

National Marine Fisheries Service
Alaska Region
Inseason Management Highlights
June 2003

May 27, 2003

Andrew Smoker
Senior Inseason Manager

Bering Sea and Aleutian Islands

Pollock-Bering Sea

The shoreside and offshore processors have completed the 2003 A season catch. Of a combined A season allocation of 518,238 mt a total of 683 mt remained un-harvested. Each component has come slightly under the individual A season Steller sea lion conservation area limits.

The current incidental catch of pollock is 17,221 mt, which is 37% of the 46,990-mt annual account. Bycatch of pollock in the other groundfish fisheries is lower compared to 2002, when 26,000 mt were taken mid year and more comparable to 2001 when 16,555 mt were taken.

Flatfish

The flatfish fisheries continue to have problems with sporadically high halibut bycatch rates that limit the amount of groundfish that can be harvested. The rock sole/'other flatfish'/flathead sole fishery closed on February 18, taking 700 mt of halibut mortality and 25,000 mt of groundfish. Because of the high mortality rate in January and February, the second season fishery beginning on April 1 was closed. The last season opens on June 29 with 100 mt of halibut mortality.

The yellowfin sole fishery had moderate halibut mortality rates through March at an average of about 35 mt per week. In early April, inseason and historic data indicated the fishery would take the combined first and second season allocations by April 17. After the closure we determined sufficient halibut mortality remained in the seasonal allocations to reopen the fishery on May 12, nine days prior to initiation of the third seasonal fishery.

Zone 1 (area 508, 509, 512, 516) closed to trawling for yellowfin sole on May 22 due to high red king crab bycatch. Total yellowfin sole caught this year is higher than in 2002. Through mid May in 2002, yellowfin catch was about 26,000 mt. Catch through May 17, 2003 is approaching 37,000 mt. As of May 28, bycatch in the current week is high, the duration of the third seasonal fishery is unclear.

Greenland Turbot

The directed Greenland turbot fishery with hook-and-line gear started May 1. This year's effort of 4 catcher processors (c/ps) is similar to 2002. Historic participation in this fishery has been as high as 25 c/ps.

Atka mackerel

Preparations are being made for the second harvest limitation area (HLA) 'platoon' fisheries in 542 and 543. The registration deadline is July 31. Eight c/ps registered for the A season HLA fisheries in 542 and 543. In 2002, ten c/ps participated in the September fishery.

Pacific cod The B season for the catcher/processor hook-and-line fishery begins August 15. The fishery is expected to take the remaining Pacific cod allocation of about 32,000 mt plus a projected 12,000-mt rollover from trawl and 3,500 mt from jig gear by mid to late November. The projected rollover is based on the amount remaining in the total 2003 trawl allocation, about 33,000 mt, minus the amount taken by trawl gear in the June-December 2002 fisheries, about 20,000 mt. The actual rollover amount will be established in early September as 2003 trawl catch is realized and projection time frame is shortened.

There are small amounts of Pacific cod being taken in the directed fishery by trawl catcher vessels, and five c/ps are currently showing in the Pacific cod target as well.

The fishery by catcher vessels < 60' LOA using hook-and-line or pot gear closed on April 22, based on the annual allocation of 1,363 mt. Vessels using both hook-and-line and pot gear participated. In 2002 only vessels using pot gear participated, the fishery closed June 10.

The jig fishery total catch through May 24 is 58 mt from an annual TAC of 3,389 mt. Five vessels in the last week caught approximately 10 mt. Some additional effort is expected in June.

Gulf of Alaska

Pacific cod

The second season for Pacific cod in the Western and Central GOA opens on September 1. Hook-and-line gear has an allocation of 77 mt of halibut mortality remaining.

Western GOA

About 4,000 mt of Pacific cod remains in the Western GOA inshore allocation. Unanticipated high catch rates by the offshore component hook-and-line c/ps in March exceeded the annual apportionment. Pacific cod became a prohibited species to all gear types in the offshore component on March 20.

Central GOA

Through mid May about 6,000 mt remain in the inshore allocation compared to about 4,500 mt in 2002. Pacific cod catch in the other fisheries in March - May has been about 900 mt compared to about 2,500 mt for the same period in 2002. This indicates there may be more cod available for the September 1 fishery compared to 2002.

Pollock

A and B season pollock.

Area 610 catch in the A season fishery was strong and fast, the fishery was open for 3 days based on the historic performance of the fishery. The 2,894 mt quota was exceeded by 1,280 mt. Consequently, the reduced B season quota did not attract very much immediate attention. The fishery was opened for three 24-hour periods; weather played a part in slowing the catch, until the adjusted quota was taken.

Entry by the fleet into the area 620 A season fishery was slow and catch came under the quota by about 1,500 mt. The A season rollover brought the B season quota to about 9,000 mt. The fishery started slow, landings were about 300 mt per day. In late March, daily landings increased to 1,700 mt and the fishery closed on April 3 with an overage of about one day's landings.

The 630 A season fishery opened for 24 hrs with few boats participating as most effort was focused on Pacific cod, a second 24 hour opening exceeded the quota of 2,274 mt by 170 mt. The B season fishery for 857 mt was opened for only 12 hours.

The C season fisheries start August 25.

Flatfish

About 21,000 mt of flatfish have been taken so far this year with non-pelagic gear. About 80% of that by catcher/processors and the remainder by shore delivering catcher vessels. The majority of the catcher/processor catch has been in the arrowtooth flounder target followed by rex sole. Catcher vessels have focused on shallow water flatfish (rock sole) and flathead sole. Trawling for the deep water complex closed May 16 due to halibut bycatch and will reopen June 29 when vessels will principally target rockfish. Trawling for the shallow water complex is expected to remain open well into the summer.

A new directed fishery for skates (part of the 'other species' complex) has drawn the attention of both hook-and-line and non-pelagic trawl vessels, both at-sea catcher/processors and shore delivering. Gulf wide, about 2,100 mt of skates have been taken with non pelagic gear in the rex sole (13%), rock sole (9%) and the 'other species' (11%) target and with hook-and-line gear in the 'other species' target (30%) and Pacific cod (20%). Inshore processors have handled about 80% of the skates vs 20% for offshore.



May 2003 Progress Report: AFSC Pacific Cod Local Abundance Study

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As part of the Steller Sea lion research initiative, the AFSC is conducting a field experiment on Pacific cod in the southeast Bering Sea. The objective of the study is to determine whether the winter trawl fishery in the vicinity of Unimak Pass has a measurable effect on local abundance of cod. Pacific cod is one of the three groundfish species managed by NOAA Fisheries for which localized depletion has been suggested as a possible mechanism whereby the fishery may impact food availability for endangered Steller sea lions. The study design was presented at the fall 2002 meeting of the North Pacific Fishery Management Council (Council), and was reviewed by both the Scientific and Statistical Committee and the Advisory Panel. At this meeting, the AFSC was granted a special two-week closure of the study area outside the no-trawl zone for March 15-31 of 2003-2006. Provided in your packet is an interim report summarizing progress of the study during the 2003 field season and preliminary data analyses.

Field operations on the Cod Pot Project in 2002/2003 included three cruises. The 28 December - 12 January "before" leg of the abundance experiment was hampered by extreme weather and serious mechanical problems. A second cruise leg conducted on 4-17 February went equipped to collect local abundance data, in the hope that some of the data collection missed by the January cruise could be collected. However, pollock trawling was running around-the-clock in the experimental region outside the Cape Sarichef no-trawl zone, so fishing experimental pots in the area was not possible. The remainder of the February cruise was used to tag and release Pacific cod in the vicinity of the study area in order to learn more about seasonal migration patterns and local movement of cod during the spawning season. The March "after" abundance leg suffered initial delays due to weather, but collected a good data set of 3-6 replicates over eighty stations. These data were used both to evaluate 2003 results and as the basis for simulations to verify the power of the study design. Biological data collection and studies were also supported during the cruises, including collection of over 1,000 samples for genetic studies of cod stock structure.

The February cruise made it clear that the two-week special closure is necessary to conduct the local abundance study. Catch rates were substantially higher in Dec/Jan than in March. The change in before/after catch rate for observed stations was not significantly different between trawled and untrawled portions of the study area. Because of the very small sample size achieved in Dec/Jan, however, the power of the test was low and this result is not considered conclusive. Power simulations based on the March data set indicate that if the full experimental design can be achieved in 2004 (at least six fishing days in each survey leg), it should be possible to detect a fishing effect on the order of 25-30% with at least 80% accuracy.

McK
Payne

Discussion of a Proposed Rule to Designate Critical Habitat for Right Whales in the North Pacific

North Pacific Fishery Management Council
June 2003 (NMFS Report Agenda Item B-3)

Issue

On October 13, 2000, NMFS received a petition requesting that NMFS revise the present critical habitat designation for **northern right whales** under the ESA by designating an area within the eastern Bering Sea as critical habitat for North Pacific right whales.

On June 1, 2001 (66 FR 29773), NMFS found the subject petition contained substantial scientific information indicating that revision of critical habitat for the right whale may be warranted.

On February 20, 2002, NOAA Fisheries determined that while a revision of critical habitat "may be prudent", the extent of critical habitat could not be determined and this uncertainty resulted in an indeterminable condition at that time. NMFS stated that it would revisit this issue following completion of the 2002 research program in the Bering Sea.

Results of 2002 Research

This research included proposed satellite tagging, a survey of the area where right whales have been observed in recent years; an historical look at right whale sightings relative to habitat use; retrieval of sonobuoys deployed to determine seasonal and temporal locations of right whales from recordings. Results indicated that:

- Sightings continued in the "box" within the petitioned area
- Right whale sounds spiked in the area in early spring (April), then dropped off, but continued through November. Nothing recorded in December. This corresponds with seasonal distributions in the Atlantic - foraging in spring and summer in high latitudes, and moving to southern areas prior to winter calving.
- From other recording devices placed in the Gulf of Alaska, there was a possibility that right whale calls were detected in waters southeast of Kodiak.

Right Whale Workshop Recommendations

A workshop was convened January 29, 2003, at the National Marine Mammal Laboratory to review results of 2002 research relative to the petition and proposed designation of critical habitat, and to review the petition to revised critical habitat for North Atlantic right whales, to ensure consistency in the Agency responses. Workshop participants recommended that

- a research program be expanded to include a suite of research tools including tagging studies, genetic analyses, long-term acoustic surveys.
- Workshop participants also recommended that AKR propose designation of a critical habitat in the area where whales have been seen in recent years and research those areas of historical importance including the Aleutian Island area and Kodiak area.

Recent Taxonomic Split

Due to recent genetic findings the northern right whale was classified as two separate species: the North Atlantic right whale, *Eubalaena glacialis*, and the North Pacific right whale, *Eubalaena japonica*. This reclassification became effective on April 10, 2003 (68 FR 17560)

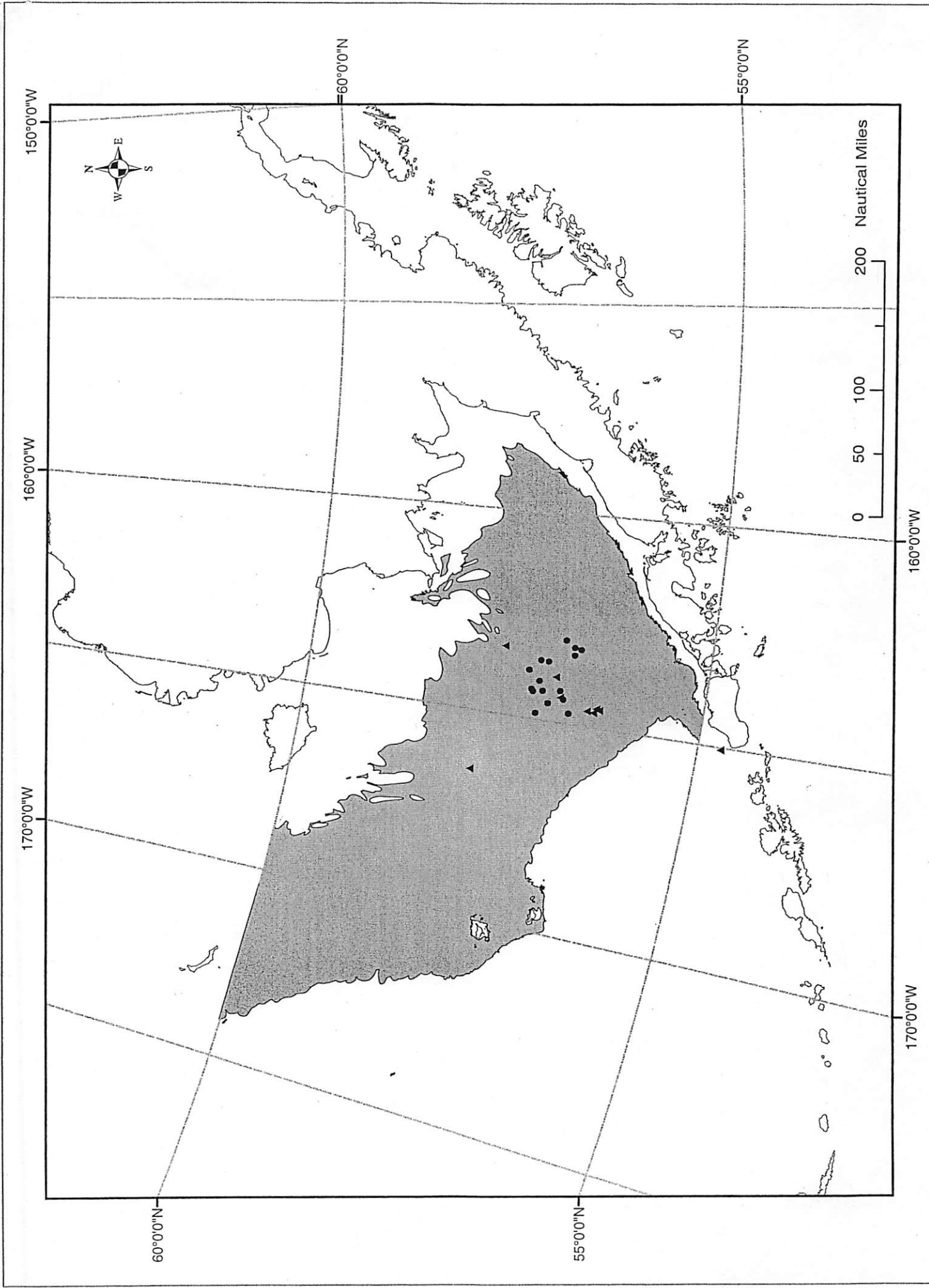
AKR and NPFMC Participation

The AKR is proceeding by

- reviewing the sighting data history for right whales in the North Pacific and attempting to identify those features which are considered essential to the conservation of the species and locations which contain those features; and what areas may constitute critical habitat pursuant to the ESA
- complete an Economic Assessment of these areas to determine what areas, if any, should be excluded from a proposed critical habitat determination. The ESA requires that critical habitat be designated only after taking into consideration the economic impact of the designation. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines that the failure to designate such area as critical habitat will result in the extinction of the species concerned
- assuming that NMFS can define the boundaries of habitat that contains the essential features necessary for right whales and would be considered critical under section 4 of the ESA, the Secretary still has discretion to exclude any or all of the area from designation as critical habitat

These documents will be made available for review and discussion at the December 2003 or February 2004 NPFMC meeting.

Area Petitioned To Be Designated As Right Whale Critical Habitat



Mike
Payne

Discussion on the Cumulative Effects Finding of Groundfish Fishing (2001) on Northern Fur Seals in the Pribilof Islands

North Pacific Fishery Management Council
June 2003 (NMFS Report Agenda Item B-3)

Issue

The Alaska Region of NOAA Fisheries has drafted a Notice of Intent to prepare an EIS on the management of the fur seal subsistence harvest on the Pribilof Islands. Historically, this action has never had a significant effects finding under NEPA and has been conducted under a FONSI. However, due to the conditionally significant adverse effect finding concerning fishing and fur seals in the Steller Sea Lion Protection Measures Supplemental Environmental Impact Statement of 2001 (SEIS 2001), and the unknown role of the changing environmental regime in the current decline of fur seals, an EIS is now required to implement the subsistence harvest regulations as well.

This 2004 EIS will further examine the cumulative effects and uncertainty of fishing on northern fur seals.

Background

The northern fur seal was listed as a depleted stock under the Marine Mammal Protection Act in 1988. Recent surveys indicate that the fur seal population is declining at approximately 5 percent per year from its most recent minimum population estimate of 751,714 animals. During 1998-02, pup production declined 5.14% per year (SE = 0.26%) on St. Paul Island and 5.35% per year (SE = 0.19%) on St. George Island. Counts in both 2000 and 2002 were lower than previous years; the estimated pup production is now below the 1921 level on St. Paul Island and below the 1916 level on St. George Island.

NEPA Issues: The SEIS 2001 was written to review the effects of implementing protective measures for the Steller sea lions. It resulted in a conditionally significant adverse effect finding of the fisheries on northern fur seals in the Bering Sea.

The determination was based on the potential indirect effects of the fisheries. Because the groundfish fisheries harvest prey of northern fur seals (i.e., pollock and Pacific cod), commercial fisheries may result in cumulative impacts based on the spatial and temporal overlap between fisheries and fur seal foraging habitat, and based on uncertainty as to the effect of the groundfish harvest on fur seal populations. This cumulative effect was considered conditionally significant adverse in the 2001 SEIS.

Further, new information since the 2001 SEIS indicates that pollock catch amounts and catch rates increased tenfold between 1999 and 2002 further confounding the 2001 cumulative effect determination (Addendum to the 2001 Biological Opinion). In 2002 much of the fishery occurred 3 miles from Dalnoi Point and South Rookery on St. George Island. Some have blamed Steller sea lion regulations for pushing vessels outside of Steller sea lion critical habitat and nearer to the Pribilofs. However, recent analyses (Addendum to the 2001 Biological Opinion) has indicated that more fishing occurred inside Steller sea lion critical habitat in 2002 and 2003 than in any year since 1997. The Bering Sea pollock fleet has moved nearer to the Pribilof islands for other reasons.

The significant cumulative effects findings will result in the need for other EISs on Federal actions that involve northern fur seals that would have otherwise been considered insignificant under NEPA.

“Significance” under NEPA

Significance or “ a significant effects finding” as used in the NEPA context is a finding which requires considerations of both “context and intensity”. Several factors may trigger a significance finding under NEPA. Some of the more relevant findings follow:

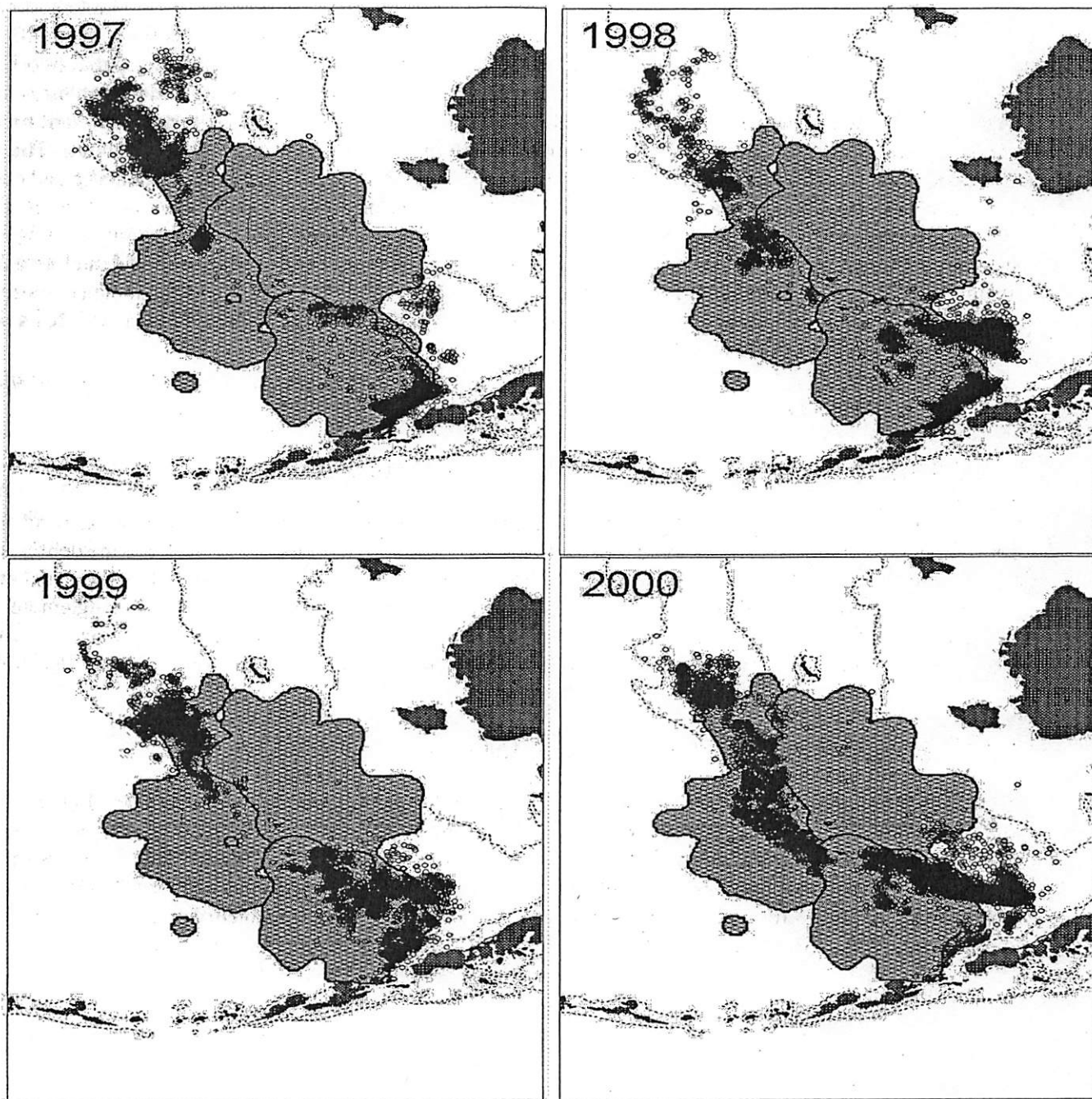
Context - means the significance must be analyzed relative to the environment as a whole.

- The “when and where” of the impacts
- Even when the probability of an effect being significant is low, provided that it is based or supported by credible science, then it should be considered significant in context.

Intensity - means severity

- Likelihood that the effects are going to be controversial
- the degree to which effects are uncertain
- whether the action is related to other insignificant actions but represent a cumulative effect
- the degree to which it may adversely effect ESA listed species

Figure 4.1-3 Location of trawls (circles) during the summer-fall eastern Bering Sea pollock Fishery in 1997-2000.



Source: The grey shaded areas show the meta-home range areas (see Figure 3.1.4-1) for lactating northern fur seals from St. Paul and St. George islands based on satellite telemetry data from 1995 and 1996 (Robson 2001)

Gulf of Alaska Catch Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Western, Central Pollock

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
X	Pollock, 610 Shumagin	5,597	16,788	11,191	33%	0
X	Pollock, 620 Chirikof	15,959	19,685	3,726	81%	0
X	Pollock, 630 Kodiak	3,944	10,339	6,395	38%	29

Western Gulf

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Arrowtooth Flounder	5,403	8,000	2,597	68%	0
	Deep Water Flatfish	2	180	178	1%	0
	Shallow Water Flatfish	99	4,500	4,401	2%	0
	Flathead Sole	355	2,000	1,645	18%	0
	Rex Sole	468	1,280	812	37%	0
	Pacific Ocean Perch	402	2,700	2,298	15%	0
	Shortraker/Rougheye Rockfish	82	220	138	37%	0
	Thornyhead Rockfish	177	360	183	49%	2
	Pelagic Shelf Rockfish	11	510	499	2%	0
	Northern Rockfish	37	890	853	4%	0
	Other Rockfish	22	90	68	24%	0
X	Pacific Cod, Inshore	9,959	13,905	3,946	72%	2
X	Pacific Cod, Offshore	2,025	1,545	-480	131%	0
	Sablefish (Hook-and-Line)	814	2,056	1,242	40%	16
	Sablefish (Trawl)	128	514	386	25%	0

Central Gulf

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Arrowtooth Flounder	7,320	25,000	17,680	29%	91
	Deep Water Flatfish	405	2,220	1,815	18%	0
	Shallow Water Flatfish	2,155	13,000	10,845	17%	169
	Flathead Sole	949	5,000	4,051	19%	13
	Rex Sole	1,889	5,540	3,651	34%	0
	Pacific Ocean Perch	357	8,510	8,153	4%	0
	Shortraker/Rougheye Rockfish	223	840	617	27%	5
	Pelagic Shelf Rockfish	26	3,480	3,454	1%	1
	Northern Rockfish	34	4,640	4,606	1%	0
	Thornyhead Rockfish	285	840	555	34%	3
	Other Rockfish	108	550	442	20%	3
X	Pacific Cod, Inshore	14,578	20,421	5,843	71%	94

Note: All weights are in metric tons.

Gulf of Alaska Catch Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Central Gulf

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
X	Pacific Cod, Offshore	1,408	2,269	861	62%	2
	Sablefish (Hook-and-Line)	3,804	5,152	1,348	74%	210
	Sablefish (Trawl)	186	1,288	1,102	14%	0

Eastern Gulf

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Shortraker/Rougheye Rockfish	105	560	455	19%	4
	Thornyhead Rockfish	52	800	748	6%	2
	Pacific Cod, Inshore	35	2,160	2,125	2%	0
	Pacific Cod, Offshore	0	240	240	0%	0

West Yakutat

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Arrowtooth Flounder	11	2,500	2,489	0%	0
	Deep Water Flatfish	30	1,330	1,300	2%	0
	Shallow Water Flatfish	0	1,160	1,160	0%	0
	Flathead Sole	0	2,900	2,900	0%	0
	Rex Sole	0	1,600	1,600	0%	0
	Pacific Ocean Perch	13	810	797	2%	0
	Pelagic Shelf Rockfish	0	640	640	0%	0
	Other Rockfish	5	150	145	3%	0
	Pollock	940	1,078	138	87%	0
	Sablefish (Hook-and-Line)	1,088	2,026	938	54%	18
	Sablefish (Trawl)	5	294	289	2%	0

Southeast

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Arrowtooth Flounder	1	2,500	2,499	0%	0
	Deep Water Flatfish	0	1,150	1,150	0%	0
	Shallow Water Flatfish	0	2,960	2,960	0%	0
	Flathead Sole	0	1,250	1,250	0%	0
	Rex Sole	0	1,050	1,050	0%	0
	Pacific Ocean Perch	0	1,640	1,640	0%	0
	Pelagic Shelf Rockfish	6	860	854	1%	0
	Other Rockfish	9	200	191	5%	1
	Pollock	0	6,460	6,460	0%	0

Gulf of Alaska Catch Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Southeast

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Demersal Shelf Rockfish	160	390	230	41%	6
	Sablefish (Hook-and-Line)	1,538	3,560	2,022	43%	82

Entire Gulf

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Atka Mackerel	54	600	546	9%	0
	Other Species	3,406	11,260	7,854	30%	165
Total:		86,668	236,440	149,772	37%	920

Deep water flatfish: Dover sole, Greenland turbot, and deepsea sole.

Shallow water flatfish: flatfish not including deep water flatfish, flathead sole, rex sole, or arrowtooth flounder.

Slope rockfish in the Western and Central Regulatory Areas and in the West Yakutat District: slope rockfish and demersal shelf rockfish.

Other rockfish in the Southeast Outside District: slope rockfish.

Slope rockfish: aurora, blackgill, bocaccio, chilipepper, darkblotch, greenstriped, harlequin, pygmy, redbanded, redstripe, sharpchin, shortbelly, silvergrey, splitnose, stripetail, vermilion, and yellowmouth.

In the Eastern GOA only, "slope rockfish" also includes northern rockfish.

Demersal shelf rockfish: canary, china, copper, quillback, rosethorn, tiger, and yelloweye.

Pelagic shelf rockfish: dusky, widow, and yellowtail.

Other species: sculpins, sharks, skates, squid, and octopus.

Gulf of Alaska Seasonal Catch Report

Through: 31-MAY-03
Account: ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Western, Central Pollock

Pollock, 610 Shumagin

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	25-FEB-03	4,214	2,894	-1,320	146%
B	10-MAR-03	31-MAY-03	1,377	1,666	289	83%
C	25-AUG-03	15-SEP-03	0	5,500	5,500	0%
D	01-OCT-03	01-NOV-03	0	5,500	5,500	0%
Total:			5,591	15,560	9,969	36%

Pollock, 620 Chirikof

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	25-FEB-03	5,054	6,535	1,481	77%
B	10-MAR-03	31-MAY-03	10,902	9,262	-1,640	118%
C	25-AUG-03	15-SEP-03	0	2,686	2,686	0%
D	01-OCT-03	01-NOV-03	0	2,686	2,686	0%
Total:			15,957	21,169	5,212	75%

Pollock, 630 Kodiak

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	25-FEB-03	2,468	2,274	-194	109%
B	10-MAR-03	31-MAY-03	1,439	857	-582	168%
C	25-AUG-03	15-SEP-03	0	3,517	3,517	0%
D	01-OCT-03	01-NOV-03	0	3,517	3,517	0%
Total:			3,907	10,165	6,258	38%

Western Gulf

Pacific Cod, Inshore

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	9,959	8,343	-1,616	119%
B	01-SEP-03	31-DEC-03	0	5,562	5,562	0%
Total:			9,959	13,905	3,946	72%

Pacific Cod, Offshore

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	2,025	927	-1,098	218%
B	01-SEP-03	31-DEC-03	0	618	618	0%
Total:			2,025	1,545	-480	131%

Gulf of Alaska Seasonal Catch Report

through: 31-MAY-03
 account: ALL

National Marine Fisheries Service
 Alaska Region, Sustainable Fisheries
 Catch Accounting



Central Gulf

Pacific Cod, Inshore

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	14,578	12,253	-2,325	119%
B	01-SEP-03	31-DEC-03	0	8,168	8,168	0%
Total:			14,578	20,421	5,843	71%

Pacific Cod, Offshore

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	1,408	1,361	-47	103%
B	01-SEP-03	31-DEC-03	0	908	908	0%
Total:			1,408	2,269	861	62%

Gulf of Alaska Prohibited Species Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Non-Chinook Salmon

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Non Chinook Salmon	Count	529	0			0
Total:			529	0			0

Chinook Salmon

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Chinook Salmon	Count	9,300	0			0
Total:			9,300	0			0

Halibut Mortality

Non-Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
X	Other Hook-and-Line Fisheries	MT	217	290	73	75%	3
Total:			217	290	73	75%	3

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Trawl Fishery	MT	744	2,000	1,256	37%	5
Total:			744	2,000	1,256	37%	5

No PSC Limits apply to salmon in the GOA.

Other hook-and-line fisheries means all hook-and-line fisheries except sablefish and demersal shelf rockfish in the Southeast District. The hook-and-line sablefish fishery is exempt from halibut bycatch restrictions.

Halibut mortality for the demersal shelf rockfish fishery, Southeast District is not listed due to insufficient observer coverage.

Data is based on observer reports, extrapolated to total groundfish harvest. Estimates for all weeks may change due to incorporation of late or corrected data.

Gulf of Alaska Halibut Mortality Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Trawl Fisheries

Deep Water Species Complex

Season	Begin	End	Total Catch	Limit	Limit Remaining	% Taken
1st Season	20-JAN-03	01-APR-03	101	100	-1	101%
2nd Season	01-APR-03	29-JUN-03	290	300	10	97%
3rd Season	29-JUN-03	01-SEP-03	0	400	400	0%
4th Season	01-SEP-03	30-SEP-03	0	0	0	0%
Total:			391	800	409	49%

Shallow Water Species Complex

Season	Begin	End	Total Catch	Limit	Limit Remaining	% Taken
1st Season	20-JAN-03	01-APR-03	226	450	224	50%
2nd Season	01-APR-03	29-JUN-03	126	100	-26	126%
3rd Season	29-JUN-03	01-SEP-03	0	200	200	0%
4th Season	01-SEP-03	30-SEP-03	0	150	150	0%
Total:			353	900	547	39%

Year-To-Date

Account	Total Catch	Limit	Limit Remaining	% Taken	Last Wk Catch
Trawl Fishery	744	2,000	1,256	37%	5

Other Hook-and-Line Fisheries

Season	Begin	End	Total Catch	Limit	Limit Remaining	% Taken
1st Season	01-JAN-03	10-JUN-03	217	250	33	87%
2nd Season	10-JUN-03	01-SEP-03	0	5	5	0%
3rd Season	01-SEP-03	31-DEC-03	0	35	35	0%
Total:			217	290	73	75%

Deep-water species complex: sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder. Shallow-water species complex: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and 'other species'.

No apportionment between shallow-water and deep-water fishery complexes during October 1 to December 31 (300 mt allocated).

Other hook-and-line fisheries means all hook-and-line fisheries except sablefish and demersal shelf rockfish in the Southeast District. The hook-and-line sablefish fishery is exempt from halibut bycatch restrictions.

Halibut mortality for the demersal shelf rockfish fishery, Southeast District is not listed due to insufficient observer coverage.

Gulf of Alaska Halibut Mortality Report

Through: 31-MAY-03

**National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting**



Data is based on observer reports, extrapolated to total groundfish harvest. Estimates for all weeks may change due to incorporation of late or corrected data.

Note: All weights are in metric tons.

Report run on: June 5, 2003 11:23 AM

Bering Sea Aleutian Islands Seasonal Catch Report

Month: 31-MAY-03

Account: ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Bering Sea

Pollock, AFA Inshore

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	10-JUN-03	258,630	259,119	489	100%
B	10-JUN-03	01-NOV-03	0	388,678	388,678	0%
Total:			258,630	647,797	389,167	40%

Pollock, AFA Catcher Processor

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	10-JUN-03	207,167	207,295	128	100%
B	10-JUN-03	01-NOV-03	0	310,942	310,942	0%
Total:			207,167	518,237	311,070	40%

Pollock, AFA Mothership

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
	20-JAN-03	10-JUN-03	51,778	51,824	46	100%
	10-JUN-03	01-NOV-03	0	77,736	77,736	0%
Total:			51,778	129,560	77,782	40%

Aleutian Islands

Atka Mackerel, Eastern (Other Gear)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	15-APR-03	5,942	4,876	-1,066	122%
B	01-SEP-03	01-NOV-03	0	4,876	4,876	0%
Total:			5,942	9,752	3,810	61%

Atka Mackerel, Central

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	15-APR-03	12,152	13,579	1,427	89%
B	01-SEP-03	01-NOV-03	0	13,579	13,579	0%
Total:			12,152	27,158	15,006	45%

Atka Mackerel, Western

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	15-APR-03	7,278	9,245	1,967	79%
B	01-SEP-03	01-NOV-03	0	9,245	9,245	0%

Bering Sea Aleutian Islands Seasonal Catch Report

Through: 31-MAY-03

Account: ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Aleutian Islands

Atka Mackerel, Western

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
Total:			7,278	18,490	11,212	39%

Bering Sea Aleutian Islands

Pacific Cod, Catcher Processor (Trawl)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	01-APR-03	20,231	22,553	2,322	90%
B	01-APR-03	10-JUN-03	2,880	13,532	10,652	21%
C	10-JUN-03	01-NOV-03	0	9,021	9,021	0%
Total:			23,111	45,106	21,995	51%

Pacific Cod, Catcher Vessel (Trawl)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	20-JAN-03	01-APR-03	30,155	31,574	1,419	96%
B	01-APR-03	10-JUN-03	5,092	4,510	-582	113%
C	10-JUN-03	01-NOV-03	0	9,021	9,021	0%
Total:			35,247	45,105	9,858	78%

Pacific Cod, Catcher Processor (Hook-and-Line)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	45,764	46,747	983	98%
B	10-JUN-03	31-DEC-03	0	31,164	31,164	0%
Total:			45,764	77,911	32,147	59%

Pacific Cod, Catcher Vessel (Hook-and-Line)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	28-MAR-03	175	175	0	100%
B	10-JUN-03	31-DEC-03	0	117	117	0%
Total:			175	292	117	60%

Pacific Cod (Pot)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	11,344	10,693	-651	106%
B	01-SEP-03	31-DEC-03	0	7,129	7,129	0%

Bering Sea Aleutian Islands Seasonal Catch Report

Through: 31-MAY-03

Account: ALL

**National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting****Bering Sea Aleutian Islands****Pacific Cod (Pot)**

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
Total:			11,344	17,822	6,479	64%

Pacific Cod (Jig)

Season	Begin	End	Total Catch	Quota	Remaining Quota	% Taken
A	01-JAN-03	10-JUN-03	81	2,303	2,222	4%
B	10-JUN-03	31-DEC-03	0	1,536	1,536	0%
Total:			81	3,839	3,758	2%

This report does not include the CDQ allocated catch.

Bering Sea Aleutian Islands Catch Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Bering Sea

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Other Rockfish	78	888	810	9%	1
	Pacific Ocean Perch	413	1,199	786	34%	3
	Northern Rockfish	11	112	101	10%	0
	Shortraker/Rougheye Rockfish	47	126	79	37%	0
	Sablefish (Hook-and-Line and Pot)	206	1,159	953	18%	18
	Sablefish (Trawl)	48	1,233	1,185	4%	5
	Greenland Turbot	271	2,278	2,007	12%	40
X	Pollock, AFA Inshore	258,630	647,797	389,167	40%	0
X	Pollock, AFA Catcher Processor	207,167	518,237	311,070	40%	0
X	Pollock, AFA Mothership	51,778	129,559	77,781	40%	0
	Pollock, Incidental Catch, non-Bogoslof	18,345	46,990	28,645	39%	185
	Pollock, Incidental Catch, Bogoslof	0	50	50	0%	0

Aleutian Islands

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Other Rockfish	164	539	375	30%	1
	Pacific Ocean Perch, Eastern	390	3,238	2,848	12%	0
	Pacific Ocean Perch, Central	235	3,090	2,855	8%	0
	Pacific Ocean Perch, Western	146	5,411	5,265	3%	0
	Northern Rockfish	1,115	5,438	4,323	21%	0
	Shortraker/Rougheye Rockfish (Trawl)	23	538	515	4%	0
	Shortraker/Rougheye Rockfish (Non Trawl)	42	230	188	18%	2
X	Atka Mackerel, Eastern (Other Gear)	6,314	9,753	3,439	65%	49
	Atka Mackerel, Eastern (Jig)	0	99	99	0%	0
X	Atka Mackerel, Central	12,163	27,158	14,995	45%	0
X	Atka Mackerel, Western	7,278	18,491	11,213	39%	0
	Sablefish (Hook-and-Line and Pot)	330	1,860	1,530	18%	21
	Sablefish (Trawl)	1	659	658	0%	0
	Greenland Turbot	123	1,122	999	11%	17
	Pollock, Incidental Catch	978	1,000	22	98%	0

Bering Sea Aleutian Islands

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Alaska Plaice	5,331	9,250	3,919	58%	36
	Arrowtooth Flounder	4,539	10,200	5,661	44%	45
	Flathead Sole	3,747	17,000	13,253	22%	3

Bering Sea Aleutian Islands Catch Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Bering Sea Aleutian Islands

Sea- sons	Account	Total Catch	Quota	Remaining Quota	% Taken	Last Wk Catch
	Other Flatfish	1,831	2,775	944	66%	84
	Other Species	11,892	29,886	17,994	40%	131
X	Pacific Cod, Catcher Processor (Trawl)	23,111	45,105	21,994	51%	108
X	Pacific Cod, Catcher Vessel (Trawl)	35,247	45,105	9,858	78%	0
X	Pacific Cod, Catcher Processor (Hook-and-Line)	45,764	77,911	32,147	59%	3
X	Pacific Cod, Catcher Vessel (Hook-and-Line)	175	292	117	60%	0
X	Pacific Cod (Pot)	11,344	17,822	6,479	64%	0
X	Pacific Cod (Jig)	81	3,839	3,758	2%	15
	Pacific Cod (Hook-and-Line and Pot < 60 ft)	1,438	1,363	75	105%	0
	Pacific Cod, Incidental Catch (Hook-and-Line and Pot)	136	500	364	27%	0
	Rock Sole	24,494	37,400	12,906	65%	841
	Squid	285	1,675	1,390	17%	0
	Yellowfin Sole	44,284	71,188	26,904	62%	3,664
	Total:	779,995	1,799,565	1,019,570	43%	5,283

This report does not include the CDQ allocated catch.

Other gear in the Atka mackerel fishery includes all authorized gear types except jig.

Other flatfish: all flatfish species, except for Pacific halibut, flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, and Alaska plaice.

Other rockfish: all Sebastes and Sebastolobus species except for Pacific ocean perch, northern, shortraker, and roughey rockfish.

Other species: sculpins, sharks, skates and octopus.

Bering Sea Aleutian Islands Prohibited Species Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Non-Chinook Salmon

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Non Chinook Salmon (Trawl)	Count	2,498	38,850	36,352	6%	0
Total:			2,498	38,850	36,352	6%	0

Chinook Salmon

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pollock (Pelagic)	Count	31,160	30,525	-635	102%	0
Total:			31,160	30,525	-635	102%	0

Halibut Mortality

Non-Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
X	Pacific Cod (Hook-and-Line)	MT	189	775	586	24%	0
	Non-Pacific Cod (Hook-and-Line)	MT	3	58	55	5%	1
Total:			191	833	642	23%	1

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pacific Cod	MT	731	1,434	703	51%	3
	Rockfish	MT	2	69	67	2%	0
X	Rock Sole, Flathead Sole, Other Flatfish (Trawl)	MT	673	779	106	86%	0
	Pollock, Atka Mackerel, Other Species	MT	54	232	178	23%	0
X	Yellowfin Sole (Trawl)	MT	499	886	387	56%	56
	Turbot/Sablefish/Arrowtooth Flounder	MT	35	0	-35	0%	0
Total:			1,993	3,400	1,407	59%	59

Herring

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pacific Cod	MT	1	20	19	3%	0
	Rockfish	MT	0	7	7	0%	0
	Rock Sole, Flathead Sole, Other Flatfish	MT	0	20	20	0%	0
	Pollock, Atka Mackerel, Other Species	MT	0	146	146	0%	0

Bering Sea Aleutian Islands Prohibited Species Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Herring

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pollock Pelagic	MT	4	1,184	1,180	0%	0
	Yellowfin Sole	MT	2	139	137	1%	0
	Greenland Turbot, Arrowtooth, Sablefish	MT	0	9	9	0%	0
Total:			7	1,525	1,518	0%	0

Opilio (Tanner) Crab - COBLZ

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pacific Cod	Count	1,824	124,736	122,912	1%	0
	Rockfish	Count	0	40,237	40,237	0%	0
	Rock Sole, Flathead Sole, Other Flatfish	Count	0	969,130	969,130	0%	0
	Pollock, Atka Mackerel, Other Species	Count	499	72,428	71,929	1%	0
	Yellowfin Sole	Count	155,661	2,776,981	2,621,320	6%	311
	Greenland Turbot, Arrowtooth, Sablefish	Count	0	40,238	40,238	0%	0
Total:			157,983	4,023,750	3,865,767	4%	311

Bairdi Crab, Zone 1

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pacific Cod	Count	48,789	183,112	134,323	27%	601
	Rock Sole, Flathead Sole, Other Flatfish	Count	214,053	365,320	151,267	59%	0
	Pollock, Atka Mackerel, Other Species	Count	1,219	17,224	16,005	7%	0
	Yellowfin Sole	Count	32,183	340,844	308,661	9%	0
Total:			296,243	906,500	610,257	33%	601

Bairdi Crab, Zone 2

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pacific Cod	Count	45,673	324,176	278,503	14%	27
	Rockfish	Count	0	10,988	10,988	0%	0
	Rock Sole, Flathead Sole, Other Flatfish	Count	7,149	596,154	589,005	1%	0
	Pollock, Atka Mackerel, Other Species	Count	1,021	27,473	26,452	4%	0
	Yellowfin Sole	Count	134,040	1,788,459	1,654,419	7%	120

Bering Sea Aleutian Islands Prohibited Species Report

Through: 31-MAY-03

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Bairdi Crab, Zone 2

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
Total:			187,883	2,747,250	2,559,367	7%	147

Red King Crab, Zone 1

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Pacific Cod	Count	1,126	13,079	11,953	9%	58
	Rock Sole, Flathead Sole, Other Flatfish	Count	52,093	59,782	7,689	87%	0
	Pollock, Atka Mackerel, Other Species	Count	29	200	171	14%	0
	Yellowfin Sole	Count	22,816	16,664	-6,152	137%	0
Total:			76,064	89,725	13,661	85%	58

Red King Crab, RKCSS

Trawl Gear

Sea- sons	Account	Units	Total Catch	Limit	Remaining	% Taken	Last Wk Catch
	Rock Sole, Flathead Sole, Other Flatfish (Non Pelagic)	Count	0	20,924	20,924	0%	0
Total:			0	20,924	20,924	0%	0

This report does not include the CDQ allocated catch.

"Other flatfish" for PSC monitoring: all flatfish species, except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.

COBLZ: C. Opilio Crab Bycatch Limitation Zone. 50 CFR 679.21(e) and Figure 13.

Zone 1: Federal Reporting Areas 508, 509, 512, 516.

Zone 2: Federal Reporting Areas 513, 517, 521.

RKCSS: Red king crab savings subarea. 50 CFR 679.22(a)(3) and Figure 11.

Data is based on observer reports, extrapolated to total groundfish harvest. Estimates for all weeks may change due to incorporation of late or corrected data.

Bering Sea Aleutian Islands Seasonal Prohibited
Species Report

through: 31-MAY-03
Account: ALL

National Marine Fisheries Service
Alaska Region, Sustainable Fisheries
Catch Accounting



Halibut Mortality

Pacific Cod (Hook-and-Line)

Season	Begin	End	Units	Total Catch	Limit	Remaining	% Taken
1st Season	01-JAN-03	10-JUN-03	MT	189	320	131	59%
2nd Season	10-JUN-03	15-AUG-03	MT	0	0	0	0%
3rd Season	15-AUG-03	31-DEC-03	MT	0	455	455	0%
Total:				189	775	586	24%

Rock Sole, Flathead Sole, Other Flatfish (Trawl)

Season	Begin	End	Units	Total Catch	Limit	Remaining	% Taken
1st Season	20-JAN-03	01-APR-03	MT	673	448	-225	150%
2nd Season	01-APR-03	29-JUN-03	MT	0	164	164	0%
3rd Season	29-JUN-03	31-DEC-03	MT	0	167	167	0%
Total:				673	779	106	86%

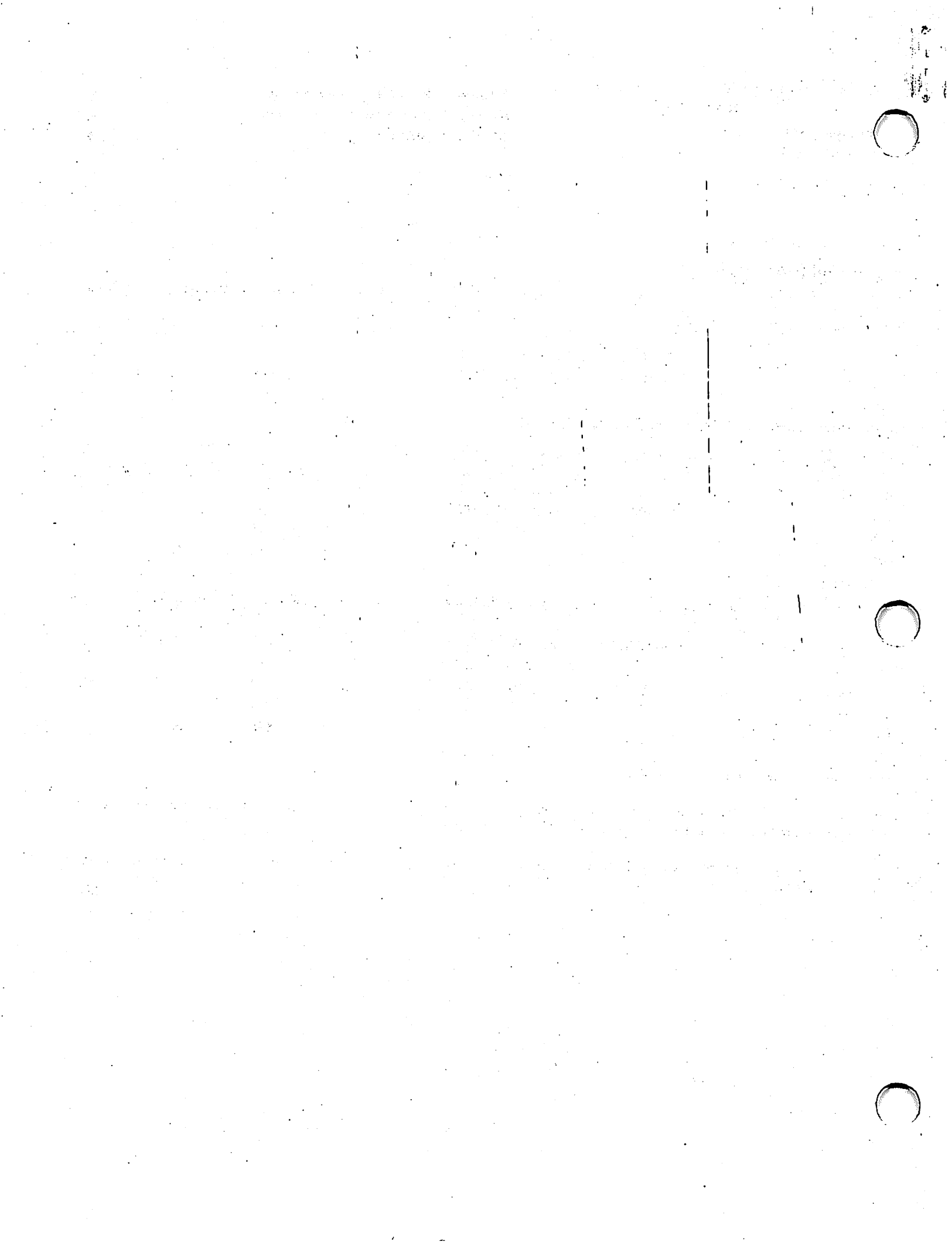
Yellowfin Sole (Trawl)

Season	Begin	End	Units	Total Catch	Limit	Remaining	% Taken
1st Season	20-JAN-03	01-APR-03	MT	263	262	-1	100%
2nd Season	01-APR-03	21-MAY-03	MT	130	195	65	67%
3rd Season	21-MAY-03	29-JUN-03	MT	106	49	-57	216%
4th Season	29-JUN-03	31-DEC-03	MT	0	380	380	0%
Total:				499	886	387	56%

This report does not include the CDQ allocated catch.

Other flatfish for PSC monitoring: all flatfish species, except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.

Data is based on observer reports, extrapolated to total groundfish harvest. Estimates for all weeks may change due to incorporation of late or corrected data.



Status of FMP Amendments

June 6, 2003

FMP Amendment Status: Actions Since April 2003 Council Meeting	Date of Council Action	Start Regional Review	Transmittal Date of action to NMFS HQ for Review	Proposed FMP Amendment Notice of Availability Published	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Amend. 66 (GOA): Community Quota Share	April 2002	PR - 5/12/03				
Amend. 71 BSAI: CDQ administrative changes	June 2002					
Amend. 72/64: IFQ Vessel Clearance and Recordkeeping and Reporting changes Amendment approved: 1/24/03	Apr. 2002	PR - 5/13/02 FR - 4/02/03	PR: October 14, 2002 FR - June 6, 2003	Oct. 29, 2002 67 FR 65941 <u>Comment period ended December 27, 2002</u>	Jan. 24, 2003 68 FR 3485 <u>Comment period ended February 24, 2003</u>	
Amendment 75 (BSAI) - Delay applying IR/IU to flatfish species Partially Approved 5/29/03	Oct. 2002	PR 12-3-02 FR in preparation	PR: February 19, 2003	2/28/03 68 FR 9630 <u>Comment period ended April 29, 2003</u>	Mar. 28, 2003 68 FR 15144 <u>Comment period ended May 12, 2003</u>	
Amendment 77 (BSAI) Pacific cod fixed gear allocation	Scheduled June 2003					

Status of Regulatory Amendments

June 6, 2003

Regulatory Amendment Status: <u>Actions Since</u> April 2003 Council Meeting	Date of Council Action	Start Regional Review of Rule	Transmittal Date of Rule to NMFS Headquarters	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Groundfish Regulations					
Amend Eligibility Criteria for the BSAI Pacific cod hook-and-line and pot gear fisheries under Amendment 67	October 2002	PR - 10/22/03 FR - 6/6/03	March 18, 2003	April 25, 2003 68 FR 20360 <u>Comment period ended May 27, 2003</u>	
Caton Island/Cape Barnabas - Removal of Pacific cod pot fishing restrictions	October 2002	PR - 10/16/02 FR - 3/27/03	PR - January 8, 2003 FR - May 1, 2003	February 18, 2003 68 FR 7750 <u>Comment period ended March 20, 2003</u>	May 28, 2003 68 FR 31629 Effective 6-27-03
DSR full retention and donation rule	June 1999 Reconsidered January 2003	PR - 3/13/03			
Emergency rule to change mgt of CDQ "other species"	April 2003	ER - 5/21/03			
Revision of at-sea observer communication system requirements	Feb 2000	PR - 11/30/01 Final rule in prep	PR - February 21, 2002	July 25, 2002 67 FR 48604 <u>Comment period ended August 26, 2002</u>	
Revision to pollock roe retention standards	February 1999 See NMFS letter dated Jan 30, 2002	PR - 10/24/02 FR - 4/14/03	PR - January 8, 2003	February 11, 2003 68 FR 6865 <u>Comment period ended March 15, 2003</u>	

Regulatory Amendment Status: <u>Actions Since</u> <u>April 2003 Council</u> <u>Meeting</u>	Date of Council Action	Start Regional Review of Rule	Transmittal Date of Rule to NMFS Headquarters	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Revised seabird avoidance measures	December 2001	PR- 8/26/02 Final rule in preparation	PR - December 11, 2002	February 7, 2003 68 FR 6386 <u>Comment period ended March 10, 2003</u>	
Halibut Regulations					
Halibut charter boat GHL	February 2000: December 2000	PR - 2/26/01 FR - 3/21/03	PR - October 11, 2001 FR - June 6, 2003	January 28, 2002 67 FR 3867 Comment period ended Feb. 27, 2002	
Halibut charter boat IFQ	April 2001; October 2001	Analysis received 5/9/03 Proposed rule in preparation			
Subsistence Halibut fishing provisions	October 2000	PR - 3/22/02 FR - 1/17/03	PR - May 30, 2002 FR - February 28, 2003	Aug. 26, 2002 67 FR 54767 Comment period ended Sept . 25, 2002	April 15, 2003 68 FR 18145 effective May 15, 2003
Crab Regulations					
Amend Eligibility Criteria for the BSAI KTC fisheries under Amendment 10		PR - February 21, 2003 FR - June 6, 2003	March 18, 2003	4/29/03 68 FR 22667 Comment period ends 5/14/03	
Crab LLP license and vessel buyback program	Congress December 2000	<i>Final rule in preparation at HQ.</i>		Dec. 12, 2002 67 FR 76329 Comment period ended Jan. 27, 2003, and subsequently extended until Feb. 27, 2003	

Regulatory Amendment Status: <u>Actions Since April 2003 Council Meeting</u>	Date of Council Action	Start Regional Review of Rule	Transmittal Date of Rule to NMFS Headquarters	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Notices					
Announcing Receipt of An Application for an Exempted Fishing Permit		March 7, 2003	March 18, 2003		
Chiniak Research Area Opening		June 6, 2003			
Bycatch Rate Standards for 2 nd half of 2003			May 23, 2003		

*L. Smoker
handout.*

GC Statement for Council on CDQ appeals issue

1. At the June 2002 meeting, the Council took final action on Amendment 71. The language of the Council's motion on Amendment 71, Issue 1, stated that the process by which CDQ allocation are made will be defined in regulation, and will include an expanded State hearing and comment process but no formal appeals process in Federal regulations for CDQ allocation decisions.
2. There is a constitutional requirement, contained in the 5th and 14th Amendments to the Constitution, that procedural due process be afforded in all agency adjudications, even in informal agency adjudications. Procedural due process requires that notice of the agency's determination be provided and that an opportunity for a hearing appropriate to the nature of the case be provided before the agency makes a final determination on the adjudication.
3. CDQ allocation decisions are informal agency adjudications. As such, there is no ability for the Council or the agency to waive the procedural due process requirement.
4. Therefore, the regulations that will be submitted to NOAA Fisheries to implement the FMP amendment and regulatory provisions of Amendment 71 must include a process that comports with the requirements of procedural due process.

5. Given this constitutional requirement; the statements made by NOAA General Counsel and NOAA Fisheries staff on this subject during Council deliberations in June 2002, and the language of the Council's motion, it would appear that the Council's intent with regards to a CDQ allocations process that comports with procedural due process is that the regulations be modified to include a process of review that is consistent with the requirements of procedural due process but that the process be "appropriate to the nature of the case" and not overly formalistic or provide more process than is due.

Discussion of CDQ Issues
North Pacific Fishery Management Council
June 2003

June 11, 2003

Tape 4, approx. 1/8 into tape

During Agenda Item B-~~2~~³, NMFS Management Report

SUE SALVESON (NMFS): Mr. Chairman, moving ahead to just a couple of CDQ issues. Last June you took action on Amendment 71 that would make several fairly significant changes to the administration of the CDQ program. One issue associated with the ongoing administration of that program concerns the eligibility of communities. Under the MSA, the Magnuson-Stevens Act there criteria for eligible communities and they list criteria including referring to a Table 7 in the codified regs. At that time if a community. . .and there's 57 communities listed in that table; if they're listed in that table, they're eligible. Subsequent to that Magnuson-Act direction the State came forward with, I believe, eight other additional communities. This was in 1999, and argued that these eight additional communities also are eligible. And, we basically endorsed that recommendation by the State as part of a substantial amendment to the various respective plans. Since then questions have been raised as to whether those eight additional communities, or at least some of them, may truly not be eligible under the criteria laid out in the Magnuson Act and the Federal regulations. So, this most recent allocation cycle, we were convinced, working with the State, that even without the communities in question being part of the CDQ program that would not have affected the distribution of the allocations and we went ahead and based our concurrence and approval of the allocations on that premise. But we also feel pretty strongly that we need to just bite the bullet, do an analysis of the eligibility of these communities relative to statute and regulations and come back to you in October with this analysis. And, I think that's going to be heavily involving General Counsel in terms of interpreting the law relative to the list of these communities. Whether or not this could be rolled into the Amendment 71 package, or

be a trailing amendment, I think is going have to be up to the Council, particularly after you hear what I have to say next about Amendment 71. So, again, this is another thing that you might want to consider in your staff tasking. I think we've had preliminary discussions with Mr. Oliver and his staff on their ability to help out on this analysis; it would occur primarily between mid-July and August and be able to come back to you in October.

The other issue addressing CDQs and Amendment 71 deals with the appeals process. Back in June when you took this action to not instigate a formal appeals process with reference to the allocation among the CDQ groups, you did hear some concern expressed by both NMFS and NOAA General Counsel about that. But with the information the Council had before it and the recent success in judicial review of a challenge of an allocation, the Council determined not to pursue a formal appeals process. Since then, we've had discussions with NOAA General Counsel who's taken a pretty stand that we do indeed need to have a formal appeals process associated with the allocation process to the CDQ groups. And, Lauren Smoker can give you kind of an overview of that, but based on that input, we would intend to work with General Counsel over the summer to develop the structure for that process and the timelines for that process because that was a significant concern to the Council, how much additional time potentially a formal appeals process would take, and then let you know how that all falls out again in October. At this point it's not clear to me that we're looking for. . . I don't know that the Council or the Agency has an option on this, and so, Lauren, do you want to go ahead and expand a little bit on how we inform the Council on this?

LAUREN SMOKER (NOAA-GCAK): Sure, I'd be happy to. I have just a brief statement here. As you are likely aware, at your June 2002 meeting you took final action on Amendment 71. The language of the Council's motion on 71, and particularly Issue 1, stated that the process by which

CDQ allocations are made will be defined in regulation and will include an expanded State hearing and comment process but no formal appeals process in Federal regulations for CDQ allocation decisions. As you probably are also all aware, there is a Constitutional requirement contained in the 5th and 14th Amendments to the Constitution that procedural due process be afforded in all agency adjudications, even in informal agency adjudications. Procedural due process requires that notice of the agency's determination be provided and that an opportunity for hearing appropriate to the nature of the case be provided before the agency makes a final determination on the adjudication. CDQ allocations are informal agency adjudications, so therefore there is no ability for the Council or the agency to waive the procedural due process requirement. As such, the regulations that will be submitted to NOAA Fisheries to implement Amendment 71 and also the regulatory provisions that you approved at that time must include a process that comports with the requirements of procedural due process. Given this Constitutional requirement, the statements made by NOAA General Counsel and NOAA Fisheries staff on this subject during Council deliberations in June 2002 and the language of the Council's motion, it appears to us, to the Agency, that the Council's intent with regards to a CDQ allocations process that comports to procedural due process is that the regulations be modified to include a process of review that is consistent with the requirements of procedural due process, but that the process be appropriate to the nature of the case and not overly formalistic or provide more process than is due. So, if that makes any sense to you. . .

HAZEL NELSON (Council Member): Mr. Chairman, I'd like to ask Ms. Smoker if that's an unwritten opinion or is it something that we could have a copy of?

SMOKER: Oh, you're more than welcome to have a copy of the statement that I wrote out, . . . it's not really in a formal opinion type format that you might be used to seeing from us.

BENTON: It would be probably be easier for some of us to understand if we could see it in writing and work our way through the logic a little bit, so if you do have it in writing that would be helpful, I think.

NELSON: And, then getting to that last point that you had made in regard to the appeals process should be appropriate to what is needed, I expect that the intention there is to make sure that the appeals process does not wind up withholding the allocations or the moving forward of the fisheries for the program, is that correct?

SMOKER: Yes, Ms. Nelson, right. Hopefully we would design a process that will ensure that the allocation review, development, recommendations from the State and Agency review and decision will all be in a time frame that will keep the fisheries moving and CDQ allocations flowing to the groups without interruption.

NELSON: If I may, one more question. With whom is the Agency going to be working out how this will be done? Is it going to include the industry, or a committee of Council, or, how will it be done, and when? Over the summer?

SMOKER: I'll look to Ms. Salveson, but if she would like me to chime in too, I can.

SALVESON: My understanding is that NMFS staff will be working with NOAA General Counsel and the Office of Administrative Appeals to develop the infrastructure for this appeals process. We would, I guess, like to get input from the Council on what you'd want us to do with that product. I think at this point we would envision going forward, incorporating this in the Proposed Rule for Amendment 71, and we could either pursue that rulemaking, submit it NMFS, and the Council could take a look at that product in its October meeting. If the Council chooses to include the eligible communities issue in Amendment 71 we would have that analysis; the intent is to have that analysis before you in October, and I think again this is a staff tasking

consideration whether or not the Council could consider taking final action. It's a single action, final action in October, and then roll that into Amendment 71. So, Amendment 71 would not be submitted prior to October. You would look at the analysis on eligible communities criteria and if the Council took action in October that could be rolled into Amendment 71. And at that point, because it hasn't been submitted, you could also take a look at what has been developed on the appeals process as part of Amendment 71. So, we are kind of looking to the Council for direction on how you want to orchestrate all this. Certainly staff will be working this summer on both the appeals and the eligible communities issue.

STOSH ANDERSON (Council member): I think, as we addressed when we dealt with this issue before, the appeals process—and it's a zero sum game—what I'd hate to see is us setting up a series of appeals. If in the process we increase someone's allocation, that means someone else is decreased and so I would hope that the appeals process would address the more global situation so we don't end up with just a series of appeals; I can see us taking two years or three years to get through one appeals process if the second injured party appeals it.

BALSIGER: Not responding to that, although we have talked about that a great deal and can probably can get around it, but just to be sure that Ms. Nelson, in response to her question, we certainly don't want this to impede the flow of fisheries for the CDQ people to operate on. There's very little likelihood that the new process will be able to be accomplished, the allocation process, in the same time frame that we're using now. So, don't misunderstand the idea. . .if it takes 9 months now, it's going to take 16 months to go through the process by the time we crank in the appeals. So, in order to accomplish the allocations on the appropriate dates we have to start the process several months earlier than we did in the past.

KEVIN DUFFY (Council member): I just wanted to let Council members know that the State has had meetings with NMFS on this issue, about three weeks ago, I believe roughly. We had a whole afternoon meeting where we had our CDQ staff there, a couple of commissioners, as well as an attorney representing the State. And, we talked at length about this issue, including the types of issues that Mr. Anderson brought up and we do want to. . . basically the State is in concurrence at this point that we probably need to move forward in this manner and we're going to work with the Agency to try and create an appeals process that is expedited and won't get into the kind of cumbersome situation that Mr. Anderson is referring to, and I agree with Mr. Anderson. So, the two agencies are working together to try and address this issue.

JOHN BUNDY (Council member): Point of clarification, Sue. With regard to the community eligibility issue, that issue only applies to the eight and not the original communities?

SALVESON: Yes, because the original communities are codified in regs that was referred to by statute, so the 57 communities are not at question, it's a couple of the communities in that list of eight that likely pose the most concern. . . . Oh, Mr. Chairman, I'm sorry. . . . Lauren is saying that I mis-spoke, so why don't you clarify, Lauren?

SMOKER: Thank you. I'm not sure that Ms. Salveson mis-spoke so much as that there is a quirk that we need to examine as a result of the '96 amendments to the Magnuson Act that incorporated the CDQ program. Prior to the statutory inclusion of the CDQ eligibility criteria for communities the regulations had listed these five or so criteria, OR, that you were listed on Table 7. That distinction was not included in the statutory provisions of the Magnuson Act; it just listed the criteria. So, what we need to do, and it's a legal question that we need to examine, we need to find out if that change in the Magnuson Act has somehow affected the previous communities' eligibility status and we'll be looking at that. We're hoping that it has not, but it's a

question we need to examine. So, I think that's the answer. We'll be looking at it and trying to resolve what happened under the Magnuson Act amendments.

NELSON: This is going to be discussed more under staff tasking?

BENTON: Looks like staff tasking is becoming our major agenda item this week. I just had one question about the appeals process and I appreciate what Mr. Duffy said about the State working on this. But, my recollection is that we thought that we had accomplished some type of an appeals process by having Council review of the State's recommendation before it's transmitted to the Secretary. And if I understand it now, that Council review does not satisfy as an appeals process. Am I correct in that regard?

SMOKER: Yes, Mr. Chairman, you are correct.

BENTON: O.K., then as part of this change to develop an appeals process somewhere in that loop we need to consider where the Council fits in for consultation, where and if and how. It was just a comment and I sort of threw that out there now so if we get back to staff tasking for further discussion maybe you could have some answer to that. And the second thing, which is just an observation and the reason I was somewhat smiling about the discussion about the community eligibility is my recollection on that is that we were a little sketchy on whether or not some of the communities actually fit those criteria we put together so we put in the catch-all caveat and put them on the list. So I think that you may indeed find that there are going to be some gray areas in terms of just a couple of communities out there. I think I remember which ones they are but I'll let you ferret that out, not me.

SMOKER: Thank you, Mr. Chairman. And, yes, there's legislative history language that we need to go back and re-examine more closely under this particular issue.

SALVESON: Shall I go on with the good news, Mr. Chairman? . . . There's two more items. . . [not relevant to the CDQ issue]

June 16, 2003

N.P.F.M.C. Discussion under Staff Tasking
Tape 74, approx 2/3 through tape

BENTON: If nothing else, let's go along to the CDQ amendments—the appeals process. On that issue, as I recall it, we had presentations that the Agency wanted to get a appeals process in the works.

CHRIS OLIVER (NPFMC Executive Director): I'm probably going to need some help from Nicole and maybe Sue Salveson if she's here to remind me of what we needed to do there.

BENTON: Well, I think it's pretty straight forward. The Agency was reviewing the CDQ program as part of . . . we had initiated some changes and an analysis and adopted them for recommending them to the Secretary and during the process of the Agency looking over the regulation they determined that there probably was a necessity for a formalized appeals process. That was the discussion and part of the presentation we had earlier in the week. And, so the question was whether or not, as the Agency works on this over the course of the remainder of the summer and early fall, whether or not we wanted them to develop a proposed review process, not review, a formalized appeal process for our consideration at the October meeting. And I'm looking at Jay and I'm waiting for him to say yes or no. Come on up here, Jay. I think Jay's actually, maybe Jay or Sue know this. I think that was it and really what it comes down to is whether or not they should go ahead and prepare that for our consideration as part of the rulemaking process that they're going through right now. And if I don't have this right, you all need to come up here and let me know I've got it wrong.

SALVESON: Let me reiterate, I think we've got some very strong advice from GC that we need to incorporate this appeals process. We intend to develop that process with them and working

with the State and incorporate that into the Amendment 71, the analysis has already been before you. There's nothing really new, there's a refinement with respect to a response with respect to future law litigation cases, so, I don't think that, unless the Council wants us to bring it back in October, we would probably just pursue rulemaking. There are other issues that we raised during our staff tasking with respect to eligible communities and I think the decision under staff tasking is whether you want us to include that as part of Amendment 71 before you submit it to the Secretary or have it as a trailing amendment. This is the eligible communities. . .looking at all the communities relative to the MSA criteria and there's concern whether or not we're going to be able to get Amendment 71 through the process without addressing that.

BENTON: That's why I was looking a little puzzled. Don't leave. It strikes me that the appeals process issue, that was part of. . .I mean, we did discuss that when we adopted the amendment. And the reason I said bring it back to us is I sort of thought that you might want us to comment. . .I don't know where that is in your rulemaking, whether or not that timeline fits for us to provide comment to the Agency during the public comment period of the regulations or how you want to handle that.

SALVESON: I would be. . .I think it would be optimistic to think that that would be submitted to the Secretary and in the rulemaking process next October. I think if you wanted to see how that was developed we could bring that back to you prior to submission to the Secretary in October.

BENTON: Without any further analysis, just bring it back. . .we would review it, get public comment on it and then it would be incorporated, or how would you. . .

SALVESON: Well, Mr. Chairman, I think it's more informing the Council . . . this is what this means; there are a number of very significant concerns by the Council on how this would be

developed with respect to timing issues and scheduling and that sort of thing and I think that's what we would bring back to you. At this point it's not clear to me how much latitude the Council has in changing that appeals process. I think certainly there's a lot of interest in how it unfolds and there may be opportunity there for additional refinement and how we've implemented something in terms of time frames and assumptions for schedules.

BENTON: It sounds to me like, given what you've said here, that the Council probably will want to have a look at it at the October meeting if that just doesn't mess up your entire process.

SALVESON: I don't think it would, Mr. Chairman, because I don't think we're going to be that much. . . I don't think the process is going to suffer in terms of timing if we bring it back in October. I think the important thing is that we want to have this program through for the next allocation cycle and that could start as early as next fall.

OLIVER: Did that mean, the Council look at it in October as in initial review and then taking an action, or did you mean to review and comment on the proposed rule?

SALVESON: The proposed rule will not be submitted by then. This is not a Secretarial package yet, it's more of an opportunity to inform the Council on how we have developed the appeals process and what that might mean with respect to some of the Council issues that were raised when you took this action last summer.

NELSON: When we briefly spoke to this when the Council meeting began last week there were some comments in regard to the review process. I think if an appeals process were to move forward that we wanted an expedited appeals process and I think there was some question about where will that cycle of appeals end.

SALVESON: I think, in working with the GC, the public concern with that, where we would have an ongoing appeals process as a result of this I don't think is an issue within the legal advice

that we've received. If we receive appeals my understanding is that all CDQ communities will have opportunity to join in that appeal at that point in time and there will be one large opportunity and process for appeals and when that's completed, that's it, and then we'd go forward. So if your question, Ms. Nelson, is whether or not we'd have an iteration of different appeals, that's not the case as I understand it.

NELSON. O.K., and the other thing was the drawing out of time. The cycle would rather than be I think 8 months, it would wind up being almost twice that amount of time?

SALVESON: I think we've figured about 15 months.

NELSON: O.K., so the action on this in October, then, would be what?

SALVESON: I think that might be up to the Council. I think that what we were hoping is that this is more of an opportunity to inform the Council on how this process was developed and laid out in terms of draft regs and the time frames and the specific process would be laid out as well. What I'm not clear at this point, and maybe we need to just see how this unfolds, is whether or not there are decision points that the Council actually could weigh in at that point in time and I'm not real clear on that. But, I think the point is that Amendment 71 will not be submitted to the Secretary at that point and. . .you might want to set up that agenda item, if you are setting it up, to reconsider portions of that or just being informed on what a formal appeals process means.

BENTON: Is this a plan amendment?

SALVESON: This is an FMP. . .the appeals. . .Amendment 71 is embodied in the. . .the appeals process is embodied in the FMP amendment and at this point in time I'm not sure that the appeals process itself is part of the FMP amendment. Nicole tells me it's not.

NELSON: In regard to the eligibility issue, is the action, is the Council action need on that?

SALVESON: Yes.

NELSON: So, Mr. Chairman, I have a motion, at least I think I do, and that would be. . .I move that the Council recommend that eligibility be incorporated in Amendment 71 before submittal to the Secretary. [unidentified 'second']

BENTON: Was there anything on the appeals process issue, you just want to do that one?

NELSON: Well, from what I understood she said there may or may not be decision points for the Council, so I'm not sure whether or not I should have . . .

BENTON: O.K., we have a motion to include the eligibility issue. . .Ms. Salveson.

SALVESON: I asked Nicole to come up here to correct me if I say anything here, but this is an issue that's been around for sometime; it would be an FMP amendment if we were to adjust the eligibility criteria and the regs to make it consistent with the MS as well as adjust the existing list of eligible communities that we've been operating under. And, the question is, . . .[Change to Tape 75]. . .[Some discussion may have been lost in tape changeover]. . .

if you wanted to include that in Amendment 71 it's going to delay Amendment 71 into perhaps next meeting, December, and just so that you recognize that tying it with Amendment 71, you could be delaying Amendment 71 versus just initiating a separate FMP amendment.

BENTON: It strikes me that, really, the two are quite separate. I mean, they're related but they're separate, and maybe I've not got this correct but really what. . .on the community eligibility issue, the Agency is going to review the statute, review the regulations and review the list. If you identify a problem, then you would bring that problem back to the Council, point it out and the Council would have to initiate a plan amendment in order to change the criteria and the list to bring it into conformance with the statute, because it would be an FMP amendment to change the table and the criteria to meet statutory requirements. Am I right? [Affirmative answer from Salveson] O.K., if that's the case that would be, unless you want to significantly delay the other

changes to the program, that's almost like a separate thing. You might want to ask the Agency to just do that analysis first and bring it back in a discussion paper of some kind pointing out, . . .if there's no problem, why worry about it; if there is a problem that the Agency had pointed out in the discussion paper, or Council staff, and then the Council would take action as necessary.

NELSON: If my second would concur, I'd like to withdraw my motion.

BENTON: Second concur? [affirmative answer]

NELSON: And, Mr. Chairman, I would like staff to do what you suggested.

SALVESON: I think staff is prepared to do an analysis this summer. I think we've received sufficient input from NOAA General Counsel that we do have a problem with some of those communities and there's concern that if we delay this much beyond October-December we're going to get ourselves in trouble for the next allocation cycle. So, you might consider whether or not you want to task staff just to bring you back a draft analysis in October and kick that off in that manner and then see what you have before you, at the least. . . worst-case scenario, you'd be taking final action in December.

BENTON: But not linking it to Amendment 71?

SALVESON: I think that's your option at this point. You might ask NOAA Counsel whether or not that poses any jeopardy to a Secretarial review for Amendment 71 if we did not include the eligible community issue in the Amendment 71 package because I personally am not clear on that at this point.

JOHN LEPORE (NOAA-GCAK): Let me make sure I'm clear on this. We're talking about an action, moving Amendment 71 forward. We have two other actions that possibly would be linked to that. One is the appeals process and one is eligible communities. And I guess my read on this is. . . I mean, we need to move forward with the appeals process, for sure. We have

provided that advice. Do we have any idea on the criteria being changed in the Magnuson-Stevens Act based on the eligibility communities or not?

SALVESON: Is that question to me, John? [Affirmative answer]. . .If your question is. . .I understand that there is an interest in amending the Magnuson Act to make this problem go away, but that hasn't happened yet and we don't know if it's going to happen and do we want to. . .I think the concern is if we hope it's going to happen and we aren't prepared by having an analysis ready in the event that it does not, I think there is concern about legal review potentially during the next allocation cycle. So, I think the issue is do we commit staff resources in developing a analysis and hope that we won't need it, and if we don't need it, that's great. We might not find that out until. . .I'm not sure, . . .October.

LEPORE: As we're aware, we can move forward with an analysis. I guess the bottom line is, obviously, it would not be approved. Amendment 71 cannot be approved by the Secretary unless there's authorization in the Magnuson-Stevens Act for the criteria. So, that's the dilemma we're in.

BENTON: O.K., if I understood you correctly, the timing on Amendment 71 is such that by the October meeting it will not be submitted to the Secretary. If that's the case, and if the Council were to authorize, or request, or task staff to look at the criteria, eligibility issue, and actually do an analysis to bring to the October meeting, at that juncture you could bring both issues here and that could also include a review of the draft proposed, whatever we want to call it, appeals process, schedule all those together and then depending on all the hard work that NOAA General Counsel's going to do over the summer so they don't come to the meeting and say we haven't had time to look at this issue, and we have an answer to the questions Counselor has pointed to us. . .so, we've got all these pieces together, we could wrap them all together in one time, and that

would be the way to do it.

SALVESON: That would be ideal, Mr. Chairman.

BENTON: O.K., so do we have a motion in that regard? [NELSON: so moved] Is there a second? [multiple seconds, couldn't recognize voices] Is there any further discussion? Is there any objection? How's that? It passed.

BUNDY: Sue, I think I know the answer to this, but the appeals process that you envision is a Federal one, I mean involving a Federal employee, or Federal office?

SALVESON: Yes. An appeals process would be similar to the types of infrastructure we set up for issuing quota share and some of the observer program as well, but it's a Federal appeals process. We issue an initial IAD (?) and that's reviewed by the Office of Appeals, administration, whatever. So, it is a Federal process.

BUNDY: I just wanted to confirm that your goal is to set up a process that is simple and as fast as legally, reasonably possible, I thought you told us before a few days ago.

SALVESON: This is the Federal government, but yes, that's true.

BENTON: O.K., are we done with the CDQ one?

NELSON: I want to clarify for the record. I guess what I need to hear is from the Council members that this is not coming about because the Council is questioning the eligibility of the communities that were part of the CDQ program. I am concerned about that.

BENTON: I think that the reason this is coming about is because in their review of regulations for the program the Agency has brought forward that there may be inconsistencies and the Agency believes, I think fairly strongly, that we need to have a review to ensure that the criteria that we have on the books is consistent and conforms to the statute to the law. And so, at least speaking for myself, and I haven't heard any other Council members say that they prejudged that

issue, about whether a particular community meets those criteria or not. But I think there's a lot of concern around the table that we have a problem if our overall criteria are not consistent with the law and I think that's what Counselor was trying to get at a little bit earlier. Am I right Counselor?

LEPORE: That is correct.

NELSON: Thank you, Mr. Chairman. I guess just looking down the road, if there is a design flaw in how this eligibility criteria was written so that some communities have to step out of the program we're going to have some pretty big problems and what I would prefer to see is that NOAA GC take that into consideration.

BENTON: I think they understand that. Is there anything further on CDQs, otherwise we're going to go to the D.C. conference issue.

[End of transcription]