

Aleutians East Borough Proposed Alternative 4
for Steller Sea Lion Mitigation Measures in the current EIS.
Submitted for Consideration by the
North Pacific Fishery Management Council
Steller Sea Lion Mitigation Committee

10/12/2012

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Statement of Proposed Alternative

Add six listed Steller Sea lion rookery sites within the navigable waters of the Aleutians East Borough to the Navigational Transit exceptions in the Steller Sea lion regulations Title 50 section 223.202 (b)(6), to allow vessel continuous transit to maintain a minimum of 1 nautical mile from each rookery site. Those sites from Table 1 are: 6) Atkins I, 7) Chernabura I, 8) Pinnacle Rock, 10) Sea Lion Rocks, 11) Ugamak I, 12) Akun I.

Objectives of Proposal

The first objective for this alternative is to increase vessel safety in the waters of the Aleutians East Borough. In times of extreme weather conditions, most of the time in the AEB, vessels should be allowed greater ability to safely navigate, while maintaining a safe distance from rookeries. This proposed alternative would allow through vessel traffic at a minimum of 1 nautical mile near AEB rookeries, rather than the current 3 nautical miles, and allow for greater safety.

Impacts of Proposal

The proposed change may have little or no impact on the wDPS of the SSL or designated critical habitat. However, fishing and other vessels will have the confidence to be able to travel safely in Borough waters without fear of prosecution from violating an overly restrictive 3nm approach buffer to SSL rookeries.

Supporting Data and other documentation

Title 50 Wildlife and Fisheries Part 223 Threatened Marine and Andromous Species, Subpart B – Restrictions Applicable to Threatened Marine and Andromous Species is available online at:

<http://www.alaskafisheries.noaa.gov/regs/223202h.pdf>

and is attached to this submission.

Table 1 to 50 CFR part 223.202—Listed Steller Sea Lion Rookery Sites is available online here:

<http://www.alaskafisheries.noaa.gov/regs/223table1.pdf>

and is attached to this submission.

Map Steller Sea Lion and Habitat Protection Measures Jan 2011 is available online here:

http://www.alaskafisheries.noaa.gov/sustainablefisheries/sslpm/pcod_nontrawl.pdf

(not attached)

Alternative Solutions

An alternative solution would be to remove sites, including Atkins Is., from rookery listed status. Anecdotal accounts suggest Atkins Is. is no longer used by any SSL populations.

Justification for Council Action

The Council has recently requested that NMFS vacate fishery management measures of the 2010 BiOp, based on independent reviews concluding there is no evidence shown in the BiOp to support the restrictive management measures. In addition, the SSLMC have been presented information that indicates SSL populations are on the rise. Council action that may increase vessel safety and not harm SSL populations can be justified.

**TITLE 50--WILDLIFE AND FISHERIES
DEPARTMENT OF COMMERCE**

**PART 223--THREATENED MARINE AND ANADROMOUS SPECIES
Subpart B--Restrictions Applicable to Threatened Marine and Anadromous Species**

§ 223.202 *Steller sea lion.*

(a) *General prohibitions.*

The prohibitions of section 9 of the Act (16 U.S.C. 1538) and the following regulatory provisions shall apply to the eastern population of Steller sea lions:

(1) No discharge of firearms. Except as provided in paragraph (b) of this section, no person subject to the jurisdiction of the United States may discharge a firearm at or within 100 yards (91.4 meters) of a Steller sea lion. A firearm is any weapon, such as a pistol or rifle, capable of firing a missile using an explosive charge as a propellant.

(2) No approach in buffer areas. Except as provided in paragraph (b) of this section:

(i) No owner or operator of a vessel may allow the vessel to approach within 3 nautical miles (5.5 kilometers) of a Steller sea lion rookery site listed in paragraph (a)(3) of this section;

(ii) No person may approach on land not privately owned within one-half statutory miles (0.8 kilometers) or within sight of a Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater, except on Marmot Island; and

(iii) No person may approach on land not privately owned within one and one-half statutory miles (2.4 kilometers) or within sight of the eastern shore of Marmot Island, including the Steller sea lion rookery site listed in paragraph (a)(3) of this section, whichever is greater.

(3) Listed sea lion rookery sites. Listed Steller sea lion rookery sites consist of the rookeries in the Aleutian Islands and the Gulf of Alaska listed in Table 1.

(4) Commercial Fishing Operations. The incidental mortality and serious injury of endangered and threatened Steller sea lions in commercial fisheries can be authorized in compliance with sections 101(a)(5) and 118 of the Marine Mammal Protection Act.

(b) *Exceptions*

(1) Permits. The Assistant Administrator may issue permits authorizing activities that would otherwise be prohibited under paragraph (a) of this section in accordance with and subject to the provisions of part 222, subpart C--General Permit Procedures.

(2) Official activities. The taking of Steller sea lions must be reported within 30 days to the Regional Administrator, Alaska Region. Paragraph (a) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties from:

(i) Taking a Steller sea lion in a humane manner, if the taking is for the protection or welfare of the animal, the protection of the public health and welfare, or the nonlethal removal of nuisance animals; or

(ii) Entering the buffer areas to perform activities that are necessary for national defense, or the performance of other legitimate governmental activities.

(3) Subsistence takings by Alaska natives. Paragraph (a) of this section does not apply to the taking of Steller sea lions for subsistence purposes under section 10(e) of the Act.

(4) Emergency situations. Paragraph (a)(2) of this section does not apply to an emergency situation in which compliance with that provision presents a threat to the health, safety, or life of a person or presents a significant threat to the vessel or property.

(5) Exemptions. Paragraph (a)(2) of this section does not apply to any activity authorized by a prior written exemption from the Director, Alaska Region, National Marine Fisheries Service. Concurrently with the issuance of any exemption, the Assistant Administrator will publish notice of the exemption in the Federal Register. An exemption may be granted only if the activity will not have a significant adverse affect on Steller sea lions, the activity has been conducted historically or traditionally in the buffer

zones, and there is no readily available and acceptable alternative to or site for the activity.

(6) Navigational transit. Paragraph (a)(2) of this section does not prohibit a vessel in transit from passing through a strait, narrows, or passageway listed in this paragraph if the vessel proceeds in continuous transit and maintains a minimum of 1 nautical mile from the rookery site. The listing of a strait, narrows, or passageway does not indicate that the area is safe for navigation. The listed straits, narrows, or passageways include the following:

| Rookery | Straits, narrows, or pass |
|---------------------|--|
| Akutan Island..... | Akutan Pass between Cape Morgan and Unalga Island. |
| Clubbing Rocks..... | Between Clubbing Rocks and Cherni Island. |
| Outer Island..... | Wildcat Pass between Rabbit and Ragged Islands. |

(c) Penalties.

(1) Any person who violates this section or the Act is subject to the penalties specified in section 11 of the Act, and any other penalties provided by law.

(2) Any vessel used in violation of this section or the Endangered Species Act is subject to forfeiture under section 11(e)(4)(B) of the Act.

Table 1 to 50 CFR part 223.202--Listed Steller Sea Lion Rookery Sites \1\

| Island | From | | To | | NOAA chart | Notes |
|---|--------------------------------|----------------------------------|---------------|----------------|------------|-------------------------|
| | Lat. | Long. | Lat. | Long. | | |
| 1. Outer I | 59 deg.20.5 N | 150 deg.23.0 W | 59 deg.21.0 N | 150 deg.24.5 W | 16681 | S quadrant |
| 2. Sugarloaf I | 58 deg.53.0 N | 152 deg.02.0 W | | | 16580 | Whole island |
| 3. Marmot I | 58 deg.14.5 N | 151 deg.47.5 W | 58 deg.10.0 N | 151 deg.51.0 W | 16580 | SE quadrant |
| 4. Chirikof I | 55 deg.46.5 N | 155 deg.39.5 W | 55 deg.46.5 N | 155 deg.43.0 W | 16580 | S quadrant |
| 5. Chowiet I | 56 deg.00.5 N | 156 deg.41.5 W | 56 deg.00.5 N | 156 deg.42.0 W | 16013 | S quadrant |
| 6. Atkins I | 55 deg.03.5 N | 159 deg.18.5 W | | | 16540 | Whole island |
| 7. Chernabura I | 54 deg.47.5 N | 159 deg.31.0 W | 54 deg.45.5 N | 159 deg.33.5 W | 16540 | SE corner |
| 8. Pinnacle Rock.. | 54 deg.46.0 N | 161 deg.46.0 W | | | 16540 | Whole island |
| 9. Clubbing Rks (N) Clubbing Rks (S) | 54 deg.43.0 N 54 deg.42.0 N | 162 deg.26.5 W 162 deg.26.5 W | | | 16540 | Whole island |
| 10. Sea Lion Rks | 55 deg.28.0 N | 163 deg.12.0 W | | | 16520 | Whole island |
| 11. Ugamak I | 54 deg.14.0 N | 164 deg.48.0 W | 54 deg.13.0 N | 164 deg.48.0 W | 16520 | E end of island |
| 12. Akun I. | 54 deg.18.0N | 165 deg.32.5W | 54 deg.18.0N | 165 deg.31.5W | 16547 | Billings Head Bight. |
| 13. Akutan I | 54 deg.03.5 N | 166 deg.00.0 W | 54 deg.05.5 N | 166 deg.05.0 W | 16520 | SW corner, Cape Morgan. |
| 14. Bogoslof I | 53 deg.56.0 N | 168 deg.02.0 W | | | 16500 | Whole island |
| 15. Ogchul I. | 53 deg.00.0 N | 168 deg.24.0 W | | | 16500 | Whole island |
| 16. Adugak I | 52 deg.55.0 N | 169 deg.10.5 W | | | 16500 | Whole island |

| Island | From | | To | | NOAA chart | Notes |
|------------------------------------|--------------------------------|----------------------------------|--------------------------------|----------------------------------|----------------|---|
| | Lat. | Long. | Lat. | Long. | | |
| 17. Yunaska I | 52 deg.42.0 N | 170 deg.38.5 W | 52 deg.41.0 N | 170 deg.34.5 W | 16500 | NE end. |
| 18. Seguam I | 52 deg.21.0 N | 172 deg.35.0 W | 52 deg.21.0 N | 172 deg.33.0 W | 16480 | N coast, Saddleridge Pt. |
| 19. Agligadak I | 52 deg.06.5 N | 172 deg.54.0 W | | | 16480 | Whole island |
| 20. Kasatochi I | 52 deg.10.0N | 175 deg.31.5W | 52 deg.10.5N | 175 deg.29.0W | 16480 | N half of island. |
| 21. Adak I | 51 deg.36.5N | 176 deg.59.0W | 51 deg.38.0N | 176 deg.59.5W | 16460 | SW Point, Lake Point |
| 22. Gramp rock | 51 deg.29.0 N | 178 deg.20.5 W | | | 16460 | Whole island |
| 23. Tag I | 51 deg.33.5 N | 178 deg.34.5 W | | | 16460 | Whole island. |
| 24. Ulak I | 51 deg.20.0 N | 178 deg.57.0 W | 51 deg.18.5 N | 178 deg.59.5 W | 16460 | SE corner, Hasgox Pt. |
| 25. Semisopchnoi Semisopchnoi.. | 51 deg.58.5 N 52 deg.01.5 N | 179 deg.45.5 E 179 deg.37.5 E | 51 deg.57.0 N 52 deg.01.5 N | 179 deg.46.0 E 179 deg.39.0 E | 16440 16440 | E quadrant, Pochnoi Pt. N quadrant, Petrel Pt. |
| 26. Amchitka I. | 51 deg.22.5N | 179 deg.28.0E | 51 deg.21.5N | 179 deg.25.0E | 16440 | East Cape |
| 27. Amchitka I | 51 deg.32.5N | 178 deg.49.5E | | | 16440 | Column Rocks |
| 28. Ayugadak Pt. | 51 deg.45.5 N | 178 deg.24.5 E | | | 16440 | SE coast of Rat Island |
| 29. Kiska I | 51 deg.57.5 N | 177 deg.21.0 E | 51 deg.56.5 N | 177 deg.20.0 E | 16440 | W central, Lief Cove. |
| 30. Kiska I | 51 deg.52.5 N | 177 deg.13.0 E | 51 deg.53.5 N | 177 deg.12.0 E | 16440 | Cape St. Stephen |
| 31. Walrus I. | 57 deg.11.0 N | 169 deg.56.0 W | | | 16380 | Whole island |
| 32. Buldir I. | 52 deg.20.5 N | 175 deg.57.0 E | 52 deg.23.5 N | 175 deg.51.0 E | 16420 | Se point to NW point. |
| 33. Agattu I. | 52 deg.24.0 N | 173 deg.21.5 E | | | 16420 | Gillion Point |
| 34. Agattu I | 52 deg.23.5 N | 173 deg.43.5 E | 52 deg.22.0 N | 173 deg.41.0 E | 16420 | Cape Sabak |
| 35. Attu I | 52 deg.54.5N | 172 deg.28.5E | 52 deg.57.5N | 172 deg.31.5E | 16681 | S Quadrant. |

\1\ Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; or, if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.