



D3 AI Community Follow Up

Discussion Paper

December 2019 Council Meeting

Action Memo

Staff: Jon McCracken

Action Required:

1. Discussion paper - review
2. Determine if further action is warranted

BACKGROUND

In October 2019, the Council asked staff to update the June 2019 discussion paper on management options available to promote conservation of Aleutian Islands (AI) Pacific cod and the sustained participation of AI fishing communities. The Council requested the updated discussion paper include changes to the Bering Sea and Aleutian Islands (BSAI) Groundfish Fishery Management Plan Amendment 113 modifications approved by the Council in December 2018, an update on the status of the Amendment 113 litigation, a discussion of how Amendment 113 addresses the national standards, and a thorough examination of options available under Magnuson-Stevens Fishery Conservation and Management Act (MSA) Section 303A for Limited Access Privilege Programs and outside of Section 303A to meet these objectives.

The Council's discussion paper request stems from the March 21, 2019, U.S. District Court (Court) opinion that the National Marine Fishery Service (NMFS) failed to demonstrate that the rule implementing Amendment 113 satisfied the requisite standards for such regulatory measures set forth by the Magnuson-Stevens Fishery Conservation and Management Act. Specifically, the Court found NMFS had not demonstrated the rule implementing Amendment 113 was reasonably calculated to promote conservation consistent with National Standard 4, and that NMFS could not show consistency with National Standard 8 because in the Court's view the rule allocates fishery resources to two particular communities. The Court vacated the rule implementing Amendment 113 and remanded the rule to NMFS for reconsideration consistent with Court's opinion.