



COUNSEL TO GREAT COMPANIES

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Resource Development Council

Modernizing the Endangered Species Act

Calls for improvement

- ~ 75 bills introduced in this Congress related to ESA
- House package of nine bills—
“ESA Modernization Package”

Calls for improvement

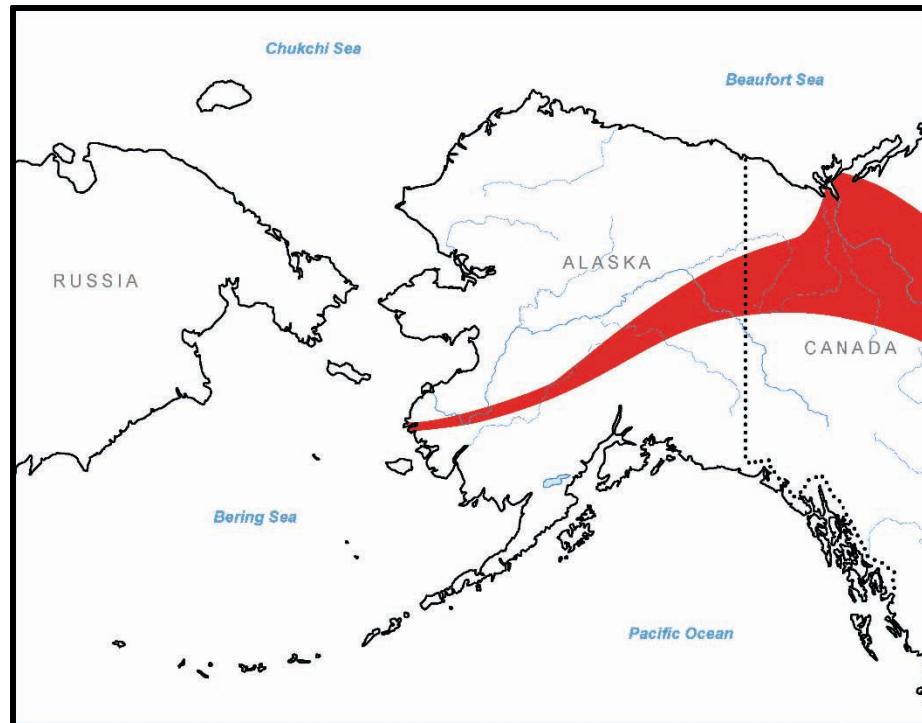
Legislative—Change the law itself

- House/Senate Bills to change (or even repeal) the law

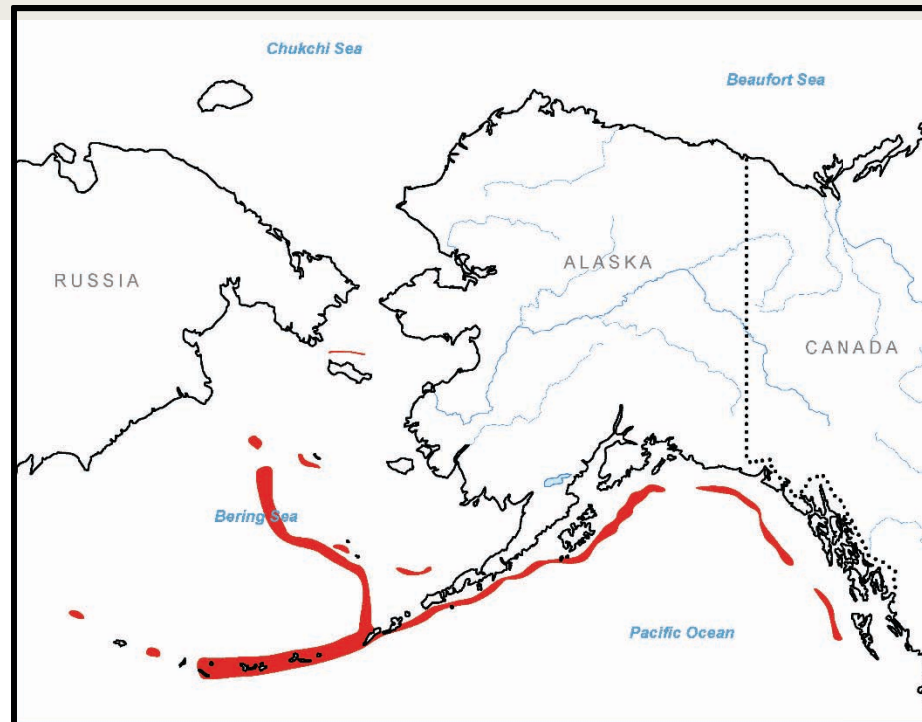
Administrative—Change how the law as written is implemented

- Regulations
- Agency guidance

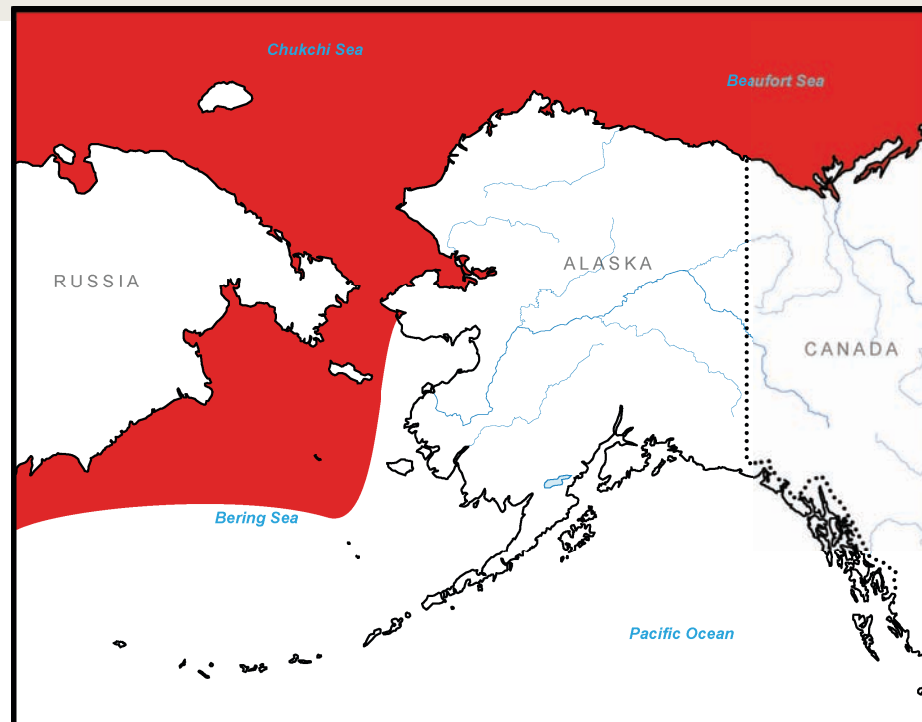
Eskimo curlew range



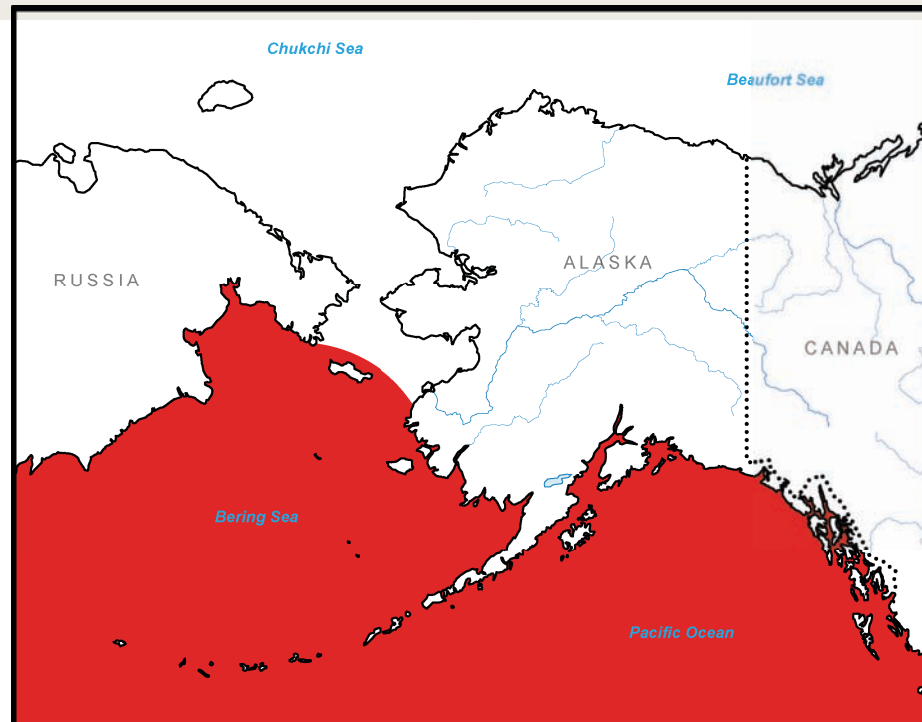
Short-tailed albatross range



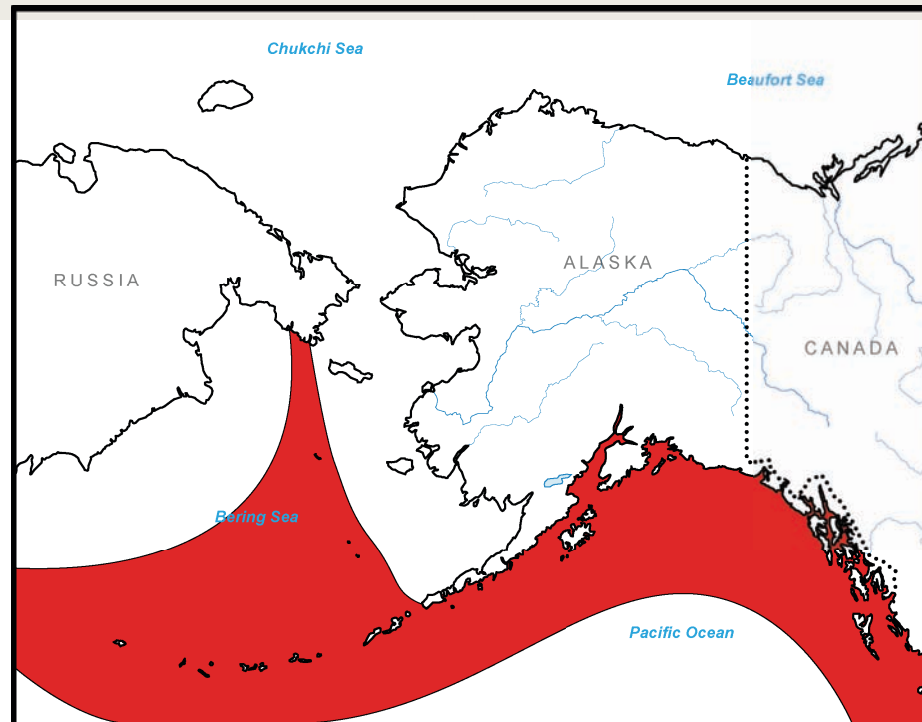
Bowhead whale range



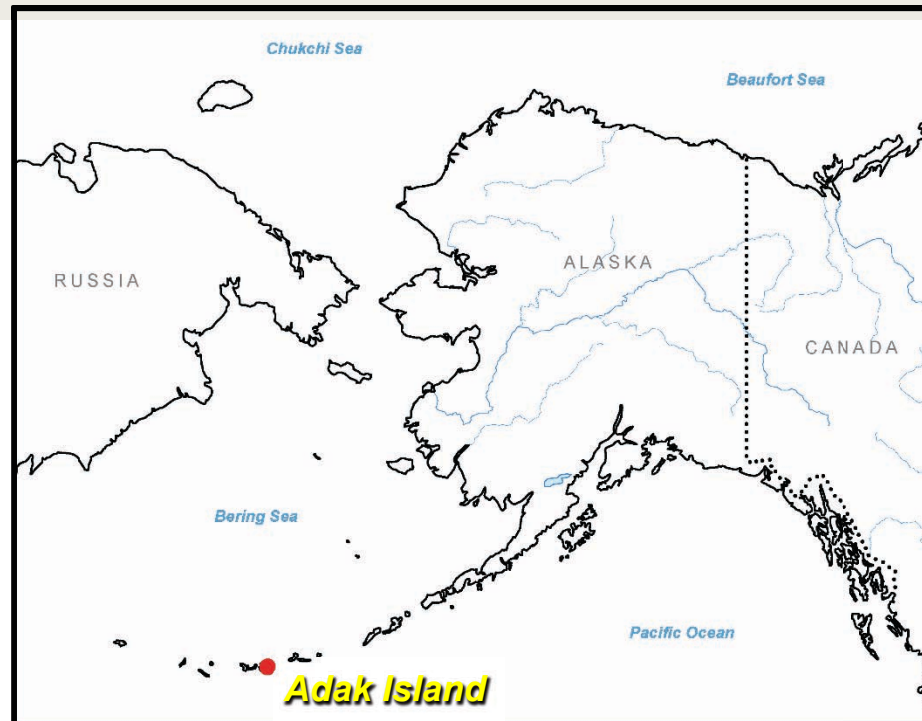
Fin whale range



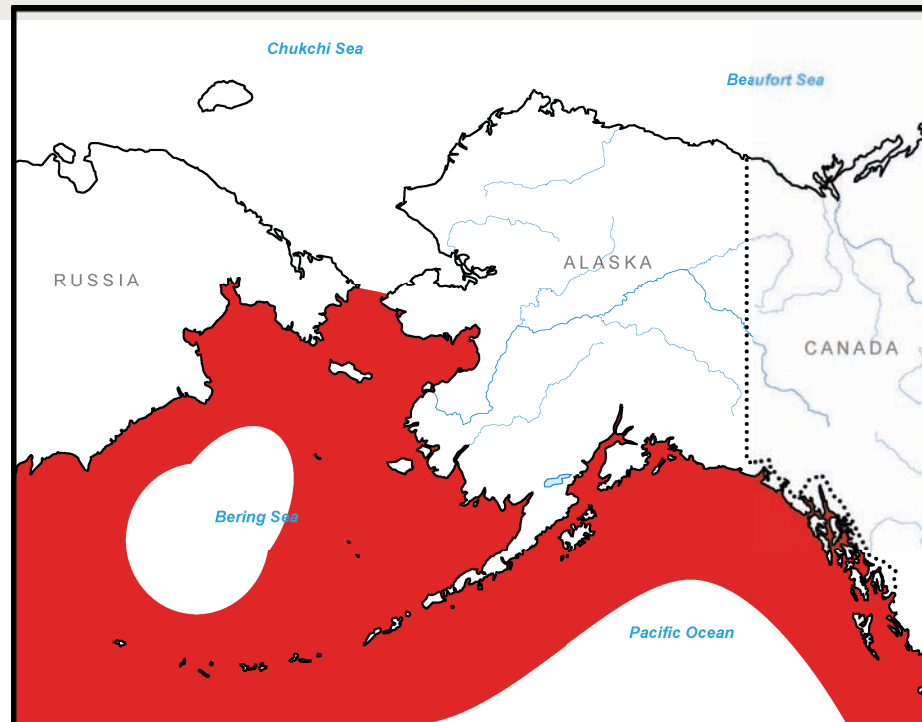
Humpback whale range



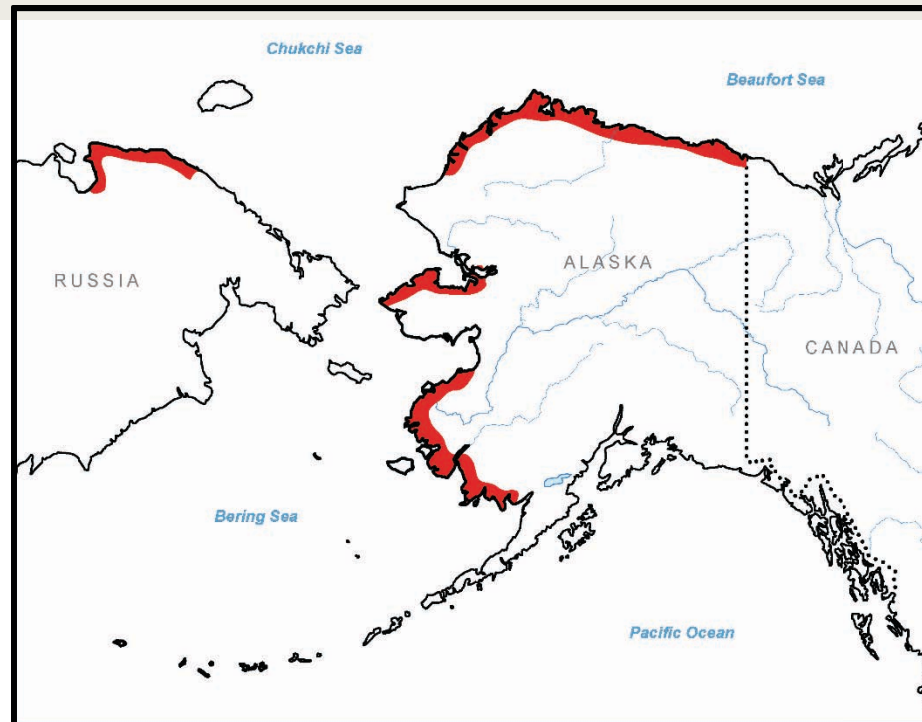
Aleutian shield fern



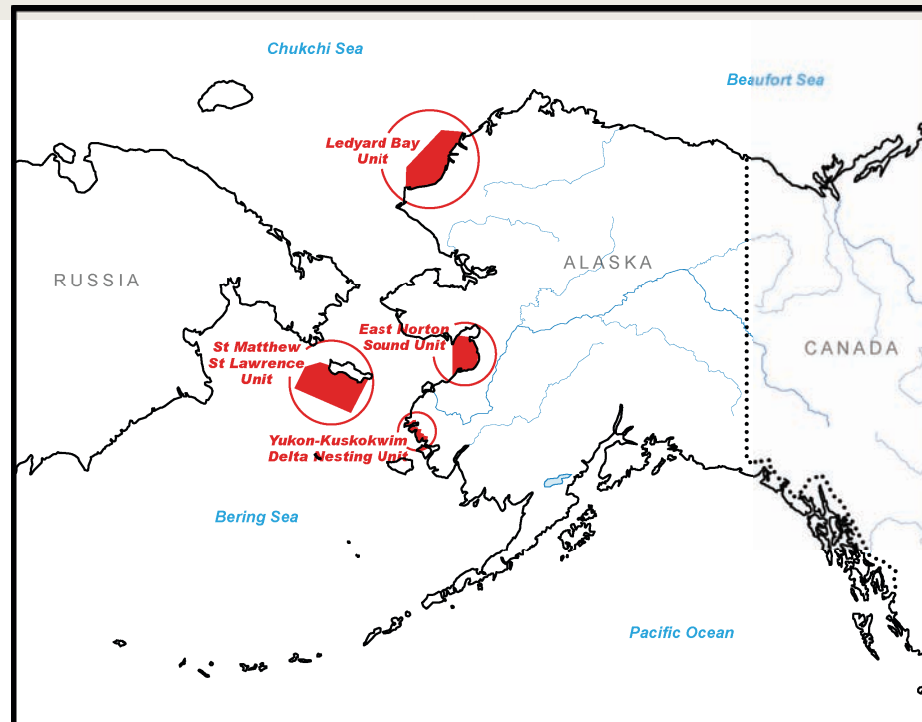
Steller sea lion range



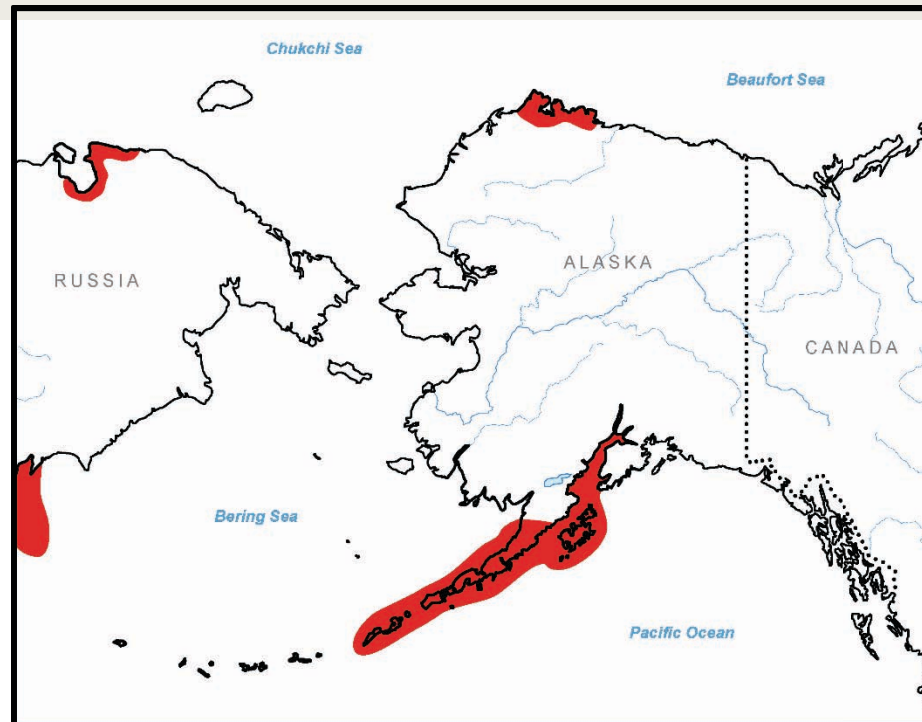
Spectacled eider range



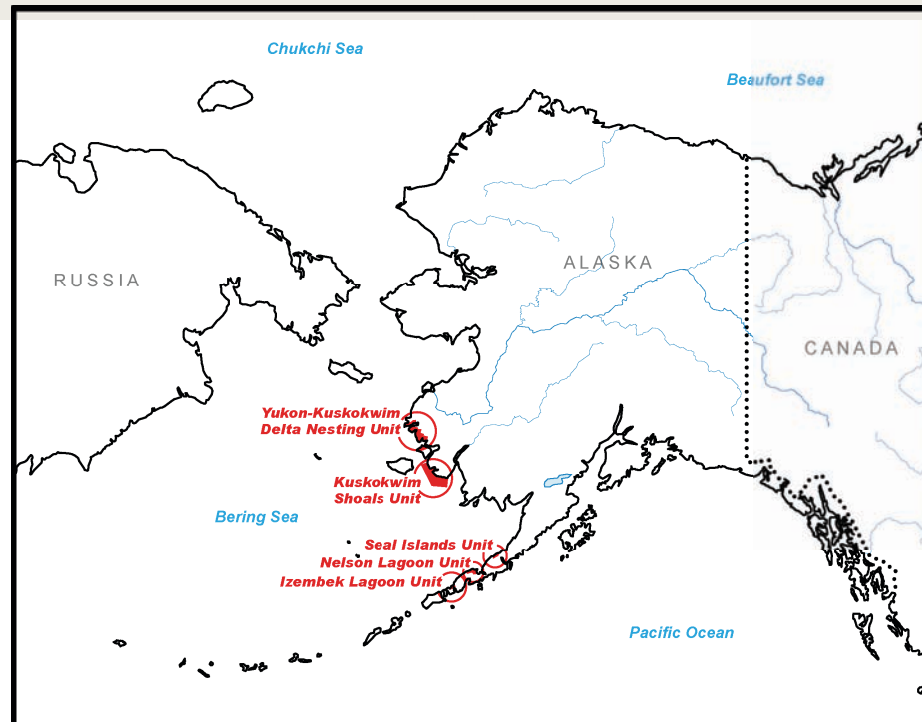
Spectacled eider critical habitat



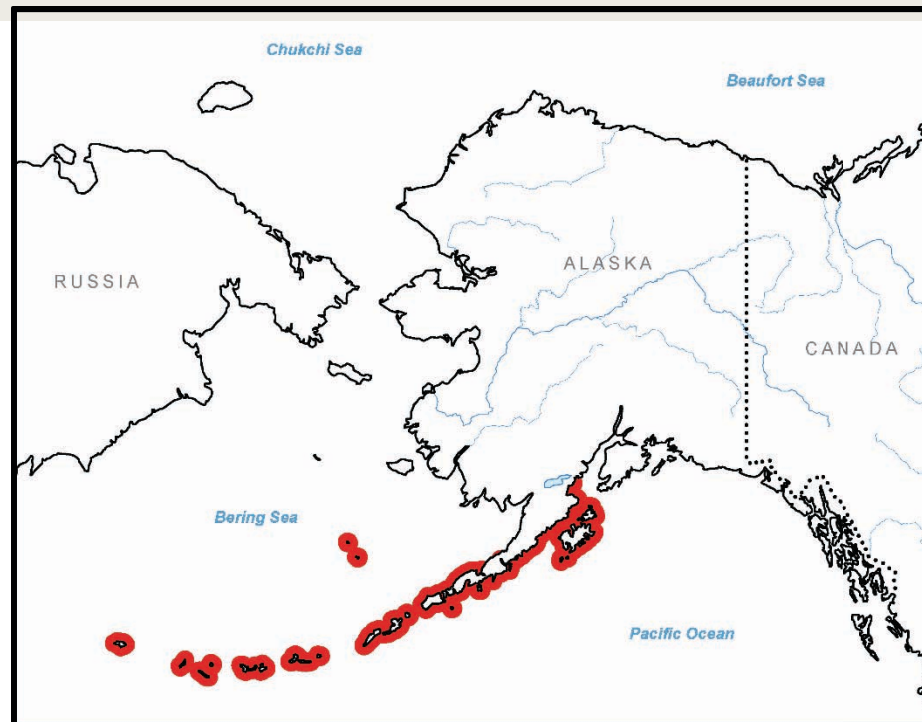
Steller's eider range



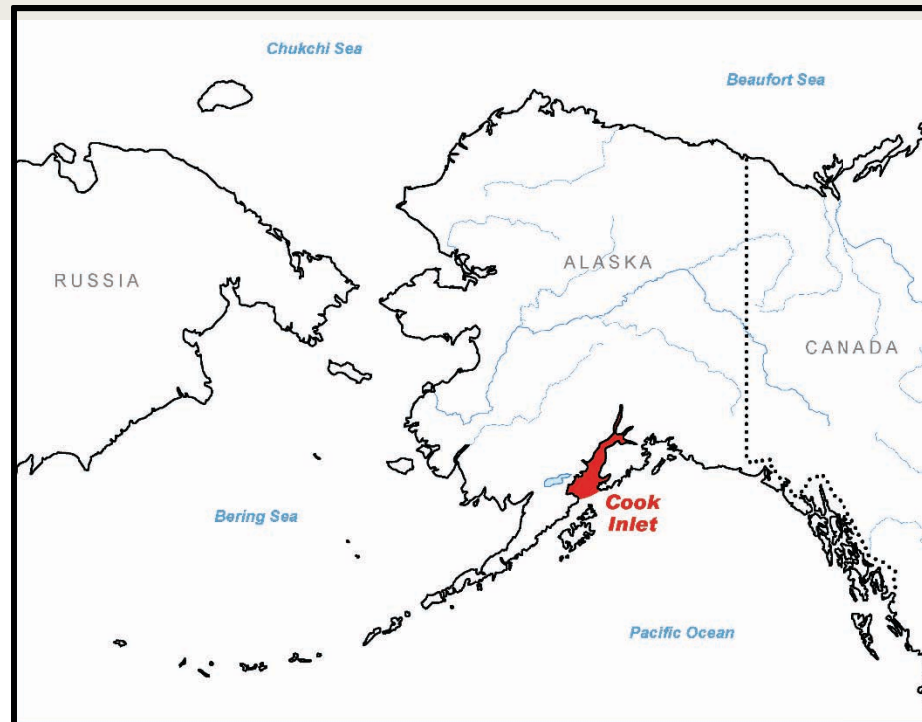
Steller's eider critical habitat



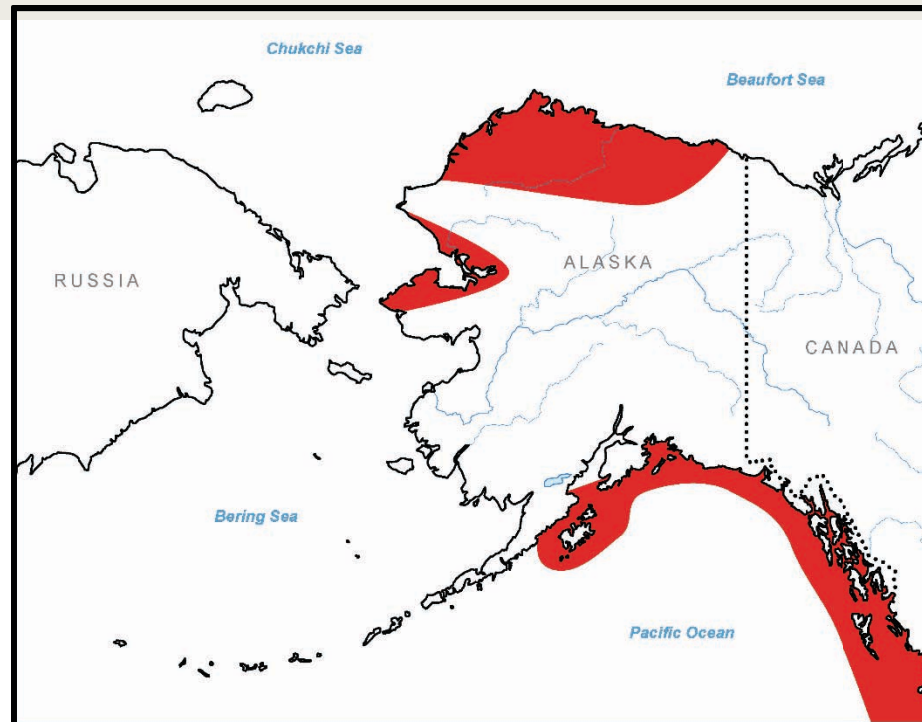
Northern sea otter range



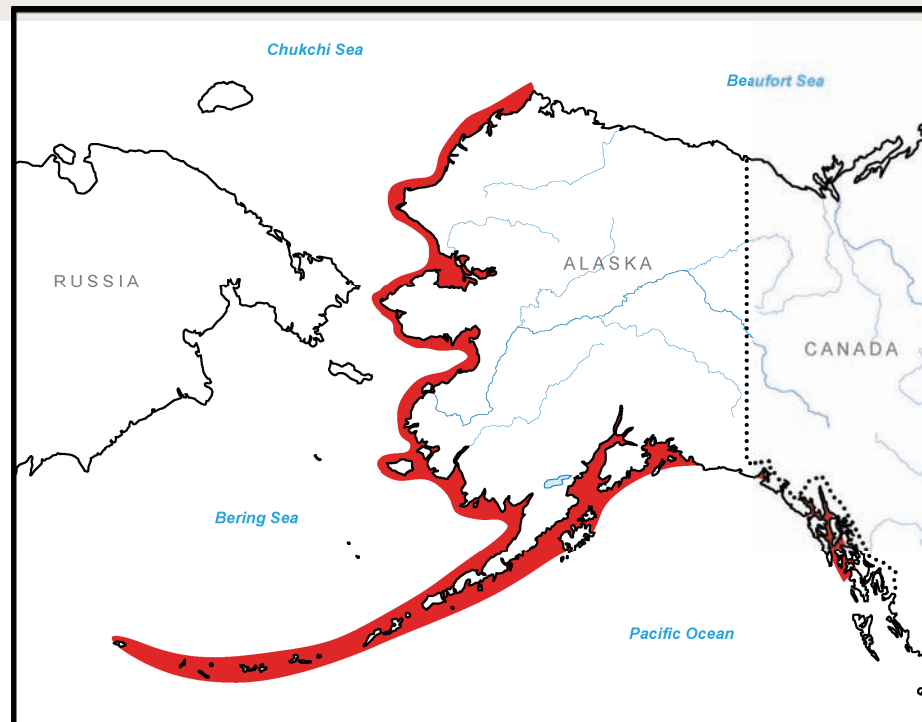
Beluga whale range (Cook Inlet)



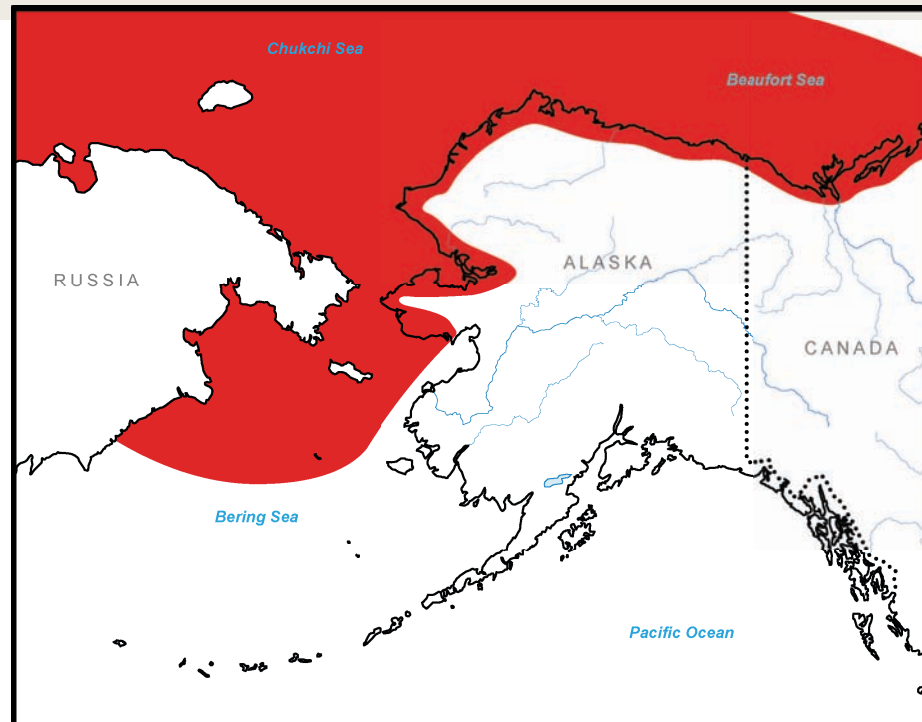
Yellow-billed loon range



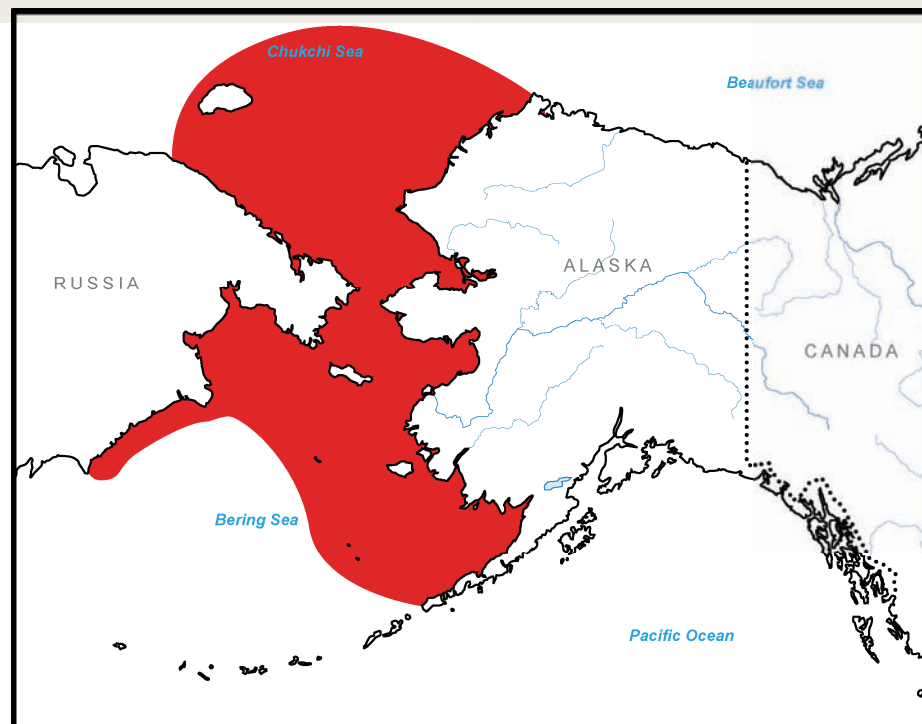
Kittlitz's murrelet range



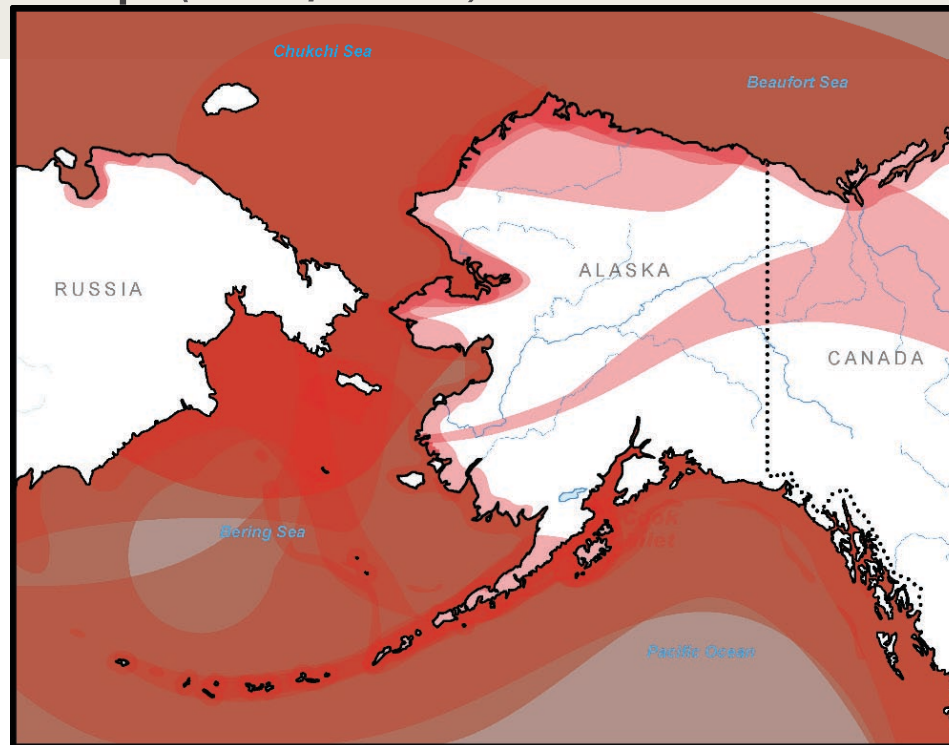
Polar bear range



Pacific walrus range



Compilation map (All Species)*



*Does not include the seal species currently in dispute: bearded seal, ribbon seal, ringed seal, and spotted seal.

Broad areas of concern

- Getting species off the list
- Adding species to the list

How's it doing?

1,661

**SPECIES LISTED
SINCE 1973**

**ONLY
54
RECOVERED**

**3%
SUCCESS RATE**



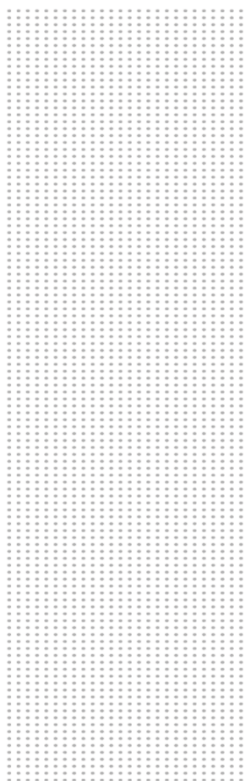
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Why is recovery so difficult?







Fierceowl
Newport
Beach,
California

📍 12 👍 16



Reviewed July 12, 2016

So you want to see eagles?

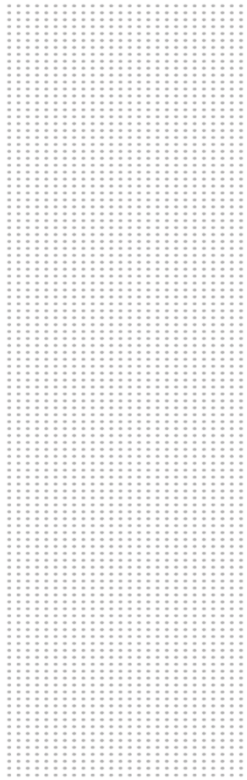
Good reliable McDonalds with cafe seating at the back with fabulous views. Eagles like to hang out in the trees there sometimes. Good WIFI.



1 Thank Fierceowl



Why is recovery so difficult?



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Issues with Listing Species

Endangered - any species that is in danger of extinction throughout all or a significant portion of its range;

Threatened - any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range

Issues with Listing Species

Climate change

Key issue for ice dependent species like the polar bear, walrus, bearded seal

Just out - the POLAR ICE CAPS are at an all time high, the POLAR BEAR population has never been stronger.

2:15 AM - 29 Oct 2014

- Effective at preserving species, but not at achieving recovery.
- More and more species listed, without a commensurate increase in recovery and removal.

ESA during the Trump Administration

- “under attack”
- “sweeping changes”
- “Trump administration and Congress trying to gut it”
- “in danger of extinction”

Dealing with Emerging Issues

?????? ? ?? ?? ?? ?? ?? ?? ?? ??

- Define “**foreseeable future**” to “extend[] only so far into the future as the Services can reasonably determine that both the future threats and the species’ responses to those threats are **probable.**”[?]

Dealing with Emerging Issues

?????? ? ?? ?? ?? ? ? ? ? ? ? ? ?

- “describe foreseeable future on a case-by-case basis”
- “avoid speculating as to what is hypothetically possible”

Ever-Expanding List of Protected Species

LIST Act

- Secretary can de-list species with measurable data showing species has recovered
- Bars those shown to have submitted false data to cause listing from submitting petition for 10 years

Ever expanding list of protected species

PETITION Act

- Allows Secretary to declare a “petition backlog” when frivolous petitions leave FWS vulnerable to deadline lawsuits

Increasing state and local involvement

- Collectively states spend \$5.6B on conservation
- 11,000 wildlife biologists
- 10,000 wildlife law enforcement officers
- On the ground local knowledge

Senate Republican Policy Committee

Increasing state and local involvement

The Endangered Species Transparency and Reasonableness Act

- Federal government must disclose all data to affected states prior to listing

Increasing state and local involvement

EMPOWERS Act

- Agencies consult states before listing
- Agencies explain decisions that differ from findings of state

Increasing state and local involvement

LOCAL Act

- Codify voluntary conservation programs

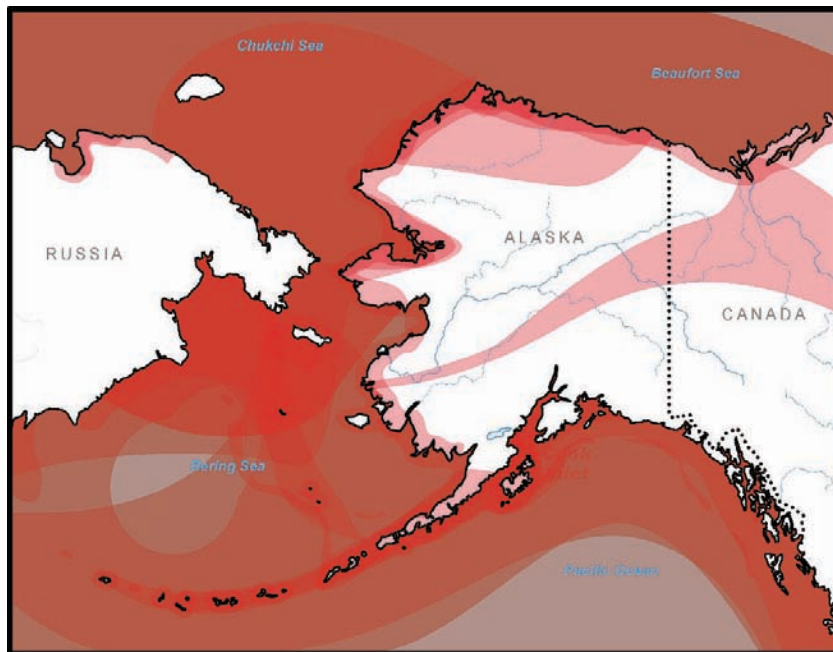
LAMP Act

- Cooperative management agreements with states, local governments, tribes, and other non-federal persons
- Empowers states to lead existing conservation programs

Costs of litigating ESA lawsuits

The Endangered Species Transparency and Reasonableness Act

- Track and make available: (1) funds expended to respond to ESA lawsuits, (2) number of e/ees dedicated to suits; and (3) attorneys' fees awarded
- Caps attorneys' fees and makes ESA consistent with other laws



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