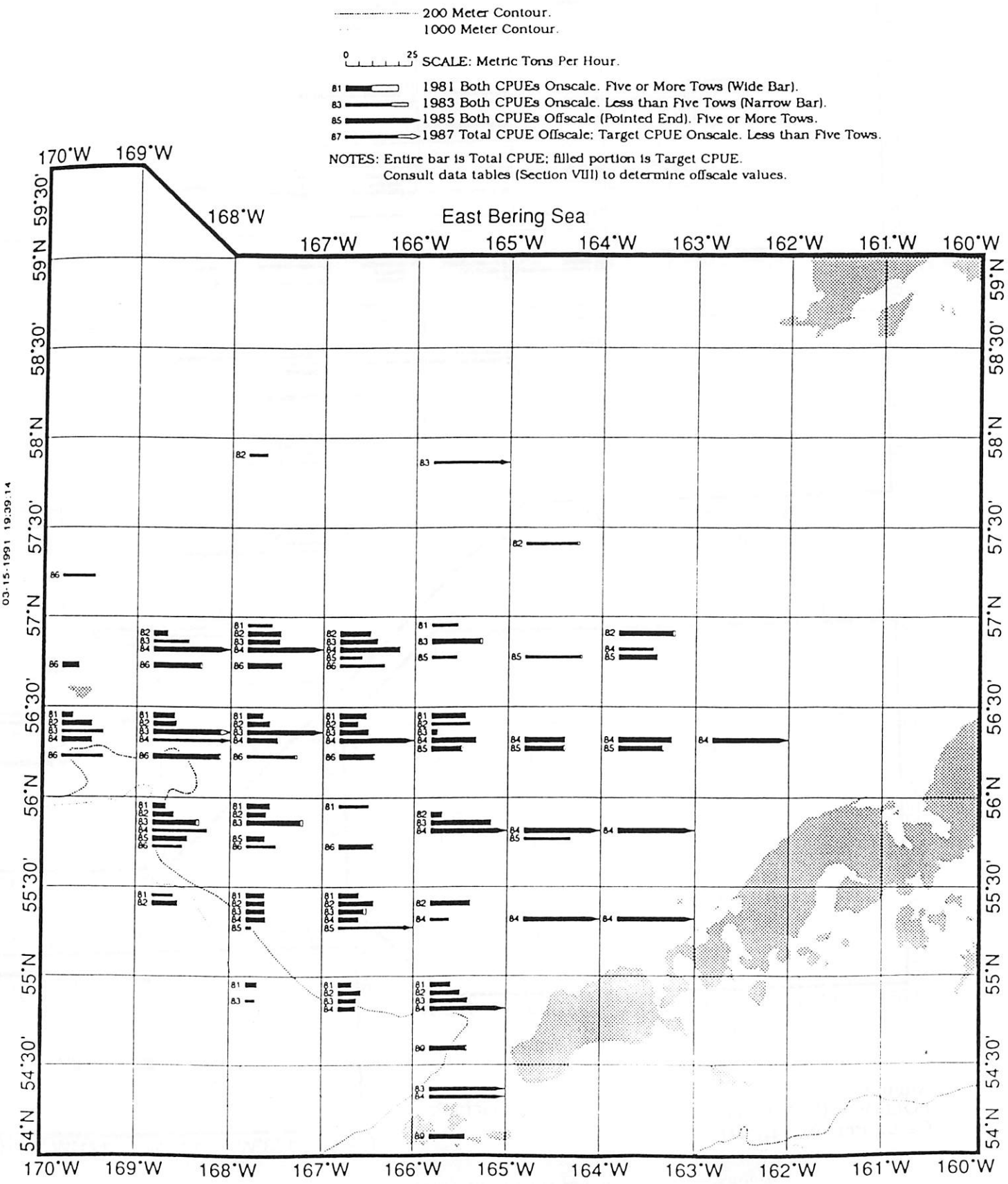
Catch Per Unit Effort

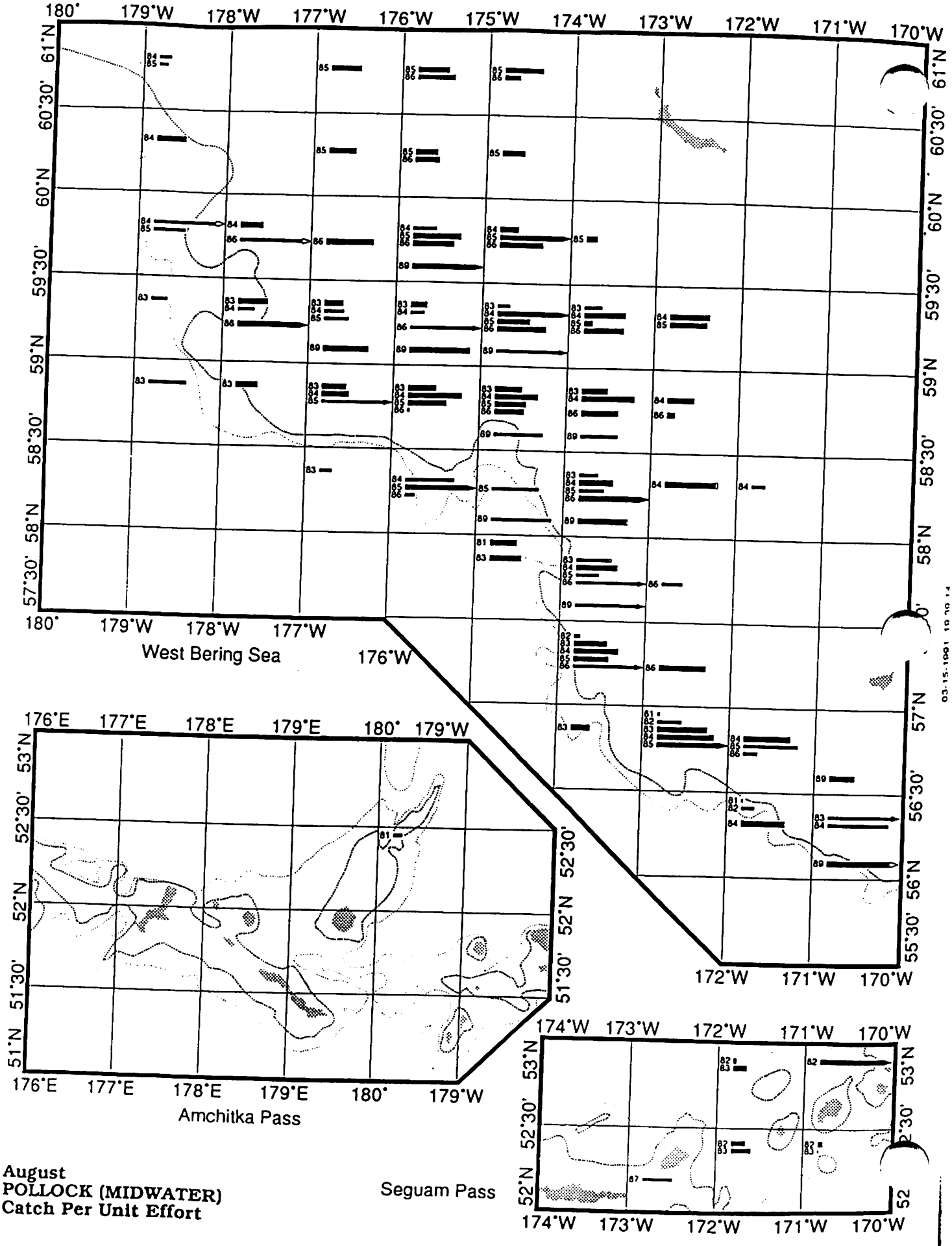




July
POLLOCK (MIDWATER)
Catch Per Unit Effort

July
POLLOCK (MIDWATER)
Catch Per Unit Effort





August
POLLOCK (MIDWATER)
Catch Per Unit Effort

IMPORTANT: THESE CHARTS ARE NEITHER INTENDED NOR RELIABLE FOR NAVIGATION.

August
POLLOCK (MIDWATER)
Catch Per Unit Effort

200 Meter Contour.
1000 Meter Contour.

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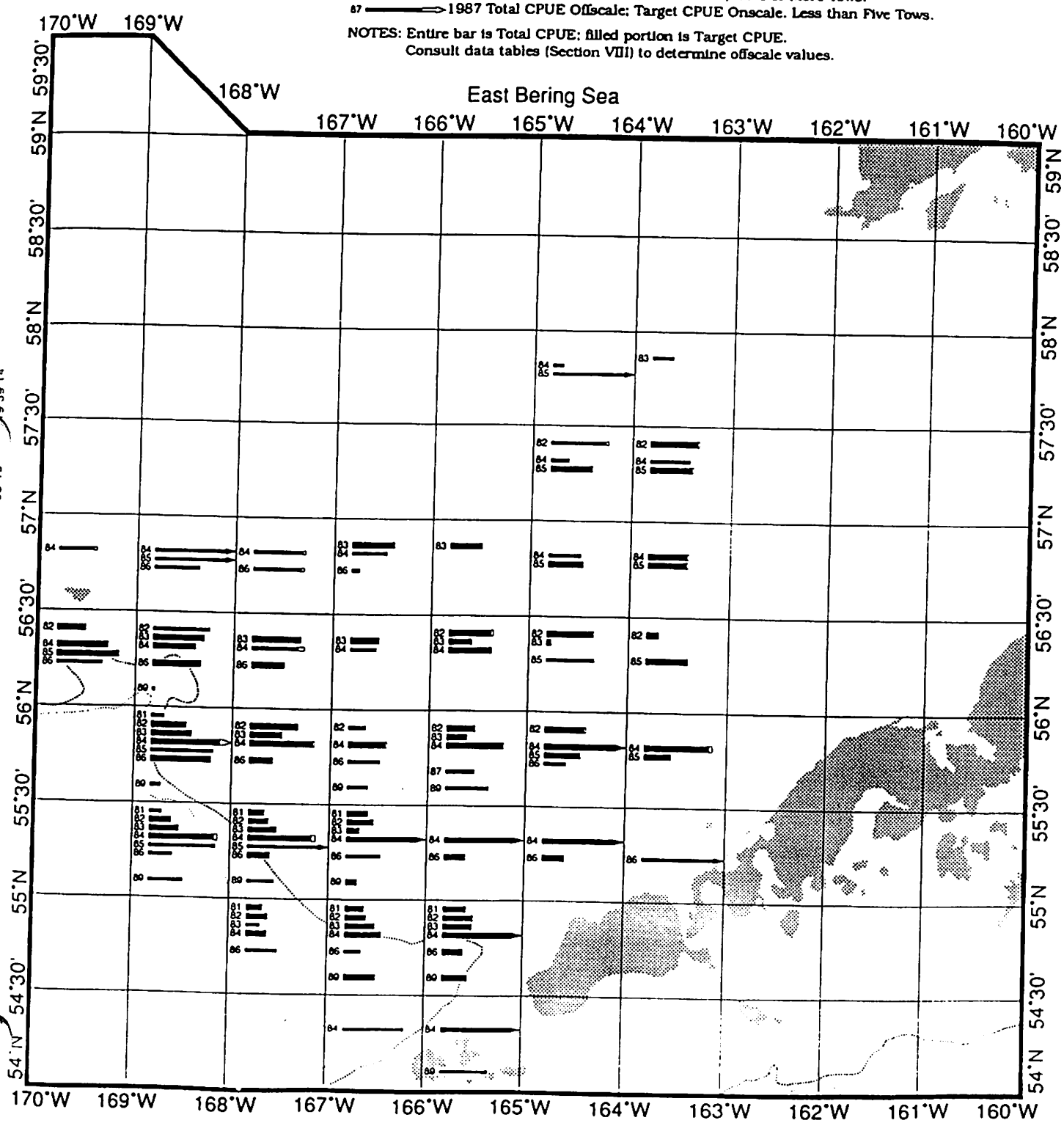

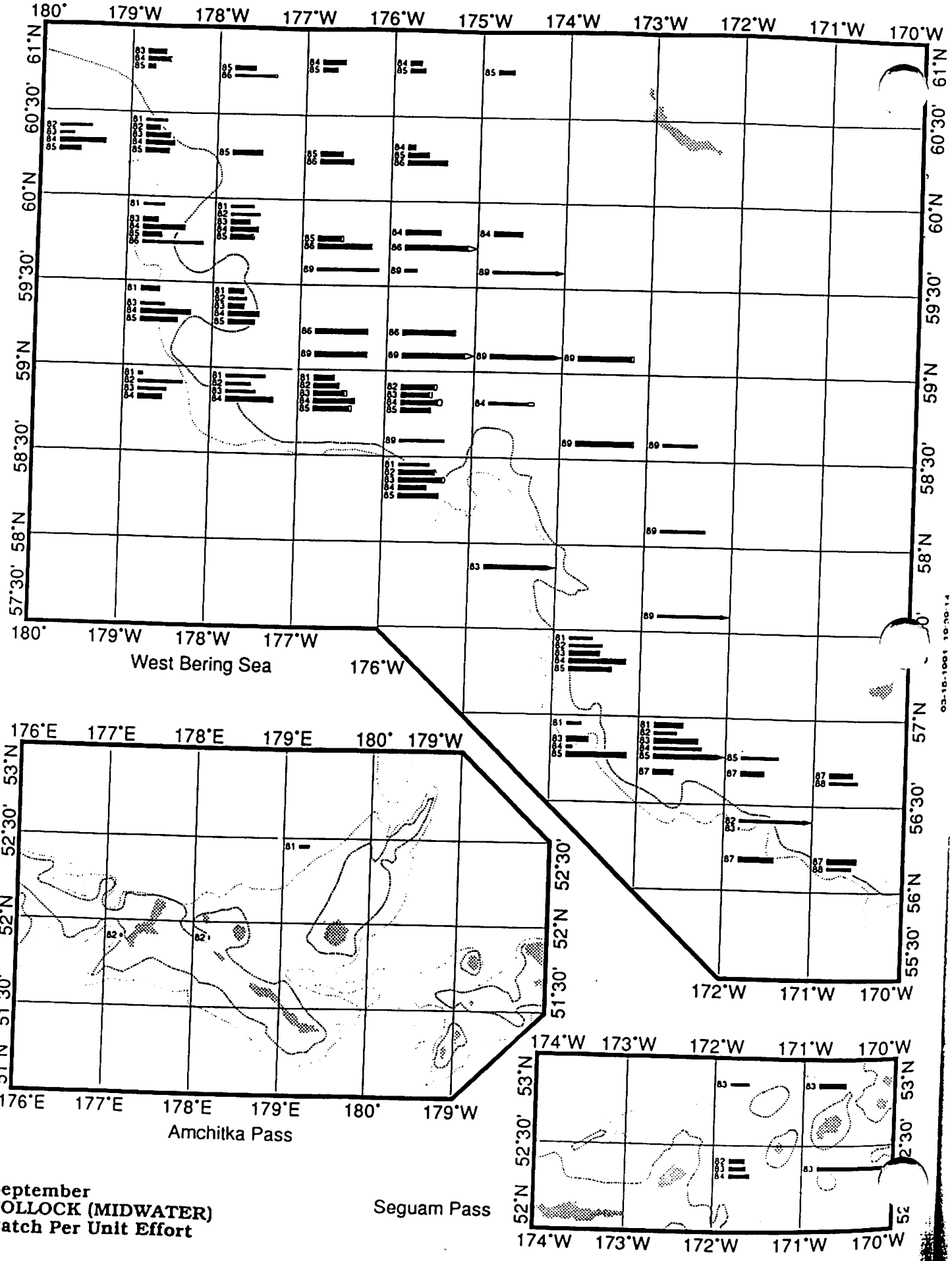

September
POLLOCK (MIDWATER)
Catch Per Unit Effort

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September
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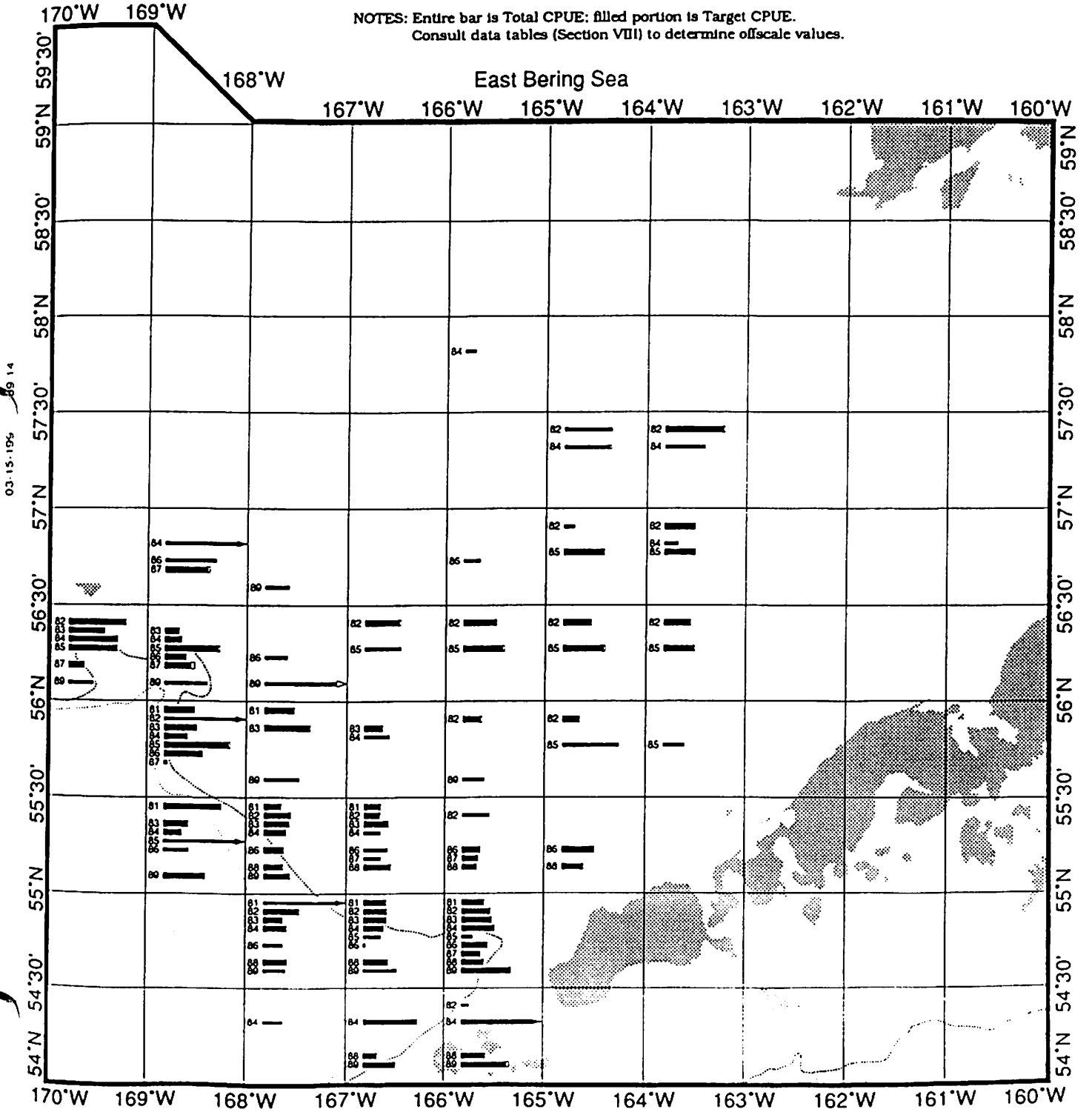

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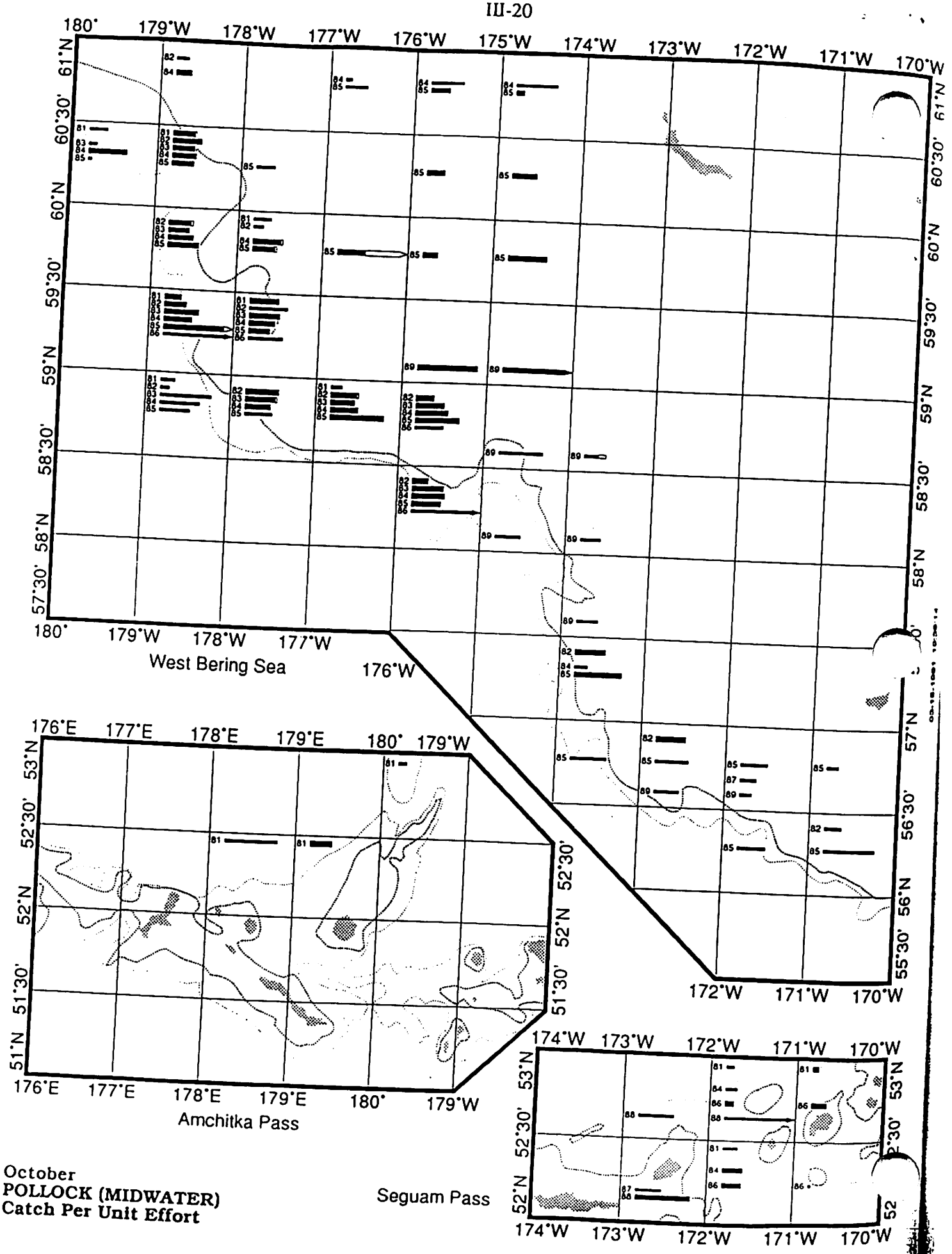

October
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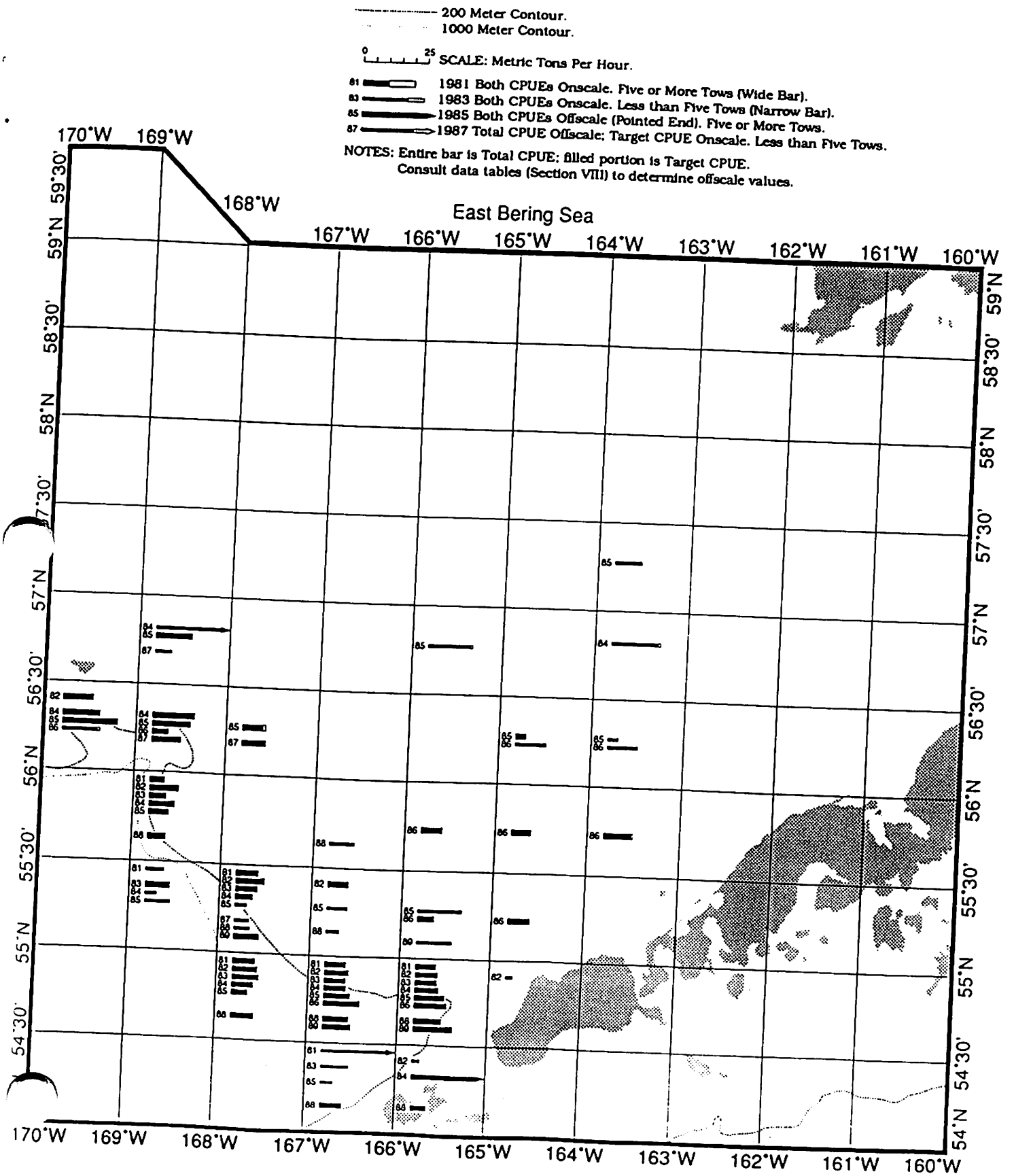

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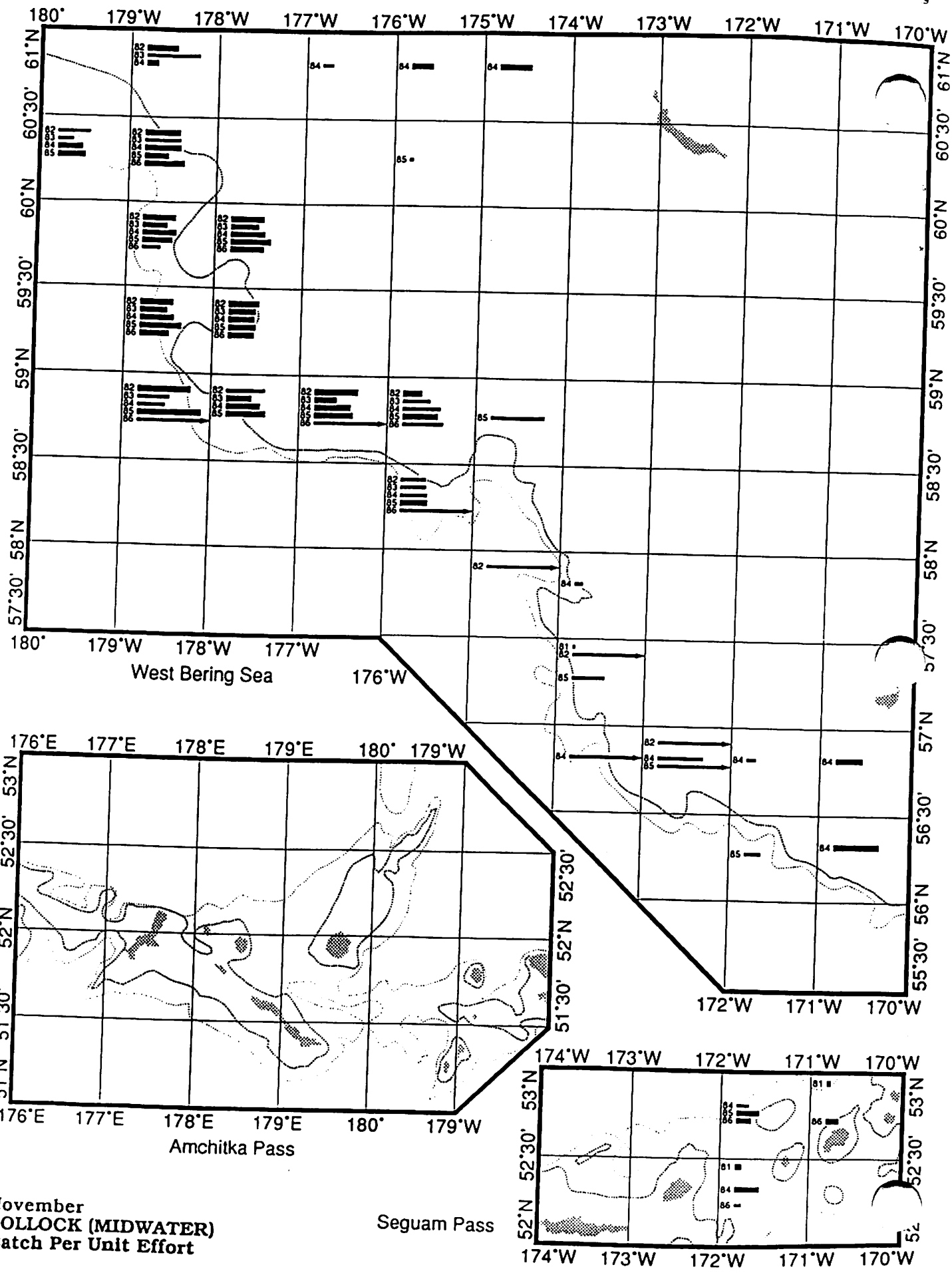

November
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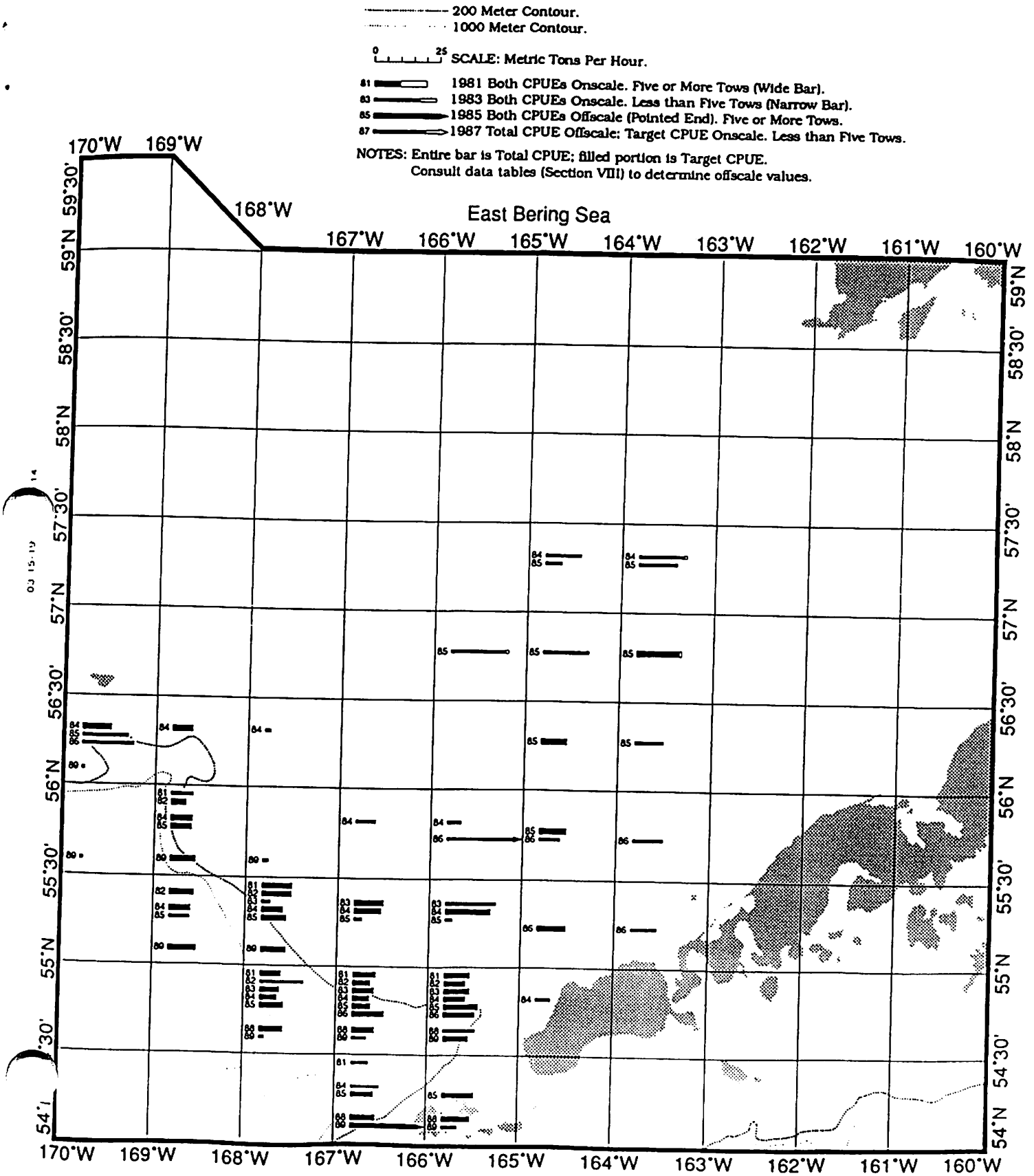
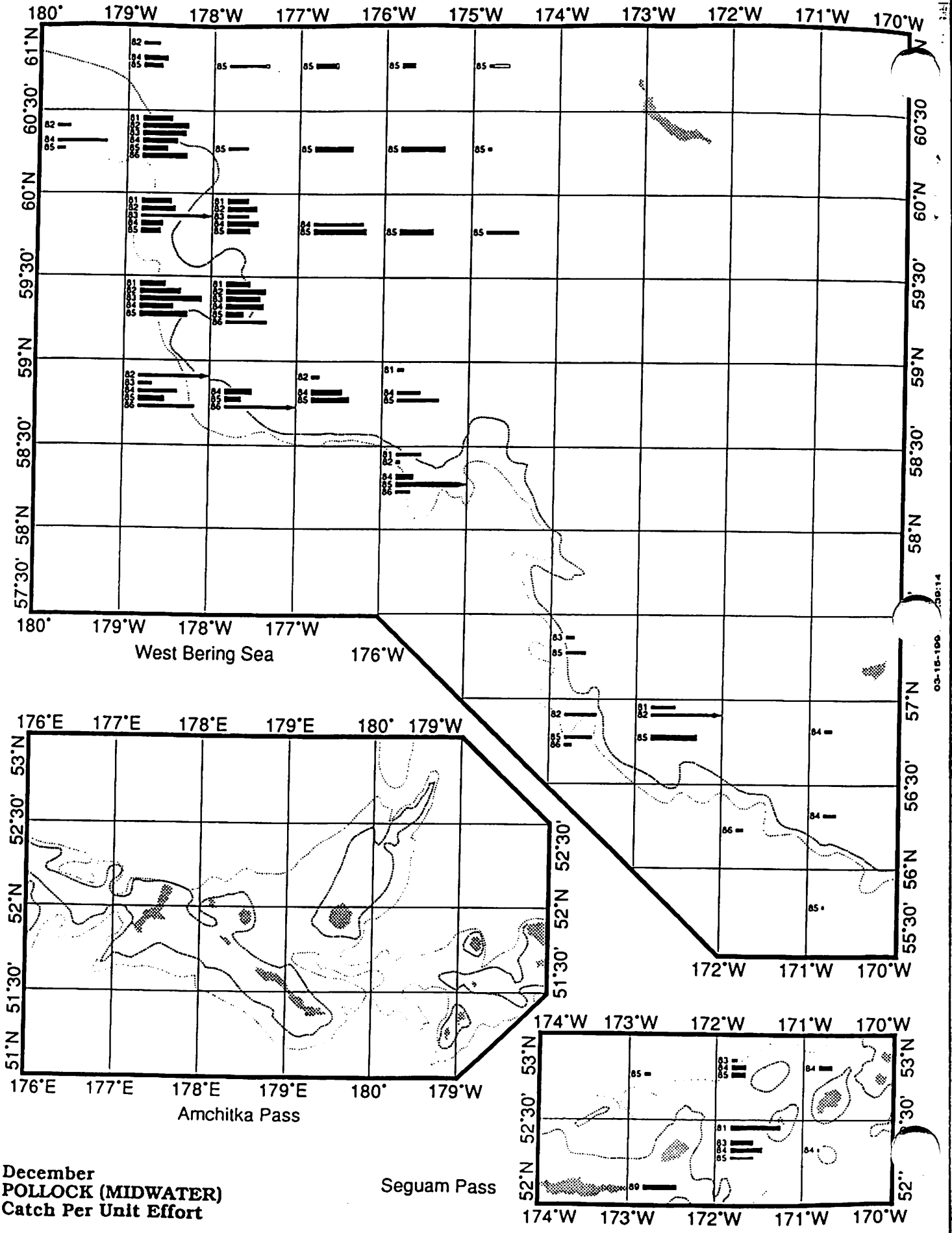
Catch Per Unit Effort





December
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Catch Per Unit Effort

December
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Catch Per Unit Effort

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1000 Meter Contour.

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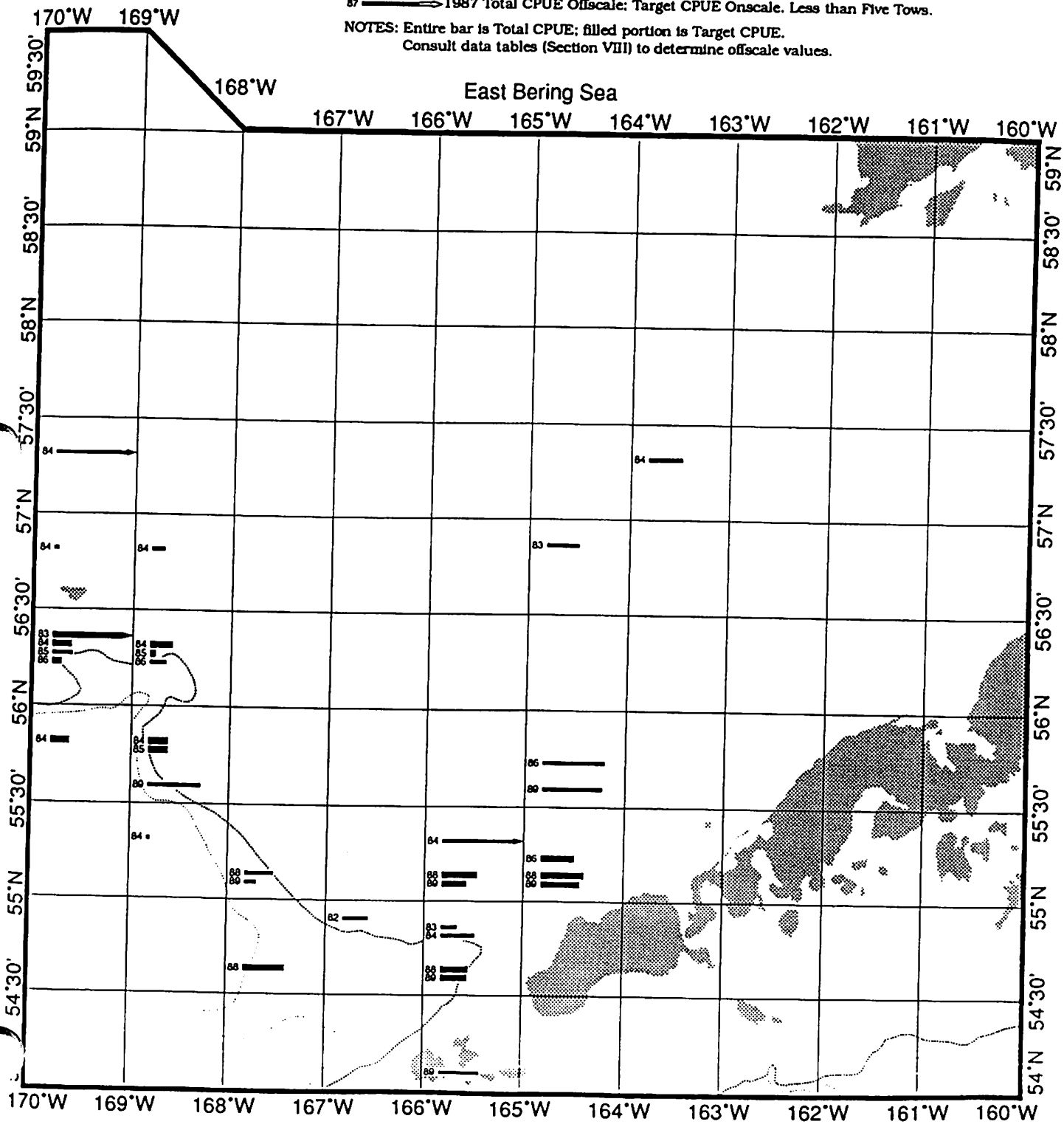

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