



Advisory Panel MINUTES

June 4-7, 2019 – Sitka, AK

The Advisory Panel met Tuesday, June 4, through Friday, June 7, 2019, in the Silver Room in Sitka, Alaska. The following members were present for all or part of the meetings (absent members are ~~stricken~~)::

Christiansen, Ruth	Kauffman, Jeff	Stevens, Ben
Cochran, Kurt	Kwachka, Alexis	Upton, Matt (Co-Vice Chair)
Donich, Daniel	Lowenberg, Craig	Vanderhoeven, Anne
Drobnica, Angel (Co-VC)	Nichols, Carina	Velsko, Erik
Gruver, John	O'Connor, Jamie	Weinstein, Samantha
Gudmundsson, Gretar	O'Donnell, Paddy	Weiss, Ernie (Chair)
Hayden, Natasha	Peterson, Joel	Wilt, Sinclair
Johnson, Jim	Scobic, John	

The AP approved the minutes from the April 2019 meeting

C1 BSAI Crab Specs

AP Motion 1

The AP recommends the Council adopt the SAFE report and approve the OFLs and ABCs for Aleutian Island Golden King Crab and Pribilof Island Blue King Crab, as recommended by the CPT and SSC.

Motion passed 19-0

Rationale:

The AP appreciates the effort and work-product provided by the CPT and SSC.

AP Motion 2

The AP recommends the Draft Purpose & Need Statement:

The St. Matthew Island blue king crab stock was declared overfished on October 22, 2018 because the estimated spawning biomass was below the minimum stock size threshold specified in the crab FMP. In order to comply with provisions of the Magnuson-Stevens Fishery Conservation and Management Act, a rebuilding plan must be implemented prior to the start of the 2020/2021 fishing season. The St. Matthew Island blue king crab directed fishery has been closed since the 2016/2017 season. The St. Matthew Island Habitat Conservation Area (SMIHCA) was created in 2008 and expanded in 2010 to protect blue king crab habitat; vessels fishing with non pelagic trawl gear are prohibited from fishing in the SMIHCA. Other fishery closure areas include a 20nm Steller sea lion closure around the southern tip of Hall Island to trawling, hook-and-line, and pot fisheries for pollock, Pacific cod, and Atka mackerel. In addition, all state waters surrounding St. Matthew, Hall, and Pinnacle Islands are closed to the taking of king crab and to commercial groundfish fishing. This action is necessary to facilitate compliance with the requirements of the MSA to end and prevent overfishing, rebuild overfished stocks, and achieve optimum yield.

Alternatives:

Alternative 1: No Action

Alternative 2: Set target rebuilding time frames (T_{TARGET}) based on the minimum and the maximum number of years necessary to rebuild the stock.

Motion passed 19-0

Rationale:

- *Taking action to develop and implement a rebuilding plan for this fishery is required under the MSA.*
- *As highlighted by the crab plan team, further decision points need to be resolved at the September 2019 CPT meeting. (i.e. Baseline years to use as a measurement for rebuilding, T_{min} & T_{max}).*
- *The model shows that turning groundfish fisheries' bycatch on/off does not affect the rebuilding timeline.*
- *In-season management has the ability to close fisheries if SBMKC is approaching an OFL limit.*

C2 GOA Pollock/cod

AP Motion 1

The AP recommends the Council take final action and adopt the following preferred alternatives and options on the GOA pollock/cod season allocation action:

Alternative 2:

Combine the A and B season into a single season (January 20 through May 31) and combine the C and D season (august 25 through November 1) and allocate pollock amount among a combined A/B and C/D season 50% to the A/B season and 50% to the C/D season. These changes are applicable to area 610, 620, and 630.

Alternative 3:

Option 3: CGOA. A season 27.37285% B season 14.2112%

WGOA A season 33.46% B season 4.94%

Motion passed 15-4

Rationale:

- *Combining seasons will increase flexibility for the fleet, allowing them to maximize fishing opportunities during higher quality roe conditions and potentially decrease salmon PSC*
- *The analysis suggests that there are many business and operational decisions that could influence changes in participation in the pollock fishery that make it difficult to determine whether changing seasonal management would add any additional risk of increased participation than already exists under status quo conditions.*
- *Moving more cod to A season will reduce stranding of cod and allow boats to fish when there are fewer halibut interactions, thereby reducing bycatch*
- *Cod should be moved to the A season to the extent permitted by the Office of Protected Resources. The AP recommendation differs from the Council's PPA by only 2 %. The agency will need to*

determine whether this represents a meaningful number that would result in concerns for SSL management.

- *The increased rollover option would likely increase the stranding of fish because it would be attributing more pollock to the same unproductive area, instead of other regulatory areas, where CPUEs may be higher.*

Minority Report:

A minority of the AP did not support Alternative 2 (combining the A&B Season to an A season and the C\D season to a B season). Many Kodiak trawlers believe the threat remains for additional vessels, including AFA non exempt CV's, to enter this GOA pollock fishery and fish their sideboard quota up to the sideboard limit. Additionally, typically early in the A season (starting January 20th), there are high Chinook by-catch rates, especially in years of low CPUE. Organizing voluntary stand downs has greatly helped the fleet manage PSC. Having more vessels in the GOA will make it more challenging to stand down due to high Chinook by-catch or to form voluntary catch shares. There are a lot of moving parts to this issue, and there is significant disagreement among GOA trawlers and participants that combining pollock seasons will provide a benefit.

A minority of the AP also did not support Alternative 3, option 3. The GOA Cod TAC was decreased 80% in 2018-2019 and there remains significant uncertainty with the status and health of cod stocks. There is concern that moving more cod TAC from the B Season to the A season will result in more harvest during the spawning season and negatively impact the spawning biomass in times of low abundance. In the absence of current survey data, it is premature to move forward with this action. This action should be delayed until the results of the 2019 bottom trawl, set line and ADF&G surveys are available to shed some light on the conditions of the cod stocks.

Signed: Patrick O'Donnell, Alexis Kwachka, James Johnson and Joel Peterson

AP Motion 2

The AP recommends the Council adopt moving the fall pollock season August 25 to September 1 start date.

Motion passed 16-3

Rationale:

- *Moving the season date back seven days will increase efficiencies for harvesters and processors, allowing them to complete the salmon season before beginning pollock. This will result in more consistent work for processors and help address operational decisions for salmon fishermen who fish pollock.*
- *During low salmon years, processors can work with rockfish and sole boats to fill the plant before the pollock fishery opens to further reduce the potential for gaps in production.*
- *While it was acknowledged that higher salmon PSC rates occur later in the pollock fishery and pushing the season back seven days may cause the fleet to fish later in the year, having the additional flexibility to move other fisheries forward in the year, such as the rockfish fishery, has the potential to reduce salmon PSC in that fishery. The potential shifting of other fisheries will likely dampen the risk that there will be a net increase in salmon PSC in the GOA*
- *Harvesters in the WGOA are requesting this action to maximize their opportunities in the salmon and pollock fisheries.*
- *Reducing the pollock season by only seven days should not impact the fleets' ability to fully harvest pollock; there are already voluntary delayed starts in some high salmon years*

Minority Report:

A minority of the AP did not support moving the fall pollock season start date from August 25th to September 1st. Delaying the start date by 8 calendar days will push the fishery later into the year. In years of low CPUE within the pollock fishery, the season could run longer, which may result in increased chinook bycatch in October. Additionally, Kodiak plants already work with salmon and pollock fishermen to avoid overlap, which has been successful in the past. At present, the combined A/B season is only 9.5 weeks and many fishermen are concerned with giving up a week of fishing in the last weeks of the year knowing that the next paycheck is typically not until February of the following year, or 3 months later.

Signed by: Patrick O'Donnell, Alexis Kwachka, James Johnson

C3 Observer Annual Report

AP Motion

The AP supports the FMAC recommendations on the Observer Program's Annual report and 2020 ADP. We wish to highlight their recommendations to engage with the FMAC subgroup in developing EM cost reporting methods that are consistent across years and can potentially apply to the future trawl EM program. FMAC subgroup engagement is also important in reviewing potential changes to ODDS in addressing the inherited trip issues and revision of observer effect metrics prior to their being implemented.

The AP endorses the conceptual framework for partial coverage fixed gear and trawl developed by the FMAC subgroup, and recommends the Council use this framework to guide future work and priorities.

Additionally, the AP requests the Council initiate the discussion paper on a shoreside observer component for fixed gear EM vessels in conjunction with some minimal level of at-sea observer coverage.

Motion passed 18-0

Rationale:

- *The AP appreciates the analysis, recommendations, time and effort from various committees and subgroups.*
- *The conceptual framework proposed by the subgroup is intended to aid in achieving a cost-effect program while meeting monitoring objectives. It offers an important avenue for industry to weigh in and engage on management decisions and attempt to identify cost containment measures as the observer program evolves.*
- *Public testimony highlighted the support for allowing 30 more vessels into the fixed gear EM program in 2020. This is consistent with the framework which identifies a phased in participation from the sector.*
- *Initiating a discussion paper on a shoreside component for fixed gear EM vessels is a next-step that may aid in cost containment efforts*

C4 Crab Partial Deliveries

AP Motion

The AP recommends that the council:

Adopt Alternative 2;

Remove the prohibition on resuming fishing for CR crab on board a vessel once a landing has commenced and until all CR crab are landed. This will allow vessels to make partial deliveries of CR crab and then continue fishing before fully offloading all harvested crab.

~~**Option: in the event of a partial offload within a fishing trip, only entire tank crab contents may be offloaded. (Any tank started for offload must be fully offloaded.)**~~

As the Council's preliminary preferred alternative for BSAI crab partial deliveries (Agenda Item C4) and move to final action at a future Council meeting.

Amendment failed 8-9

Motion passed 18-0

Rationale:

- *This issue was brought to the Council as an industry request through PNCIAC to increase flexibility and address safety concerns from harvesters.*
- *This prohibition was initially included in the CR Program to alleviate certain enforcement concerns that have since proven to be unwarranted.*
- *OLE supports removing this prohibition (initial review analysis, p.48).*
- *Industry continues to support this action and is willing to explore options to address any agency data collection concerns. Industry expects little to no change in the resolution of catch by statistical area given multiple statistical areas may be currently fished on a trip.*
- *The Council's initial review analysis provides a good explanation of the importance and benefits of this action for harvesters to gain operational flexibility and notes minimal impacts to processors or communities from potential shifts in B or C share landings (initial review analysis, p.39-43).*
- *It is expected that partial deliveries would rarely be used and only in special circumstances, such as for logistics when delivering to multiple processors or fishing North and South quota, or to reduce risk in certain weather conditions.*
- *Western Aleutian Islands golden king crab was provided an exemption starting in 2016 to allow partial deliveries. To date, it has been used once.*
- *Partial deliveries are already allowed for Golden King crab and should be considered for the rest of the CR Program.*
- *Given CR fisheries have full monitoring and catch accounting, Alt 2 would allow partial deliveries in all BSAI Crab Rationalization Program fisheries, removing an unnecessary restriction, creating management consistency of the crab fisheries, adding operational flexibility for the fleet envisioned in the rationalization program, improving economic efficiency and at times improving safety.*

Minority Report for failed amendment:

The minority of the AP felt it important to regulatorily require the full offload of a crab tank as part of this action. Partially offloading a crab tank, then continuing a fishing trip, greatly increases the likelihood and magnitude of deadloss. Requiring the full offload of a tank is an appropriate conservation

requirement to reduce deadloss and avoid waste of a limited resource. Additionally, these requirements would reduce economic loss to harvesters and processors as a result of deadloss. It is the common practice for harvesters to allocate deadloss to A shares, rather than B or C shares. Deadloss allocated to A shares leaves unutilized IPQ shares. Uncertainty about the discussed objectives of this action (for use rarely in case of emergency as stated in the purpose and need statement or to expand live crab markets) increases uncertainty about the actual frequency with which this action would be used and thus affects the potential impacts above.

Signed: Sinclair Wilt, Ernie Weiss, Anne Vanderhouvern, Angel Drobnica, Matt Upton, John Scoblic and Jamie O'Connor

C5 Sculpins

AP Motion

The AP recommends the Council designate sculpins in both BSAI and GOA FMPs as non-target ecosystem component species as their preferred alternative and schedule final review. In doing so, establishment of OFL, ABC, and TAC will no longer be required. In addition, regulations referring to sculpins as target species will be removed and replaced with new regulations for the groundfish fisheries that:

1. Prohibit directed fishing for sculpins.
2. Establish a sculpin maximum retainable amount (MRA) of 20% when directed fishing for other fisheries.
3. Require recordkeeping and reporting to monitor and report catch and discards of sculpin species annually.

Motion passed 18-0

Rationale:

- *This action will not affect current fishing regulations for fishing seasons, gear types, or protections for habitat or important breeding areas. No effects are expected on marine mammals, seabirds, habitat, or the ecosystem.*
- *This action will not significantly change fishing mortality or spatial and temporal distribution of sculpins or other groundfish.*
- *This action will free up approximately 5,000 mt of TAC under the 2 million mt OY limit for the BSAI.*
- *Because the additional TAC reallocated to targeted BSAI fisheries is relatively small, changes to prohibited species catch are expected to be minimal.*
- *The current MRA for sculpins is 20%. The retention of sculpins is typically well below 20%, however there is no apparent conservation value in reducing the MRA to an amount below 20%.*
- *Data regarding the catch and discard of sculpins will continue to be gathered as currently takes place.*

C6 CQE Fish Up in 3A

The AP took no action on this agenda item and the failed motion is below

~~The AP recommends the Council take final action and adopt the following preferred alternatives and options in **Bold** on CQE Fish up in 3A~~

~~Alternative 1: No action (status quo)~~

~~**Alternative 2: Allow eligible CQE residents in Area 3A to fish halibut IFQ derived from CQE-held D-class QS on C or D class vessels in Area 3A**~~

~~Option 1: beginning on August 15.~~

~~Option 2: beginning on September 1.~~

~~⁺Option 3: for the duration of the annual IFQ season.~~

~~Alternative 3: Allow eligible CQE residents in Area 3A to fish halibut IFQ derived from CQE held D class QS on C or D class vessels in Area 3A only in a limited number of years:~~

~~Option 1: 2 out of 3 years~~

~~Option 2: 3 out of 5 years~~

~~Option 3: 3 out of 7 years~~

~~Note: Alternatives 2 and 3 can be combined.~~

~~Amendment¹ (to include option 3 as preferred) failed 5-13~~

~~Motion failed 6-12~~

~~Rationale against motion:~~

- ~~• Changing the IFQ program to allow D class shares to be fished up in area 3A to address a very rare situation is unwarranted considering the non-regulatory options that exist to the CQE and the increased administrative burden and associated costs to the program to add this provision.~~
- ~~• D shares provide important entry level opportunities. Access to these shares needs to be maintained and this action could de facto convert these shares into the C class for a CQE entity. The CQE has other tools available to address the problem including selling D shares to buy C shares.~~
- ~~• The problem was described as limited to existing D shares owned by the CQE, but the regulatory change would also apply to all future IFQ holdings by CQE(s).~~
- ~~• Creating different rules for IFQ held by CQEs creates inequitable regulatory tools for D class quota holders in area 3A who may face similar vessel challenges.~~

~~Rationale in support of failed motion:~~

- ~~• The IFQ Program 25 Year Review highlighted some of the severe decreases of quota holdings by residents of small, rural, coastal communities. The fish-up action would not likely result in added barriers for others to gain entrance into the IFQ fishery.~~
- ~~• The CQE program was created as a response to significant reduction of IFQ quota permits held in small coastal Alaska communities relative to historical participation.~~
- ~~• Since its implementation in 2004 only two out of the 21 eligible communities in areas 3A and 3B have been able to obtain quota, highlighting the ineffectiveness of the program as developed and the continuing barriers for communities to obtain quota.~~

- *This action is responsive to the Purpose and Need. It states “Modifying the program to allow CQEs to fish D class quota on C class vessels in Area 3A will further the Council’s intent of encouraging CQE communities to secure long-term opportunities to access halibut.”*
- *CQE communities are constrained to obtaining 10% of D Class quota for the entire area of 3A. Therefore they are limited to holding approximately 48,000 of D Class quota in total aggregate for all communities.*
- *A CQE is only allowed to lease its quota to a resident of that community. If there isn’t a vessel available to the residents they are forced to lease a boat and possibly crew from a different town, which increases the cost to harvest the quota.*
- *The margin on the debt service is very narrow and additional costs of hiring outside vessel and crew could make repaying the debt untenable.*
- *The IFQ Program already has adopted provisions to allow fish up of D Class quota in Area 3B and 4B.*
- *There is a fundamental difference between allowing an entire community to provide fishing opportunities by allowing a CQE to fish up and allowing individual quota holders to do the same.*
- *The option for a regulatory date trigger is important to minimize the negative impact on D Class quota holdings and a concession to concerns regarding the further degradation of entry level quota access. The action is important as a fallback should a CQE face vessel challenges in a given season, but should not be viewed as a default.*

D1 Salmon Bycatch

AP Motion

The AP appreciates the convening of the Workshop for both industry and agency participants and generally¹ supports the recommendations on pages 9-12 of the Report. ~~More specifically~~ **Additionally**²,

- The AP highlights the identified concern with the impending ~20% increase in production of hatchery Chinook salmon to support southern resident killer whales and how production may affect bycatch encounters in both the GOA and BS groundfish fisheries, given that methods to estimate hatchery contribution have yet to be developed due to the large mix of stocks encountered. (Recommendations 2 & 5)
- The AP recommends the Council consider the utility and/or expanded use (for management and policy decisions) of the CG Rockfish Fishery Chinook census data set (genetic, otolith, coded wire tag, adipose fin clip, sex, length, weight) that has been collected annually since 2013 and whether or not any changes to this data collection may be warranted. (Recommendation 3)
- ³The AP recommends the Council consider the continued need for time and area genetic breakouts of Chinook in the annual genetic reports, given that industry must avoid all Chinook at all times regardless of origin. (Recommendation 6)
- The AP supports the continuing development of temporal and spatial stock identification of chum salmon bycatch as sector IPAs for the BS pollock fishery include a provision to target the reduction of Western Alaskan origin chums. This information is needed to operate the Rolling Hotspot program by not closing the areas with the highest number of chum bycatch, but closing areas most likely to include the highest abundance of Western Alaska chum salmon. (Recommendation 4)
- Improved efficiency in sample collection and processing (Recommendation 7) and an upgrade in technological capacity (Future Direction 2) require funding therefore the AP recommends the

Council encourage NMFS to pursue funding opportunities to provide coded wire wands, additional staffing for efficient scale aging, and technological upgrades for the Auke Bay genetics lab.

Amendment¹ passed 19-0

Amendment² passed 19-0

Amendment³ (to strike bullet 3) failed 7-12

Motion as amended passed 19-0

Rationale:

- *The Bycatch Workshop provided a forum for informative and productive conversation and exchange of ideas amongst both industry and agency participants.*
- *While all recommendations from the Workshop are supported, the specific recommendations highlighted in the bulleted list represent priorities of the industry that are most reflective of the current management system and stated Council policy under which the industry operates.*
- *Industry members are not recommending that any current data collections and analyses be stopped at this time. Rather, industry is supportive of evaluating these genetic data sets (as written in the majority of the Workshop recommendations) under the current management system and assessing the utility of this data for potential future management needs, particularly in the context of concerns surrounding potential increased Chinook interactions from hatchery production. To this end, the AP encourages the Council to actively assess both its current policies and any potential future policies as they relate to salmon bycatch management in the GOA and BS. This is especially relevant given limited time/resources and that there are genetic data sets actively being used in management and data sets that are being collected but that are not actively being used for management purposes.*
- *While public testimony highlighted concerns with salmon bycatch numbers, the focus of the Bycatch Workshop was not on the appropriateness of bycatch numbers themselves. Instead, the focus of the Workshop was to facilitate feedback on how stock composition reports can be improved to better inform industry bycatch avoidance efforts, discuss appropriate spatial and temporal resolution of stock identification, and identify other associated analyses that could be used by stakeholders.*

Minority Report:

A minority of the AP did not support including bullet 3 (recommendation 6) as what had been characterized as a prioritization of certain workshop recommendations. The minority felt that as worded, the recommendation could be interpreted as opening the door to discontinuing data collection and reporting. While this data may not currently be used for in-season bycatch management, it is vital to maintain the time series should it be incorporated in future management actions (such as in the differentiation between hatchery and wild fish, on-board genetics, and/or changes in Council policy that might prioritize certain stocks).

Signed: Anne Vanderhoeven, Carina Nichols, Erik Velsko, Natasha Burroughs, Jamie O'Connor, Joel Peterson, Jim Johnson

D2 BSAI Cod Allocation

AP Motion 1

The AP received the BSAI Pacific cod Allocation Review. We find the objectives of A85 and the appropriate groundfish FMP are still being met and no further action is required at this time.

Motion passed 18-0

Rationale:

- *The AP appreciates the thorough review and the manner in which the information was presented making it easy to compare results across sectors.*
- *A85 has provided the stability intended for sectors in the BSAI cod fishery, has improved social and economic structures for the cod sectors, and has successfully provided entry level and local opportunities for small vessels.*
- *Current sector allocations have improved the optimum yield of the cod resource.*
- *When developed, A85 tried to achieve a complicated list of sometimes conflicting objectives. While it may not have checked all of the boxes (such as reducing the number of rollovers), it has achieved a good balance and has worked well since implementation.*
- *Trying to address a relatively minor concern such as rollovers puts the stability and other objectives that have already been achieved at risk if P. cod sector allocations were to be revisited in this action. If there are non-allocation issues of concern, they should be addressed through separate action to avoid destabilizing the cod fishery, particularly during a period of low stock abundance.*
- *A85 cannot address certain harvest limitations such as seasonal distribution, SSL restrictions/limitations.*
- *It is important to note that trawl fisheries have decreased halibut PSC, however fixed gear <60 has high red king crab and bairdi PSC. The lack of observer coverage makes it difficult to know the true extent of the crab bycatch.*

D3 AI Trawl Setaside

The AP took no action on this agenda item. The failed motions are below.

AP Motion 1

~~The AP recommends that the Council initiate an Emergency Action Management Measure, requesting that the Secretary of Commerce take emergency action to implement a Bering Sea Trawl Catcher Vessel Pacific Cod A Season Limitation of 5,000 metric tons to be harvested in the Aleutian Islands subarea, as described in Part 3.2 of the Council's Aleutian Islands Pacific Cod Set Aside Discussion paper.~~

~~The request meets the Emergency Rule criteria in that it:~~

- ~~• is the result of a recent, unforeseen event; and~~
- ~~• that it addresses a serious conservation or management problem; and~~
- ~~• that the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration under normal rule making process.~~

Motion failed 10-8

Rationale in opposition to motion:

- *Granting the emergency action request would cause an immediate split in the BS and AI for the trawl CV sector, a significant change in the fishery that should only be pursued through the normal rule making process that allows for public input and careful analysis of the impacts.*
- *The Council has been considering how to deal with having BSAI trawl CV sector allocations since the BS and AI TAC was split, the fact the allocations can be taken entirely in the BS or AI and there's a race with short seasons, is not a recent event, unforeseen, or a discovered circumstance – the criteria for emergency action. The Council is already scheduled to deal with issues in the BSAI trawl CV fishery in October, that can include protections for Adak.*
- *The emergency action could be viewed as a way to subvert the authority of a Court to serve as a check on regulations, by creating the same outcome as Amendment 113 if it is also accompanied with pressure on stakeholders to only allow Adak to process the AI trawl CV cod. It seems as though the real intent here is to put Amendment 113 back in place immediately.*
- *The emergency rule will not achieve its objective and creates a dysfunctional trawl CV cod fishery because it doesn't include a provision that Adak's plant be open, the 5,000 mt AI split could be higher than the AI DFA, no halibut is included, and there's no mechanism for AI trawl CV cod to roll back to the BS if left unharvested for any reason. Creating a crude rule through emergency action in a complex fishery will cause problems.*
- *NMFS will have to stop or delay work on other pending rules to focus on this emergency rule which could make it less likely Amendment 119, the mothership restriction, is in place by 2020.*

Minority Report:

Based on the condensed 2019 Bering Sea CV Trawl Pacific Cod A Season and the adverse impacts on the Aleutian Islands subarea as well as the Pacific halibut resource; and without the Amendment 113 protections afforded the Aleutian Island stakeholders, a minority of the AP believe that emergency action for 2020 is critical to insure there is at least a minimal fishery in the Aleutian Islands in 2020. The minority also feel that concurrent regulatory action is necessary as a follow up to address the court's remand to the Agency; however the timing to implement new regulations will continue to result in the AI fishery being preempted/closed by the Bering Sea Cod CV trawl fishery, posing significant economic harm to shoreside operations and communities and continued management challenges for halibut bycatch.

The Emergency Rule criteria requires that the Rule be in response to an unforeseen event. Over the course of the last 15 years, the Bering Sea Catcher Vessel Pacific Cod A Season has averaged 48 days, typically overlapping with the Aleutian Islands subarea fishery and therefore posing no direct threat to the Aleutian Islands fishery, in spite of the later start date for the Aleutian Islands fishery. For the first time, the 2019 Bering Sea Catcher Vessel Pacific Cod A Season posed a direct threat to the Aleutian Islands fishery because the intense race for fish shortened the Bering Sea fishery to just 12 days, creating a challenge for in-season managers and challenges with Pacific Halibut PSC management. Because the sector allocation of both Pacific Cod and Pacific halibut PSC applies to both the Bering Sea and Aleutian Islands subareas, in the absence of a Bering Sea Limitation it is likely that there will be no Aleutian Islands subarea fishery in 2020.

The Emergency Rule also requires that there be a serious conservation or management problem. The 2019 Bering Sea Catcher Vessel Pacific Cod A Season saw an increase in Pacific halibut discards and several days before the closure of the Bering Sea subarea fishery, in-season managers began warning the fleet that they were at risk of both closing the Bering Sea fishery based on the Pacific halibut PSC cap, as well as precluding the Aleutian Islands fishery.

The Pacific Halibut PSC rate in the Bering Sea is more than 8 times the rate in the Aleutian Islands fishery, the proposed Emergency Rule will help to spread this fleet both temporally and spatially to reduce the impact on the Pacific halibut resource, which is a conservation and in-season management benefit.

Finally, the Emergency Rule criteria requires that the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration under normal rule making process. Looking at the industry's performance during the 2019 Bering Sea fishery, failure to take action will almost certainly lead to the closure of the Aleutian Islands Catcher Vessel Pacific Cod A Season and potentially continue to pose challenges for halibut bycatch management. In direct response to these problems, the Council has announced their intent to consider one or more FMP amendments later this year, but those amendments are expected to take one or more years to develop and implement. There are no other timely regulatory avenues available to the Council to address the ecological, economic and social problems that the current Bering Sea Catcher Vessel Pacific Cod A Season are imposing on the Aleutian Islands fishery, it's stakeholders and communities.

The proposed emergency petition would not restore amendment 113, and there is no guarantee that any Pacific Cod will be landed in Adak or Atka. The action would simply guarantee that there is an Aleutian Islands Pacific Cod A Season, creating some opportunity for the harvesters and other stakeholders who have invested in, and are dependent this fishery.

Signed: Angel Drobnica, Carina Nichols, Erik Velsko, Jamie O'Connor, Jim Johnson, Ernie Weiss, Natasha Hayden and Alexis Kwachka

AP Motion 2

~~The AP Recommends that the Council initiate a Discussion Paper to develop an "Aleutian Islands Focused Limited Access Privilege Program", as described in Part 3.3 of the Council's Aleutian Islands Pacific Cod Set Aside Discussion paper. The Aleutian Islands LAPP should incorporate the Bering Sea Trawl Catcher Vessel Pacific Cod A Season Limitation of 5,000 metric tons, the pre-season notification and shore plant delivery requirements, and all other features of Amendment 113 permitted within a LAPP framework.~~

~~This action is consistent with the recent court opinion that "... the NMFS must take some affirmative action, such as beginning a new rule making..." as described the Council's Aleutian Islands Pacific Cod Set Aside Discussion paper.~~

Motion failed 7-10

Rationale in opposition to motion:

- *The Council is already developing a BSAI trawl CV LAPP in October, starting a separate and trailing AI trawl CV LAPP process would be redundant and creates another layer of complexity.*
- *Protections for Adak will be considered as part of the BSAI trawl CV LAPP, and the motion is too outcome oriented and may not be what comes out of the LAPP process that consider how to equitably balance the interests of all stakeholders in a fishery. For example, a 5,000 mt allocation instead of a % may not be appropriate as the BSAI cod TACs are currently in decline.*

Minority Report:

At the April 2019 Council meeting, in response to a legal opinion that remanded AM113 back to the NMFS for reconsideration, the Council tasked staff to develop a discussion paper that included potential regulatory approaches that could be used to provide opportunities for trawl catcher vessels harvesting Pacific Cod in the Aleutian Islands and delivered to Aleutian Islands shoreplants. The minority of the AP felt that from the options outlined in the discussion paper, regulatory action to implement an Aleutian Islands focused LAPP would best address the conservation and management problems associated with

repealing Amendment 113 and could happen more quickly than trying to address issues through the more complex and controversial BSAI Trawl CV LAPP that the Council may initiate in October. The Council has expressed that this issue is a priority because of the significant risk posed to AI communities and shoreside plants absence protection measures, which was displayed recently when regulatory action was quickly initiated to fix a loophole issue with AM 113. The minority believes that this issue should remain a priority and that because AM 113 has gone through years of analysis, the framework for a new program largely exists and could happen on a more expeditious path than a larger CV trawl BSAI program that will likely be highly controversial and complex, and if implemented, will take a number of years. There is nothing preventing a focused AI LAPP from eventually melding into a larger package, however this should only be done once there is clarity on the timing of the other moving parts regarding AM 113 and whether interim protections are established either through regulation, legislation or legally, and the length of time those measures would provide such protections.

Signed: Angel Drobnica, Carina Nichols, Alexis Kwachka, Matt Upton, Sinclair Wilt, Erik Velsko and Jamie O'Connor

D5 IFQ Access Options

AP Motion

The AP recommends that the Council request staff to develop an expanded discussion paper identifying considerations related to the creation of an Access Pool of halibut and sablefish QS that facilitates entry level opportunities to these fisheries in the GOA². The Access Pool would establish a new channel into the halibut/sablefish fisheries that supports entry level opportunity for crew members and vessel owner-operators for a set number of years.

Target Population:

- The target population for this action is entry level fishermen (crew and owner-operators) in GOA¹ fishing communities seeking to enter the halibut/sablefish fisheries.
- Entry level is defined as owning less than 5,000 lbs of combined QS in all areas based on 2019 quota holdings.

Mechanisms:

- The Access Pool could be funded using newly created QS units based on a one-time 1% of 2019 QS Access Pool for halibut **and sablefish in all areas 2C, 3A, and 3B, individually, and sablefish in areas SE, WY, CG, and WG, individually.**³
- The Access Pool could be funded by a tax of .5% or 1% of QS transferred, halibut **and sablefish in all areas 2C, 3A, and 3B, individually, and sablefish in areas SE, WY, CG, and WG, individually.**³
- The access pool QS units could not be sold.
- Individual participation in the Access Pool would be temporary.
- The new QS would be subject to current observer and IFQ cost recovery fees.

Entity:

- For the access pool entity, explore using current MSA language related to Regional Fishery Associations (RFA) to structure the access entity, the creation of a new non- RFA entity to receive and administer the QS, and allocating the Access Pool QS units to an existing or newly formed regional organization for administration.

- The established access pool entity would receive the allocation and determine the distribution to applicants based on criteria established by the entity and approved by the Council.

The Discussion paper should:

- Highlight explicit Council decision points necessary with each of these approaches including the amount of detail needed in developing criteria for allocation.
- Explore the effect of creating a new class of Access Pool QS on the existing QS market and on existing QS holders.
- Consider whether creation of new halibut/sablefish QS units is considered an “initial allocation” under MSA guidelines for RFAs.
- Consider the appropriate number of RFAs for the action.
- **Be reviewed by the IFQ committee.**⁴

Amendment¹ passed 16-1

Amendment² passed 12-5

Amendment³ passed 12-5

Amendment⁴ passed 17-0

Motion as amended passed 17-0

Rationale:

- *This action intends to be responsive to community feedback received both in writing and in public testimony highlighting challenges in accessing halibut/sablefish IFQ fisheries, and to generate a discussion paper exploring another entry-level access channel into these fisheries.*
- *The high cost of entry has resulted in an insurmountable barrier for some individuals. An Access Pool could provide an opportunity to mitigate these costs. While both state and federal loan programs exist to provide an ownership path, and these are important to maintain and strengthen, an Access Pool could provide a new access channel for fishing communities.*
- *Stability in coastal fishing communities throughout Alaska is dependent upon access to fisheries adjacent to these communities, which have limited alternate economic opportunities. An Access Pool could serve as a tool to ensure ongoing participation by these communities.*
- *The motion is limited in scope but not intended to provide an exhaustive list of details of a program at this time. An expanded discussion paper will highlight outstanding questions, issues and potential frameworks of such a program.*
- *A better understanding of the type of entity that could hold quota in the context of MSA, the target population, and a potential funding source would serve to provide guidance for stakeholders to make recommendations for next steps without extensive Council time.*
- *It is intended that the quota source be structured as a new pool of QS units that would be added to the number of total units but would result in fewer pounds of halibut/sablefish allocated to traditional QS holders on an annual basis. This approach is responsive to quota share holder’s feedback and the current loans that individuals have for purchased IFQ tied to QS units.*
- *It is not intended that the Council would create the entity, but would make QS available for an entity to apply for. The entity would then develop eligibility criteria for participants and submit it to NMFS and the Council for review. Questions remain as to how many entities could form.*
- *As stated in the staff briefing, the genesis of this agenda item was the Council request for a discussion paper to review Norway’s Recruitment Quota and similar global examples of programs that facilitate access opportunities for rural communities and new entrants within limited access fisheries and how these programs may apply to the Halibut and Sablefish IFQ Program.*

- *The problem with barriers to entry are not unique to Alaska, as Washington and Oregon have rural fishing communities and fishermen struggling to fully participate in the fishery and it's imperative that all states that participate in the fishery have an opportunity to inform and guide the council process on this important issue through the IFQ Committee process.*
- *This motion is consistent with the Council's intent when commissioning the discussion paper that it be presented to the IFQ Committee (see page 11 of the staff report).*
- *It is appropriate and consistent with the existing IFQ Committee review process of stakeholder engagement to have the findings in the IFQ Access Discussion Paper reviewed and vetted as is the charge of this stakeholder committee.*
- *A white paper from the Norwegian government is being developed on the performance of its access program that should be utilized by the IFQ Committee to help inform its efforts on this matter.*

Rationale against amendment striking reference to the specific regulatory areas that would fund an access pool:

- *This action should specify the GOA regulatory areas as those funding the access pool, as the Bering Sea already has an access pool through the CDQ program for a target population of Bering Sea communities*

Rationale against amendment striking reference to target communities as those in the GOA:

- *The intent of this action should be to provide for the ongoing participation of individuals in fishing communities adjacent to the resource, which should focus this action on Alaska coastal fishing communities. These fishing communities have limited economic opportunity and have been the primary voices asking for a mechanism to provide another channel of opportunity to participate in the fishery. GOA residents in particular have limited opportunities available and should be a focus of this program.*

Substitute motion

The AP recommends that the Council direct staff to present the IFQ Access Discussion Paper to the IFQ Committee for their consideration.

Substitute Motion failed 7-10

D6 BS FEP Report

AP Motion

The AP recommends that the Council approve the Bering Sea FEP Team Terms of Reference, after they are revised to clarify that the term "management" in the first bullet under the "Outreach and Communication" heading references getting feedback on the fishery management process as relevant to the Bering Sea FEP. 2.

The AP recommends that the Council approve the workplans for the Climate Change and TK/LK and Subsistence modules in principal with the following revisions:

- Both workplans should be revised to reflect a narrow focus and a 2-3 year schedule.
- Remove appendices from the LK/TK and subsistence workplan.

The AP concurs with the BS FEP Team recommendations for qualifications for both Action Module Task Forces. The Ecosystem Committee recommends that Action Module Task Forces should be appointed by the Council chairman after consultation with other organizations and groups, as necessary.

Motion passed 17-0

Rationale:

- *The Council adopted the core Bering Sea FEP in December and prioritized the climate change and traditional knowledge/local knowledge/subsistence action modules.*
- *It is now time to develop these action modules. The FEP plan team and staff have done an excellent job preparing these draft workplans with significant input from the public.*
- *This motion moves forward the Ecosystem Committees recommendation, which was adopted by consensus.*
- *This recommendation moves the workplans forward in concept, recognizing that the Task Forces will continue to shape the workplans, once formed.*
- *Focusing the workplans in on a 2-3 year timeline keeps these as focused, near-term projects. The goal is to have an action module within this timeframe.*
- *The draft action module workplans contain recommendations for the number and type of people who should be on the respective task forces. This fulfills the goal of forming a diverse task force that can succeed in developing the action module.*

D7 SSPT Report

The AP took no action on D7

D8 CEC Report

The AP took no action on D8