



C1 Red King Crab Savings Area Emergency Rule Request

December 2022

Action Memo

Council Staff: Sarah Marrinan
Other Presenters: Dr. Kelly Cates (NMFS; lead)
Action Required: 1. Review emergency rule analysis
2. Provide recommendations as desired to the Secretary of Commerce

BACKGROUND

On September 28, 2022, the Alaska Bering Sea Crabbers (ABSC) submitted a petition¹ directly to the Secretary of Commerce, Department of Commerce and National Marine Fisheries Service (NMFS) to consider a proposal for emergency action to close the Red King Crab Saving Area (RKCSA) and Subarea (RKCSS) to all fishing gear from January 1, 2023 through June 30, 2023. The petition states its intent is to protect Bristol Bay red king crab (BBRKC) and their habitat from fishing impacts in an area known to be important for the stock at a critical period in the crab life cycle, in order to help the stock rebuild and produce optimum yield over the long-term. As NMFS has historically done, this request was shared with the Council and input was requested at the October 2022 Council meeting.

In response to this request, as well as other information that was shared at the October 2022 Council meeting,² the Council passed a motion³ which identified the BBRKC and Eastern Bering Sea snow crab stocks as a priority conservation concern. The motion highlighted several actions the Council supported including regulatory and non-regulatory efforts to address these stocks at this time of critical concern. One of the actions included reviewing an analysis of the emergency rule request to prohibit pelagic trawl, pot and hook-and-line fisheries in the RKCSA/ SS at this December 2022 meeting to further aid any Council recommendations. The attached analysis is prepared to fulfill that request. The motion also noted that this analysis could be used as a basis to initiate a regulatory amendment in December through the normal rule making process to close the savings area and subarea to some or all gear types.

The analysis evaluates the effectiveness of a 2023 RKCSA closure in reducing RKC PSC, as well as in providing benefits to the stock and habitat. This analysis is framed in the context of the original intent of the RKCSA. These considerations are weighed against the expected operational costs from a closure to sectors that previously relied on this area, including potential tradeoffs in these sectors' ability minimize PSC of other species.

¹ ABSC petition on RKCSA closures and letter from NMFS to NPFMC:
<https://meetings.npfmc.org/CommentReview/DownloadFile?p=40bf8d06-59df-4c3a-aed0-25a047a9cb00.pdf&fileName=B2%20ABSC%20Oct%202022%20Emergency%20petition.pdf>

² The October 2022 Council meeting also included discussion around an expanded discussion paper on the BBRKC, and industry responses to a Council request for information. The analysis, link to industry feedback on the request for information, and public comment on this topic are listed under D2 on the Council's October eAgenda: <https://meetings.npfmc.org/Meeting/Details/2946>

³ October 2022 Council motion on crab actions: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=1f631d76-5e1f-4d3b-b36c-fa0509c60972.pdf&fileName=D2%20Council%20Motion%20BBRKC.pdf>

In addition, the analysis provides information relevant for the consideration of the criteria for an emergency rule. Under NMFS' Policy Guidelines for the Use of Emergency Rules, the phrase “an emergency exists involving any fishery” is defined as a situation that meets the following three criteria:

1. Results from recent, unforeseen events or recently discovered circumstances;
2. Presents serious conservation or management problems in the fishery; and
3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

As standard with feedback for an emergency rule, this analysis is scheduled to be reviewed at the Council only. Council recommendations will be delivered to the Secretary of Commerce.

The Secretary will make a final determination as to whether to approve the emergency rule after receiving public comment on the notice of receipt of petition ([87 FR 65183](#), October 28, 2022) and receiving input from the Council and the public at the December Council meeting.