ADVISORY PANEL
Motions and Rationale
June 6-8, 2023 - Sitka, AK

C4 BBRKC Closures

Motion 1

The AP recommends the removal of Section 4 Discussion: Trawl Gear Performance Standard and Pelagic Trawl Gear Definition from the analysis. As requested in the Council's December 2022 motion, an expanded discussion on the trawl gear performance standard and pelagic gear definition was included in the initial review analysis, however, it does not meet the Purpose and Need and should be removed.

Substitute Motion

The AP recommends that the Council refine this initial review document prior to moving forward with selecting preferred alternatives. To that end, the AP recommends the Council initiate a second initial review document to revise the purpose and need statement to include an ecosystem based fishery management approach for BBRKC. This would include alternatives that would offer habitat protections and consider regulatory revisions of the definition of "pelagic trawl gear" and that the Council consider a revised gear performance standard and reducing seafloor disturbance.

Substitute Motion failed 7/10

Motion 1 as amended

~~The AP recommends the removal~~ **separation** ~~of Section 4 Discussion: Trawl Gear Performance Standard and Pelagic Trawl Gear Definition from the analysis. As requested in the Council's December 2022 motion, an expanded discussion on the trawl gear performance standard and pelagic gear definition was included in the initial review analysis, however, it does not meet the Purpose and Need~~ **and should be continued in a separate action** ~~and should be taken up in another agenda item~~ **and that the results could be important to the BBRKC** ~~and the analysis should be removed considered in the BBRKC closure savings area.~~

*Motion 1 as amended withdrawn (**Amendments** to Motion 1 withdrawn)*

Motion 1

The AP recommends the removal of Section 4 Discussion: Trawl Gear Performance Standard and Pelagic Trawl Gear Definition from the analysis. As requested in the Council's December 2022 motion, an expanded discussion on the trawl gear performance standard and pelagic gear definition was included in the initial review analysis, however, it does not meet the Purpose and Need and should be removed.

Motion passed 12/6

Motion 2

The AP recommends that the Council initiate a second Initial Review Analysis of the BBRKC Closure Areas. Additional considerations should include but not be limited to the following:

- Evaluate and provide evidence that the RKCSA/SS, as currently defined, is important and beneficial to the BBRKC stock, specifically is the RKCSA/SS the correct area?
- Elaborate on the relative importance of the NMFS Area 512 to the BBRKC stock.
- Enhance the use of best available science on BBRKC stock distribution and habitat.
    - Historical scientific literature
    - Council EFH reviews
    - Annual NMFS EBS bottom trawl surveys
    - Data from 2023 BSFRF winter survey and potential for additional winter surveys in the future
- Enhance the analysis and narrative of tradeoffs to bycatch and fishing operations to the groundfish fisheries that would be affected by the potential actions.
    - Improve the information in appendix 2 and include said information as a primary analytical element of the EA/RIR.
    - Expand PSC data beyond the last 3 years.
    - Include analysis of tradeoffs for halibut bycatch that includes A 80 fisheries historic use of RKCSSA based on years prior to 2020 when cap was reduced to two lower rungs of ladder (99K and 32 K).
    - Include engagement with groundfish fishery participants to gain local knowledge.
- Remove section 4 Discussion: Trawl Gear Performance Standard and Pelagic Trawl Gear Definition.
- Include information from potentially ongoing projects that address gear-seafloor interactions for all gear types and BBRKC distribution.
- Expand on the Council's recommendation to evaluate the potential tradeoffs and challenges of establishing dynamic closure areas to promote the BBRKC stocks.
- Describe rationale for 50K area-swept trigger for access to RKCSA and RKCSSA, likelihood RKC stock will be above that threshold under prevalent ecosystem conditions in recent years
- Discuss tradeoffs and merits of 50K area swept trigger compared to current trigger for fisheries currently affected by RKC PSC caps (whether there is a directed RKC fishery)
- **(1) Consider the impact of bottom contact by all gear types in the BBRKC savings area on the BBRKC stocks and ecosystem.**

Amendment passed 17/0
Main motion as amended passed 12/4 (one abstaining)

Motion 3

The AP recommends that Section 4 from the BBRKC Closure Area analysis, "Discussion: Trawl Gear Performance Standard and Pelagic Trawl Gear Definition" be developed into a discussion paper and treated as its own agenda item.

Motion failed 9/9

Rationale in favor of Motion 1:

- *The request from the Council in December of 2022 for an expanded discussion on the trawl gear performance standard and pelagic trawl gear definition was met. This expanded discussion no longer fits within this action item and should be separated.*
- *Section 4 of the analysis that discusses the trawl gear performance standard and pelagic trawl gear definition and the conclusions do not fit under the current purpose and need. This is already a complex issue addressing the BBRKC Stock and keeping section 4 could complicate and bog down the analysis.*
- *While the gear definitions under 679.2 and CFR 600.10 are not consistent or aligned, this Initial Review Analysis is not the appropriate action item for the council to decide whether they want to explore changing them. It will only complicate the process and slow down the focus on BBRKC.*
- *This Initial Review is very specific to not only the Bering Sea but also to the BBRKC Stock area, but any changes to the pelagic trawl definition could affect the pelagic trawl fleet in the GOA. There are trawl vessels that fish both the Bering Sea and the GOA so this could have deeper implications beyond the scope of this Agenda Item. This was a concern expressed in public testimony.*
- *The analysis pointed out that only 29 statements were made with 54 potential occurrences (out of a period that consisted of approximately 192,000 pollock hauls) had potential performance standard violations. One interpretation of these minimal violations is that the performance standard is not working, but the opposite assumption could be made that the few violations indicate the performance standard is working and that bycatch is being minimized, which would place it outside the original purpose and need.*

Rationale against Motion 1:

- *Removing exploration of the pelagic gear definition makes moving forward with the RKCSA analysis less desirable as it seems to discount the potential impact of that gear type on the bottom.*

Rationale Against Substitute Motion for Motion 1:

- *Some members of the AP expressed concern that if the analysis goes through another initial review but language to revise the purpose and need, or for the referenced Alternative 3 is not provided to the Council or analysts prior to that, it will lengthen the process. This has potential to create a third initial review to assess the tradeoffs of the potential new Alternative.*
- *The task of regulatory revisions to the pelagic trawl definition is much broader than the scope of the BBRKC closure area agenda item. This could affect more than just the operations of fisheries in the BBRKC stock area and RKCSA. The effects would include the Bering Sea, Aleutian Islands, and Gulf of Alaska as well as interactions with other species and ecosystems.*
- *The substitute motion does not respond to the requests of the crab industry to take action sooner rather than later. Inclusion of an EBFM approach, potentially new alternatives, regulatory revisions to the pelagic trawl gear definition, and a revised performance standard have the potential to slow down the process of considering closing the RKCSA to a broader set of gear types.*

- *The focus on a revised performance standard does not fit within the current purpose and need nor the alternatives since the alternatives reference gear type, not performance of the gear.*
- *Asserting that Ecosystem Based Fishery Management may benefit the conservation or expedited protection of BBRKC may not be a realistic expectation or one that the council should expect. Recent years have shown volatility in the BSAI's ecosystems and the assumptions we base much of our management on there may no longer hold as true as they once did. The distributions, abundances, and intra/inter-species interactions of species which affect (in any capacity) BBRKC are far from static and are instead increasingly dynamic. Basing management expectations on something as important as BBRKC protections and potential Area closures on a management practice with so much uncertainty may present all affected or potentially displaced fisheries with consequences difficult to predict and may ultimately open these important management decisions to bodies outside of the council process.*

Rationale in favor of Substitute Motion for Motion 1:

- *The substitute motion is responsive to requests in public comment for protections of BBRKC and their habitat.*
- *Retaining Section 4 is consistent with the intent of the Council's original action. Retaining section 4 will help enable the protection of red king crab habitat.*
- *Unintended impacts to crab from fishing gear is of great concern and should continue to be analyzed. This concern is heightened for vulnerable periods of crab life cycles, especially during adult mating and molting. Juvenile crab will molt several different times per year until ~3 years of age, making it more important to protect them year-round.*
- *As shown in several Council documents now, pelagic trawls are often fished on the seafloor. The use of large mesh in the forward part of the trawl should allow most crabs that encounter the footrope, or leading edge of the net, and other trawl components to avoid capture in the codend. Thus, observed bycatch may be very low and likely underrepresents the number of crab that are impacted or killed by the gear on the seafloor.*
- *An exploration into the use of modern technologies for seafloor contact monitoring, or research thereof, and implementation, if enforceable, would allow trawlers to fish close to the seafloor with limited to no bottom contact.*

Rationale in favor of Motion 2:

- *The status of the BBRKC stock is concerning, and sound decision making necessitates an analytical document that provides the best scientific information available, especially given the complexity of this issue and the potential for significant outcomes for multiple Bering Sea fisheries.*
- *A question that has been brought up in comments and public testimony is, is the RKCSA the right area to protect? There are a lot of concerns that the RKCSA is a 30-year-old static closure, that hasn't been reviewed for its efficacy. Recent survey data have caused people to question if the crab are even reliant on the current RKCSA/SS boundaries.*
- *While the importance and benefits of the RKCSA/SS to the BBRKC stock is in question, it's been clear through discussion and testimony how important portions of the RKCSA/SS are to the groundfish fisheries to effectively and efficiently execute their target fishery and minimize to the extent practicable bycatch of various species, such as Chinook, non-chinook salmon, Halibut, and herring. There are also operational decisions made by the captains in which they*

evaluate on a tow-by-tow or set-by-set basis where to fish considering bycatch avoidance, SCA limits, CVOA limitations, CPUE, fish quality, etc. This analysis attempted but only scratches the surface of the many tradeoffs, both in qualitative and quantitative forms. The analysis should assess the tradeoffs felt by all groundfish fisheries at the fishery, sector, and vessel level. In efforts to do so it has been requested to use recently defined on-ramps to include LKTKS. Local knowledge examples would be to talk to the vessel operators, trade associations, gear manufacturers, those that would hold critical knowledge not necessarily included in peer reviewed documents.

- *Public testimony highlighted that it is additionally important to include the A80 fishery into this analysis to understand how their operations in just the RKCSS could be affected, specifically by the potential 50K area swept trigger. The review did not have a broad enough or representative range of years analyzed to fully understand the effects to the A80 fishery and operations. The RKCSS is a very important area to the A80 sector to efficiently catch winter flatfish with low halibut and RKC bycatch.*
- *Appendix 2 also did not include the A80's halibut PSC bycatch and displacement tradeoffs. The displacement tradeoffs would benefit from the inclusion of more than just the last 3 years. The tradeoffs assessed in Appendix 2 would better serve the analysis if it were included in the main analysis of the EA/RIR analysis.*
- *The amendment to consider bottom contact by all gear types instead of one specific gear type is responsive to public comment and discussion that the impact of all gear types and how that contact affects the ecosystem in that area.*

Rationale against Motion 2:

- *Removing the pelagic trawl gear definition and performance standard components of the initial review document is not desired. Seafloor contact and habitat interactions are intrinsically linked and should not be separated. The pelagic trawl fleet should be held accountable if their gear is in fact not pelagic and making contact with the seafloor, especially inside the portion of the red king crab savings area that is closed to bottom trawl operations.*
- *This motion originally offered no consideration of protections for crab or crab habitat. Every bullet in the motion failed to address any concerns over the issue at hand - conservation of Bristol Bay red king crab and habitat. In December 2022, the Council acknowledged that the BBRKC stock is at a level of conservation concern and meaningful conservation measures need to be taken.*
- *Page 96 of the document states the following recommendation from NMFS to the Council: "NMFS recommends the Council consider regulatory revisions to the definition of "pelagic trawl gear" to clarify if the codend design is intended to be regulated. To effectively limit contact with the seafloor by pelagic trawl gear, NMFS recommends the Council consider a revised gear performance standard that includes modern technology integration.", and this motion is antithetical to that.*
- *This motion is not responsive to public testimony that indicated there should be consideration of how pelagic gear may be affecting RKC habitat and lifestages.*

<u>Rationale in favor of Motion 3:</u>

- *It was expressed by many AP members that the definition of Pelagic Trawl Gear should be separated from the current analysis. There was extensive discussion and public testimony about the need to re-examine this definition. This motion aims to not lose sight of this important topic and continue the conversation and potential action in another arena so the BBRCK action is not delayed further.*
- *There is a general misunderstanding in the public eye that Pelagic Trawl Gear is fully midwater and does not interact with the seafloor. However, available data shows pelagic trawl gear on the bottom 10%-100% of the time and current Fishing Effects Model bottom contact adjustments are 30-60% bottom contact for 100% of tows in the Pelagic Trawl CV sector and 70-90% bottom contact for 100% of tows for the Pelagic Trawl CP sector.*
- *Separating section 4 of the analysis could provide a solid start to a stand alone discussion paper to initiate a new action item for the Council to consider.*

<u>Rationale against Motion 3:</u>

- *Council exploration of the definition of pelagic trawl gear and regulating its ability to remain off of or on the bottom requires significant new research and exploration of technology that according to industry perspective and public comment, may not exist yet. Peer reviewed (SSC) Experimentation and analysis should be carried out to adequately assess said gear modifications before any implementation that could have significant impacts to crew and vessel safety, bycatch, CPUE, or profitability.*
- *FEM Bottom contact adjustments for BSAI Pelagic Trawl CVs and CPs derive from estimates specifically designed to inform the EFH process. The EFH process has determined that habitat disturbance in the BSAI Pelagic Trawl sector does not warrant management action. Further, industry consultation indicates that those initial estimates of bottom contact may need to be reconsidered.*
- *The potential of council management of any fishery's bottom contact or ratio of bottom contact represents a substantial change from the current paradigm of management based on ABC, TAC, OFL, and static area closure. Consideration of this paradigm shift for only one gear type may be seen as inequitable management, especially in any context of potential area closure.*