

APPENDIX A: Council emergency rule motion of December 13, 1999

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) Aleutian Islands

Close the Aleutian Islands area to directed pollock fishing.

B) Bering Sea

1. Establish a quarterly system of seasonal sector allocations (between A, B, C, and D seasons¹). 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 = excluding NW corner
2. The combined A+B harvest for the non-CDQ fisheries is set at 40% of the annual non-CDQ TAC.
3. Set the A and B 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 A and B seasons.
6. Allow rollover from one season to the next if it doesn't boost the following season over the 30% of annual TAC seasonal limit.

¹ Terminology for seasons in the Bering Sea has been changed from A1, A2, B, and C seasons to A, B, C, and D seasons.

7. Establish seasonal harvest measures from inside Bering Sea critical habitat as follows:

Catcher/processor Sector:

- a) Neither A or B harvest in CH/CVOA (except NW corner) may exceed 40% of the respective A or B apportionments for the catcher/processor sector.
- b) Prohibited from fishing in CH/CVOA in the C and D seasons.

Catcher Vessels Delivering to Motherships:

- a) A single A/B season beginning February 1. 50% may come from the CH/CVOA.
- b) A single C/D season starting September 1. 50/50% inside/outside CH/CVOA

Inshore sector:

- a) In the C and D seasons, no size restrictions on CVs, fishing in CH limited to 80% of the inshore sector seasonal allocations.
- b) 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.
- c) Of the overall A/B inshore cap, no more than 70% shall come out of the CH/CVOA.

CDQ Sector:

- a) Harvests in A and B seasons, combined, may not exceed 45% of the CDQ allocation. Stand-down provisions do not apply.
 - b) Harvests in C and D seasons to be conducted as under present regulations.
8. Existing stand-down requirements of the A/B season shall be removed.
9. Exempt Cape Sarichef from sea lion closures.

C) GOA

1. Seasons:

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% |

- 1a. 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) * 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; Mitrofanina; 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 Order 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 request 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 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.