

ADVISORY PANEL
Motions and Rationale
April 5-7, 2023 - Anchorage, AK

C1 Cook Inlet Salmon

The Advisory Panel recommends the Council adopt Alternative 2 for C1: Cook Inlet Salmon FMP Amendment.

Alternative 2: Federal Management of the EEZ with specific management delegated to the State.

Motion passed 13/3 (1 abstain from vote)

Rational In Favor Of Motion:

- *Under the current court ruling, the Council has a limited timeline to amend the FMP. There was expressed sentiment that neither Alternative 2 nor 3 are ideal. Further, many AP members recognized that the choice of alternative 2 or 3 was like choosing the lesser of two evils, as many public comments and the AP discussion identified shortcomings with both alternatives. At this time Alternative 2, providing for shared management responsibility, best serves the needs of the fishery participants.*
- *Alternative 3 would require considerable resources for NOAA to create the infrastructure to manage the fishery, and was perceived to possibly result in a fishery cap that limits the fishery despite potential high abundance and river returns. This complexity and uncertainty was considered a significant reason for voting in support of Alternative 2 as opposed to Alternative 3.*
- *Majority of the public comment from the commercial fleet is in support of some version of Alternative 2. The recreational sector is minimally impacted by this decision, so preference was given to comments provided by commercial participants.*
- *There was discussion about this motion potentially setting a precedent for allowing Federal oversight of other State managed fisheries. This was not overarchingly voiced in public comment, and this is a unique situation which resulted from litigation and therefore may not be applicable to other State managed fisheries.*

Rational In Opposition Of Motion:

- *There was discussion about the motion potentially setting a precedent for allowing federal oversight of other state managed fisheries, potentially resulting in their management terms "watered down". From that perspective, Alternative 2 is concerning. The initial preference for Alternative 2 was made with the hope that necessary improvements could be made during the approximate 12 month implementation phase; but there were no supplemental suggestions or ideas for how that would occur.*

- *Public comment and AP discussion identified both deficiencies and consequences to Alternative 2. While members in opposition cannot support the motion to select Alternative 2 for final action, neither do they support Alternative 3.*
- *The action lacks Tribal consultation. Alaskan Tribal representatives noted the lack of consultation created inequity in the process.*
- *Alternative 2 depends on the State's willingness to accept partial delegated management. By accepting delegated management, the State would open the management of the UCI fishery resources to Federal intervention. The State's ability to respond would be subject to two government regulatory processes and expectations. This situation weakens the State's ability to manage its fishery resources in this region.*
- *Under either alternative, VMS requirements may be financially burdensome. The \$4,000 cost is an out of pocket expenditure and can take up to a year to receive the 75% reimbursement. VMS also has an annual cost of approximately \$1,000.*
- *The daily registration requirement can undermine safety. A vessel registered to fish in the EEZ would not be able to move inshore in response to weather conditions. This restriction would force a participant to forgo fishing or face harsh weather in small vessels typically 42 ft or less.*
- *The court mandated deadline requires action to be taken at this meeting, even though some AP members consider alternatives (2 & 3) unpalatable. This is forcing a premature decision to support an alternative that is the better of two less than ideal options.*

Rational for Abstaining From the Vote:

- *It was noted during the staff presentation that for some Tribes, Tribal Consultation did not provide for sufficient time to organize and develop formal positions on the issues, and that more time was requested to develop adequate opinions.*

Discussion Points Applicable to Any Potential Chosen Alternative

- *The AP encourages completion of the Tribal Consultation process.*
- *The AP recommends that the current conservation corridors and conservation measures remain in place.*

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C2 Salmon Bycatch Reports

Substitute Motion 1

The AP recommends the Council initiate an analysis for the management of chum salmon incidental catch in the BSAI pollock fishery. For an initial analysis, the AP supports all of the recommendations made by the Salmon Bycatch Committee for both a potential Purpose and Need Statement and potential management alternatives. Recognizing the Salmon Bycatch Committee did not reach consensus on proposed Alternative 2 for a hard cap PSC limit, the AP supports inclusion of a PSC limit alternative in an analysis and requests the Council take into account the rationale provided by Committee members on this alternative during their discussion and as outlined in their March 2023 meeting report.

The committee reached consensus to recommend to the Council the following purpose and need statement.

SBC consensus purpose and need

Salmon are an important fishery resource throughout Alaska, and chum salmon that rear in the Bering Sea support subsistence, commercial, sport, and recreational fisheries throughout Western and Interior Alaska. Western and Interior Alaska salmon stocks are undergoing extreme crises and collapses, with long-running stock problems and consecutive years' failures to achieve escapement goals, U.S.-Canada fish passage treaty requirements, and subsistence harvest needs in the Yukon, Kuskokwim, and Norton Sound regions. These multi-salmon species declines have created adverse impacts to culture and food security and have resulted in reduced access to traditional foods and commercial salmon fisheries.

The best available western science suggests that ecosystem and climate changes are the leading causes of recent chum salmon run failures; however, non-Chinook (primarily chum) salmon are taken in the Eastern Bering Sea pollock trawl fishery which reduces the amount of salmon that return to Western and Interior Alaska rivers and subsistence fisheries. It is important to acknowledge and understand all sources of chum mortality and the cumulative impact of various fishing activities. Therefore, in light of the critical importance of chum salmon to Western Alaska communities and ecosystems, consideration of additional measures to further minimize Western Alaskan chum bycatch in the pollock fishery is warranted.

The purpose of this proposed action is to develop actions to minimize bycatch of Western Alaska origin chum salmon in the Eastern Bering Sea pollock fishery consistent with the Magnuson-Stevens Act, National Standards, and other applicable law. Recent genetics stock composition information indicates that the majority of non-Chinook bycatch in the pollock fishery is of non-domestic hatchery origin; therefore, alternatives should structure non-Chinook bycatch management measures around improving performance in avoiding Western Alaska chum salmon specifically.

The Council intends to consider establishing regulatory non-Chinook PSC management measures that reduce Western Alaska chum bycatch; provide additional opportunities for the pollock trawl fleet to improve performance in avoiding non-Chinook salmon while maintaining the priority of the objectives of the Amendment 91 and Amendment 110 Chinook salmon PSC management program; meet the requirements of the Magnuson-Stevens Act, particularly to minimize salmon PSC to the extent practicable under National Standard 9; include the best scientific information available including Local Knowledge and Traditional Knowledge as required by National Standard 2; take into account the importance of fishery resources to fishing communities including those that are dependent on Bering Sea pollock and subsistence salmon fisheries as required under National Standard 8; and to achieve optimum yield in the BSAI groundfish fisheries on a continuing basis, in the groundfish fisheries as required under National Standard 1.

Council staff organized the alternatives proposed by committee members into the four alternatives presented below. The committee agreed to move forward all conceptual alternatives, and there was consensus on all but one. There was not consensus on the details of Alternative 2, which was the primary point of dialogue for committee members.

Alternative 1: No action,

Alternative 2: PSC limit for chum salmon and/or area closures

Option 1: PSC limit of zero chum salmon.

Option 2: PSC limit based on historical (32-year time series) total bycatch numbers.

Option 2a: Closure of directed pollock fishery when bycatch exceeds 22,000 (10th percentile of 1991-2022 PSC levels).

Option 2b: Closure of directed pollock fishery when bycatch exceeds 54,000 (25th percentile of 1991-2022 PSC levels).

Option 3: Weighted, step-down PSC limit triggered by a three-river chum index (Kwiniuk, Yukon, Kuskokwim) that is linked to prior years' chum abundance/ANS/escapement and weighted to account for variance in stock sizes across river systems.

Option 3a: If the chum index is average/above average for 3/3 river systems, then the PSC limit is set at 54,000 (25th percentile of 1991-2022 PSC levels).

Option 3b: If the chum index is average/above average for 2/3 river systems, then the PSC limit is set at 22,000 (10th percentile of 1991-2022 PSC levels).

Option 3c: If the chum index is average/above average for 1/3 or 0/3 river systems, then the PSC limit is set at 0.

Option 4: Implement area hard caps in genetic sampling Cluster 1 and/or implement entire area closures in genetic sampling Cluster 1 during the B-season.

Option 4a: PSC limit of 10th percentile of genetic cluster 1 chum PSC during the B Season in Region 1.

Option 4b: PSC limit of 25th percentile of genetic cluster 1 chum PSC during the BSeason in Region 1.

*Option 4c: Area Closure of genetic cluster 1 during the entire B-Season (weeks 22-45). •
Option 4d: Area Closure of genetic cluster 1 during the B-Season Early Weeks (weeks 22-32).*

Option 5 (applies to all): Implement ways for alternative measures to evolve and be refined to protect W. Alaska/Upper and Middle Yukon stocks as real-time genetic sampling becomes available.

Alternative 3: Time/area closures (these would be managed by either NMFS or within the IPAs)

Option 1: Establish a Chum Salmon Reduction Plan Agreement (RPA) during the B season requiring pollock vessels to avoid identified subareas in genetic cluster areas 1 and 2 for a specified amount of time based on two triggers being met: 1) an established chum salmon incidental catch rate and 2) historical genetic composition (proportion) of Western Alaska chum salmon to non-Western Alaska chum salmon.

Alternative 4: Additional regulatory requirements for IPAs

Option 1: Additional regulatory provisions requiring IPAs to utilize the most refined genetics information available to further prioritize avoidance of areas and times of highest proportion of WAK chums in years of low abundance.

Substitute Motion passed 16/1

Main Motion failed (in strikethrough below after rationale)

Rationale in Favor of Substitute Motion:

- *Western and Interior Alaska salmon stocks are undergoing extreme crises and collapses with long-running stock problems and consecutive years' failures to achieve escapement goals. U.S.-Canada fish passage treaty requirements are not being met, nor are subsistence harvest needs in the Yukon, Kuskokwim, and Norton Sound regions. These multi-salmon species declines have created adverse impacts to culture and food security and have resulted in reduced access to traditional foods and commercial salmon fisheries.*
- *Chum salmon returns to Western and Interior Alaska are at record lows. Yukon and Kuskokwim chum stocks have declined 85% and more compared to long-term averages. There is nothing more that Tribal communities are able to sacrifice to meet salmon escapement and rebuilding goals.*

- *The loudest request heard is action now and at this time, recommending the Council initiate analysis of the recommended alternatives and support the consensus Purpose and Need and Alternatives that were recommended by the Salmon Bycatch Committee is the best next step.*
- *While not all alternatives reached consensus, many on the AP agree we should move them forward to be analyzed including the inclusion of a hard cap. This provides the Council with the pros/cons of a range of alternatives.*
- *Many AP members had concerns about the set of numbers used in the alternatives, but felt that it was necessary to move the action forward, because it brings forward the concerns of all participants.*
- *Although there are strong reservations about the potential impact of Alternative 2 if implemented as written, many AP members and members of the public feel strongly about it. It is important at this stage to consider all alternatives in the analysis so that the Council can make more educated decisions moving forward.*
- *It is important to acknowledge and understand all sources of chum mortality and the cumulative impact of various fishing activities. Therefore, in light of the critical importance of chum salmon to Western Alaska communities and ecosystems, consideration of additional measures to further minimize Western Alaskan chum bycatch in the pollock fishery is warranted.*
- *Some AP members felt that the motion would benefit from the inclusion and analysis of a bycatch management option to implement a 3-5 day window closure for chum salmon. The AP heard public testimony that included Traditional Knowledge that spoke to the observation of chum salmon and other salmon species and the amount of time they need to traverse through natal streams and bodies of water. The use of window closures may allow the time necessary for additional salmon to successfully return to their spawning grounds.*
 - *This would be best added as an option under alternative 2 or a stand alone alternative which would add language to include an analysis on a 3 day window closure during peak chum bycatch in clusters 1 & 2. This was brought up too late in the process to be considered as an amendment. While the "Window" closure as originally described potentially disrupts the Rolling Hot Spot closure program in the IPA, it is important to let innovative ideas such as this evolve into useful management tools.*
- *Public comment indicated that the Council is encouraged to work with Tribes and in-river managers to identify stock assessment projects from Western Alaska river systems that could adequately compose a multi-river chum index.*

Rationale in Opposition to Substitute Motion:

- *AP members felt that the substitute motion does not provide analysts with direction in regard to a reasonable or feasible range of potential PSC Caps for Chum. Further there is no support in the motion for use of dynamic referencing within the timeframe used to establish said caps. Without unbounding these elements for a more extensive analysis, opposition felt that all the motion achieved was to advance the oppositional principles of public testifiers, concerned industry groups, and tribal members through a non-consensus suite of alternatives offered by the Salmon Bycatch Committee.*

Main Motion - (in strikethrough)

The AP recommends that the Council adopt the following purpose & need statement as recommended by the Salmon Bycatch Committee:

~~Salmon are an important fishery resource throughout Alaska, and chum salmon that rear in the Bering Sea support subsistence, commercial, sport, and recreational fisheries throughout Western and Interior Alaska. Western and Interior Alaska salmon stocks are undergoing extreme crises and collapses, with long-running stock problems and consecutive years' failures to achieve escapement goals, U.S.-Canada fish passage treaty requirements, and subsistence harvest needs in the Yukon, Kuskokwim, and Norton Sound regions. These multi-salmon species declines have created adverse impacts to culture and food security and have resulted in reduced access to traditional foods and commercial salmon fisheries.~~

~~The best available western science suggests that ecosystem and climate changes are the leading causes of recent chum salmon run failures; however, non-Chinook (primarily chum) salmon are taken in the Eastern Bering Sea pollock trawl fishery which reduces the amount of salmon that return to Western and Interior Alaska rivers and subsistence fisheries. It is important to acknowledge and understand all sources of chum mortality and the cumulative impact of various fishing activities. Therefore, in light of the critical importance of chum salmon to Western Alaska communities and ecosystems, consideration of additional measures to further minimize Western Alaskan chum bycatch in the pollock fishery is warranted.~~

~~The purpose of this proposed action is to develop actions to minimize bycatch of Western Alaska origin chum salmon in the Eastern Bering Sea pollock fishery consistent with the Magnuson-Stevens Act, National Standards, and other applicable law. Recent genetics stock composition information indicates that the majority of non-Chinook bycatch in the pollock fishery is of non-domestic hatchery origin; therefore, alternatives should structure non-Chinook bycatch management measures around improving performance in avoiding Western Alaska chum salmon specifically.~~

~~The Council intends to consider establishing regulatory non-Chinook PSC management measures that reduce Western Alaska chum bycatch; provide additional opportunities for the pollock trawl fleet to improve performance in avoiding non-Chinook salmon while maintaining the priority of the objectives of the Amendment 91 and Amendment 110 Chinook salmon PSC management program; meet the requirements of the Magnuson-Stevens Act, particularly to minimize salmon PSC to the extent practicable under National Standard 9; include the best scientific information available including Local Knowledge and Traditional Knowledge as required by National Standard 2; take into account the importance of fishery resources to fishing communities including those that are dependent on Bering Sea pollock and subsistence salmon fisheries as required under National Standard 8; and to achieve optimum yield in the BSAI groundfish fisheries on a continuing basis, in the groundfish fisheries as required under National Standard 1.~~

The AP recommends that the Council include the following Alternatives for analysis:

~~o **Alternative 1:** Status Quo~~

~~o **Alternative 2:** PSC limit for chum salmon and/or area closures~~

- ~~Option 1: PSC limit of zero chum salmon.~~
 - ~~Option 2: PSC limit based on historical bycatch numbers (PSC limit range 22,000–54,000)~~
 - ~~Option 3: PSC limit linked to an abundance index of Western Alaska chum salmon (PSC limit range 22,000–54,000).~~
 - ~~Option 4: Area specific hard caps in genetic sampling Cluster area 1 (Cluster area 1 PSC limit range 66,000–80,000 chum)~~
 - ~~Option 5: Implement area closures in Cluster area 1 or 2 during the B season.~~
 - ~~Option 5a: Area Closure of genetic cluster 1 during the entire B-Season (weeks 22–45).~~
 - ~~Option 5b: Area Closure of genetic cluster 1 during the B-Season Early Weeks (weeks 22–32).~~
 - ~~Option 5c: Triggered area closures in Cluster areas 1 and 2 based on chum salmon incidental catch rate and historical genetic proportions.~~
 - ~~Option 6: (applies to all): Implement ways for alternative measures to evolve and be refined to protect W. Alaska/Upper and Middle Yukon stocks as real-time genetic sampling becomes available.~~
- o ~~Alternative 3: Additional regulatory requirements for IPAs~~
- ~~Option 1: Additional regulatory provisions requiring IPAs to utilize the most refined genetics information available to further prioritize avoidance of areas and times of highest proportion of WAK chums in years of low abundance.~~

Motion 2

The AP recommends the Council task the Salmon Bycatch Committee with developing alternatives and options for reducing Chinook salmon bycatch, and to develop recommendations for addressing the salmon crisis more broadly.

Motion failed 7/10

Rationale in Favor of Motion:

- *Chinook bycatch this year (as of March 2023) already exceeds all Chinook bycatch of 2022. Meanwhile, Chinook salmon runs continue to decline throughout Western Alaska and are dangerously approaching endangered species status. Tribes and Indigenous people whose cultures and food security are inextricably linked to salmon continue to forego any harvest because runs continue at such low levels.*
- *The Salmon Bycatch Committee has been an important platform to discuss reductions of all salmon species as bycatch. This motion helps to perpetuate the conversation and continue to encourage further improvements in bycatch reduction. This does not intend to take the focus away from chum salmon avoidance measures rather it intends to maintain Chinook salmon avoidance, at the same priority level as chum salmon.*
- *This motion does not intend to distract nor discourage from the efforts being made across all fleets to monitor and reduce salmon bycatch. In the IPA presentations given to the AP, there were "Next Steps" recommendations on ways to further improve their process. These alone could be considered options or recommendations on addressing this issue.*
- *The intention of the motion seeks to improve the health and utilization of salmon throughout its range. The motion seeks to balance optimum yield under MSA National Standard 1 and continued community participation under MSA National Standard 2. MSA National Standard 3 encourages cooperation and understanding among entities concerned with the fishery. This motion includes elements that would be derived from output of the Salmon Bycatch committee which includes Fishery Stakeholders, Tribal representatives, as well as State & Federal interests. Under MSA National Standard 5, the cultural and social needs of the near shore and in river individuals and communities should be considered. The access, harvest, processing, and consumption of chum and Chinook salmon by Alaskan Natives and Tribal members are essential to their well being, identity, and continued existence. MSA National Standard 9, seeking to minimize bycatch is always first priority in this issue.*
- *When salmon stock returns are low, the individual salmon has an exponentially larger impact on the stock's rebuilding ability. The input curve for recovery is initially steep and levels off quickly. When we speak about the importance of an individual spawning salmon it is generally in a context under healthy or robust spawning numbers.*

Rationale in Opposition to the Motion:

- *In the process preceding Amendment 91, Chinook and Chum were originally combined and resulted in Chinook taking priority and chum being bifurcated from that process. Given the urgency of chum bycatch reduction, there's concern that adding it to the process would take the focus away from chum. Compliance with A91 and A110 has resulted not only in a reduction of Chinook bycatch in the BSAI pollock fishery, but also in the reliability and certainty of the Chinook census numbers across all sectors. To attempt to change that regulatory structure while simultaneously working on a massive improvement for chum would detract from the effort that could be put into chum bycatch, and also potentially jeopardize the analysis of both.*
- *The December 2022 Council directive to the Salmon Bycatch Committee was to focus on Western Alaska Chum as the priority, and the prioritization on chum should continue.*
- *Chinook bycatch is already a priority PSC for the pollock fleet to avoid, and it would be more effective to work with the IPA representatives and pollock fleet to more quickly improve their Chinook bycatch avoidance measures.*
- *Although it may seem counterintuitive, it shouldn't be seen that a lack of improvement of Chinook runs since the implementation of Amendment 91 and 110 means that those regulatory measures have failed. The AP heard both public testimony and AP discussion about the success of those measures, and the attention paid by fishermen in season. The small amounts of Chinook available to individual shoreside participants to harvest millions of pounds of pollock was noted and it is uncertain how much more the fishery can be constrained without closing it, or creating extensive consolidation.*
- *We have better resolution of data for Chinook compared to chum. Primarily, the results of the updated AEQ indicate that the impact rate of incidental take of Chinook is very low at ~3%.*
- *Moving forward on Motion 1 focuses future action on chum salmon bycatch management, which includes evaluating IPA changes. Motion 2 may also result in exploring IPA changes and there was a concern that this would result in a more complicated analysis for both species.*
- *There was concern expressed by the public that 2023 chinook bycatch has been high. Despite this increase, Chinook bycatch remains at all-time low levels, with 2023 as the second lowest Chinook catch in the last 20 years – only last year was lower.*

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C5 Greenland Turbot

The AP recommends Council take Final Action and selects its preliminary preferred alternative for this action as its final preferred alternative (shown in bold).

Purpose and Need

Whale depredation is precluding directed fishing for Greenland turbot by commercial hook-and-line (HAL) gear vessels in the Bering Sea. Participation in this fishery has been a significant source of income for a number of HAL CP vessels that primarily target Pacific cod. The importance of turbot fishing increased for these vessels as Pacific cod TACs in the Bering Sea saw major declines between 2012 and 2021. Although single pot gear is currently authorized for Greenland turbot, single pots have not been deployed because of their inefficiency in the depth and location where the fishery occurs. A regulatory amendment that would allow vessels to use longline pots when fishing for Greenland turbot would likely resolve the depredation problem and allow this fishery to resume. Other benefits of reduced whale depredation on Greenland turbot could include improved catch accounting for managers, and data quality for the Greenland turbot stock assessment. The use of longline pots could disrupt historic and current participants in the HAL CP and the Amendment 80 sectors should it encourage new entrants with no previous activity in the fishery.

Alternatives

- Alternative 1. No action (longline pot gear is not authorized for Greenland turbot in the Bering Sea).
- Alternative 2. Authorize the use of longline pot gear when directed fishing for Greenland turbot in the Bering Sea subarea.
- **Alternative 3. Authorize the use of longline pot gear only for vessels in the HAL CP sector when directed fishing for Greenland turbot in the Bering Sea subarea.**
 - o **Option 1. Exemption from the 9-inch maximum tunnel opening restriction. (The 9-inch maximum tunnel opening requirement does not apply to longline pots used to directed fish for Greenland turbot in the BS subarea.**

Motion passed 12/5

Rationale in Favor of the Motion:

- *This motion is a very specific response to a very specific problem. This action reflects the Preliminary Preferred Alternative unanimously approved by both the AP and Council during Initial Review of this action in October 2022.*
- *This action would provide a gear allowance to provide the current participating fixed gear vessels in the fishery to utilize longline pots and resume their harvest in the fishery. It does not remove harvest opportunities from other vessels using existing gear. Consistent with the analysis, this action should not limit entry, nor should it close the door for other sectors to identify innovations that may facilitate their participation in the fishery.*
- *As evidenced by public comments, Alternative 2 could result in an influx of entrants outside of the freezer longline fleet, including vessels that have not participated in the fishery for 10-20 years. Given the small size of the fishery, even a few additional participants outside of the freezer longline fleet could result in the closing of the directed fishery altogether to avoid the TAC being exceeded since the Greenland turbot ABC is very low and is projected to continue to decline, particularly without a slope survey to inform the assessment.*
- *The cooperative agreement between the FLC sector and the Amendment 80 sector has been in place for many years, initially created in response to a Council request to work outside the regulatory process. Alternative 2 would jeopardize the effectiveness of that agreement.*
- *An Alaska Native Corporation and multiple CDQ groups have investments in the FLC sector and the opportunity to access turbot more easily through these platforms may create downstream positive effects for the individuals that benefit from programs paid for by those organizations.*
- *The FLC fleet is under 100% observer coverage with historically reliable data quality. Alternative 2 could include many vessels in the partial coverage fleet.*
- *The proposed exemption to the 9-inch tunnel opening restriction on longline pots is an important element to carry forward in this action. The analysis notes that removing the 9-inch tunnel opening requirement would be preferred by NOAA enforcement in that it would provide consistency between fisheries. Fishery participants cite the importance of a larger opening to facilitate successful harvest of Greenland turbot with longline pot gear*

Rationale in Opposition to the Motion:

- *In October of 2022, language was added to the initial motion that significantly changed the intent of the original language of this action. The original action was inclusive of the entire HAL fleet and the new language changes that from sector wide to an action that benefits approximately 4-9 out of 77 currently eligible LLP holders.*
- *The purpose and needs statement identifies whale depredation as a barrier to the directed greenland turbot HAL fleet's viability. Alternative 3 does not solve the problem of whale depredation for that sector, but creates a solution to an exclusive subsection of that sector; thus making that small number the only viable harvesters within an eligible fleet.*
- *Alternative 3 creates excessive privilege for a small sector of the HAL fleet which is not in line with MSA National Standard 4.*
- *AP discussion noted that multiple members on the AP voted in favor of this PPA in October 2022 as to not hold up the action and help the FLC resume fishing practices with a more effective gear type. However, these members have expressed regret in not showing opposition to the changes between Alternative 2 and 3 in the previous meeting to show consistency with their current views of Alternative 3 creating excessive privilege and excluding other historical or new participants in the fishery.*

Substitute Motion

Choose Alternative 2 as the Preferred Alternative

Alternative 2. Authorize the use of longline pot gear when directed fishing for Greenland turbot in the Bering Sea subarea.

Substitute motion failed 5/12

Rationale in Favor of Substitute Motion:

- *Alternative 2 encompasses the initial intent of this request by the FLC when it was first brought to Council attention in 2020 and in the first discussion paper in 2022. It addresses the need for a change in gear type to decrease whale depredation on a directed fishery.*
- *Longline pots have been proven effective to decrease whale depredation in other similar directed fisheries and there is unanimous support for this gear type to be recognized as legal for this fishery. However, to restrict use of this gear type to a very small sector of LLP's is in violation of MSA National Standard 4 by granting excessive privilege to a small share of the historical participants in this fishery.*
- *If LLP holders not in the FLC intend to fish for Greenland turbot with this gear type they will have to completely revisit this process. This would most likely utilize excessive staff time and resources to repeat this analysis and lengthy process. At this time, there does not appear to be a large number of vessels interested in this niche fishery, therefore a large risk of undermining the current participation does not seem imminent.*

Rationale in Opposition of Substitute Motion:

- *This action was brought forth by the LL CP sector to solve a very specific problem that was constraining the operability of some of their vessels, especially in light of declining cod TACs. The only other historical user of the greenland turbot TAC is the Amendment 80 sector, who has entered into a voluntary agreement with the LL CP sector since 2015 to ensure both sectors can continue to operate despite declining and potentially limiting turbot TACs. The A80 sector voiced unanimous support for the LL CP sector and alternative 3.*
- *In October 2022, the Council unanimously accepted Alternative 3 as its preliminary preferred alternative, which signals the validity of the alternative especially since there have been no circumstances in the fishery that have changed between October 2022 and the AP revisiting it for final action this week.*
- *Even though the likelihood of increased participation under Alternative 2 is relatively small, the contention and disagreement on the issue alone shows an increased potential for interruption of the LLCP and A80 sectors voluntary agreement. In light of declining turbot TACs, any uncertainty in the fishery, including the rogue addition of a couple CVs that fail to cooperate with the historical participants could rightfully cause NMFS in season management to prevent opening the directed turbot fishery or close it early, which could affect the LLCP and A80 sectors' ability to operate.*
- *The nature of the greenland turbot fishery and how it must be prosecuted already naturally excludes most CV participation; selection of alternative 3 simply gives the historical user groups the opportunity to utilize an additional gear type to avoid whale depredation and the relative stability that they can continue to operate unimpeded in collaboration with each other.*

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D2 LKTKS Protocol

The AP supports and commends the work of the Local Knowledge, Traditional Knowledge, and Subsistence Taskforce. The AP supports the recommendations and products of the LKTKS taskforce.

The AP recommends the Council consider opening a 45-day period for public review of the Taskforce's recommendations and products to allow for final public review of the work and for the Taskforce to address comments received during that review period.

Motion passed 16/0

Rationale in Favor of Motion:

- *The LKTKS Taskforce has accomplished a significant amount of work in a short period of time, and met their mandate provided by the Council and as one of the first action modules coming out of the Bering Sea Fishery Ecosystem Plan (FEP). The work of the Taskforce is also of national significance.*
- *The work of the Taskforce is a watershed moment for the Council in terms of bringing Tribal knowledge and priorities into the Council process. This work will help the Council address its goals of diversifying its knowledge base, working towards equity and inclusion, taking an EBFM approach to analysis and management, and meeting various MSA National Standard mandates including National Standard 2 regarding the use of the best scientific information available.*
- *This motion responds to National Standards 2,4,6 and 8:*
 - *Under National Standard 2: The motion seeks relevant information where appropriate and be inclusive of the Tribal members in Alaska; and*
 - *National Standard 4: That judicial guidance and government policy concerning the rights of treaty Indians and aboriginal Americans must be considered in determining whether an allocation is fair & equitable;*
 - *National Standard 6: As the people that live on the land and shores adjacent to the fisheries resources in question, the real time observation & collection of information (LK & TK) provides an early and 1st look at variations that may provide additional time to respond to unexpected events;*
 - *National Standard 8: In that many Tribal members live near and are sustained by the fisheries resources managed by the NPFMC, this motion seeks to protect their sustained participation through their improved engagement opportunities.*
- *There was discussion in support of an ad hoc review or advisory body to determine whether the Protocol could be applied to the Gulf of Alaska. The AP encourages that work continue on this so that LKTKS is not solely incorporated in only Bering Sea issues. Although there may be unique differences between regions that would require specific details in protocols, LKTKS should be incorporated in all Council work.*

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E Staff Tasking

Motion 1 - C Share Motion

Purpose and Need:

The CVC and CPC shares have a participation requirement of one delivery during the previous 4 consecutive years. With the ongoing impacts of the COVID-19 pandemic, now in its third year, some crew members have not been able to comply with the participation requirement. With the unforeseen circumstance of the recent drastic decline of several BSAI crab stocks and the BSS stock and potential fishery closures or low harvest levels taking place on the heels of the COVID-19 pandemic, some crew members have not been able to comply with the participation requirement there will be less opportunity for crew to participate in crab fisheries because of limited numbers of vessels participating in the fishery restricting opportunity or due to pandemic restrictions making it more difficult. This action is needed to protect the crew that have invested in this fishery

Alternative 1 - No action

Alternative 2 - Modify the CVC QS and CPC QS active participation requirements (Options are not mutually exclusive)

Option 1: Restart the recent participation requirement after the pandemic and beginning in 2023/24 only count fishing years where at least 30 BSAI crab vessels fish. Do not count 2019/20, 2020/21, 2021/22, through 2023/2024 toward the recent participation requirement.

Option 2: Give the Regional Administrator the authority to suspend the CVC QS and CPC QS recent participation requirement in years of low BSAI crab quota where few vessels fish (perhaps 30 or less that is a little less than half the current fleet) or due to other unforeseen circumstances (e.g. a pandemic).

Option 3: Expand participation requirements for non-initial issues to match the requirements of initial issues. In other words, within the previous three years, participate in a BSAI crab trip OR participate as crew in at least 30 days of fishing in a commercial fishery off Alaska.

Option 4: Do not revoke any CVC or CPC QS associated with a closed fishery

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Alternative 3 - Remove all CVC QS and CPC QS active participation requirements (Alternative 2 and 3 are mutually exclusive from each other.)

Alternative 4 - Reissue any CVC QS and CPC QS that was revoked between July 2023 and the effective date of the proposed action

Motion passed 15/0

Rationale in favor of the Motion:

- *The Council and AP received several comments on this issue at this Council meeting and previous meetings in recent years. The Council recommended and NOAA Fisheries implemented an emergency rule for this past season due to pandemic and low quotas in snow crab making active participation difficult. The Council also signaled the desire for a permanent fix to this issue.*
- *The pandemic restrictions have eased, the BSAI crab fisheries have collapsed with closed fisheries and historic low quotas limiting opportunity for c-shares holders to get out on a crab trip. This past season, the fishery had fewer than 20 active fishing vessels down from an average of 60. Due to these constraints, captains and crew in the crab fishery, including new entrants, risk losing their quota.*
- *This revised purpose and need and alternatives shifts this action to consider more situations that might affect fishermen's ability to participate in a crab trip including closed fisheries or low harvest levels.. This intends to give the NOAA Fisheries Regional Administrator flexibility.*
- *The AP urges the Council and NOAA Fisheries to create policies and regulations that protect our active fishermen and new entrants in the Crab Rationalization Program during times of low or closed BSAI crab fisheries or other unforeseen challenging circumstances, like the pandemic.*
- *Some AP members felt that this motion was acceptable primarily because it was stated that the intent was not to supersede the prior Council action on this topic, thereby delaying it, only that it would signal to the Council for this meeting possible solutions to the problems communicated by staff.*

Motion 2 - Small Sablefish Release

Request staff revise small sablefish release document and bring action back for initial review in June 2023.

Revisions should include:

- 1) Updates to market and stock status
- 2) Consideration of reports on the subject provided by Dr. Matt Koopman and Dr. Ian Knuckey
- 3) Evaluation of uncertainty associated with voluntary release of small sablefish in the context of existing stock assessment and catch accounting uncertainty

Motion failed 5/10

Rationale in favor of the Motion:

- *A motion was made at the June 2022 Council meeting to schedule staff time to revise this analysis and bring this back onto the agenda. This has still not been done and the proposed action for June 2023 does not include a revised analysis, rather just discussion points to consider. This does not set the stage to move forward with action on an issue that has been lingering for over 3 years.*
- *The IFQ sablefish fleet has increasingly switched gear to longline pots and have been successfully prosecuting the fishery with little to no bycatch or incidents with whale depredation. Pots also increase the viability of sablefish to be released, as they surface very lively to the point that vessels have had to make modifications to their decks for containing the fish as they come aboard.*
- *Small sablefish release is legal in the adjacent state water black cod fishery in Southeast Alaska as well as the black cod fishery in other lower 48 states. The science exists to analyze the potential effects to the stock and catch accounting and we urge the Council to move forward on updating the analysis.*

Rationale in Opposition to the Motion:

- *According to the Staff Tasking memo, the Council has a staff paper on the June meeting schedule that seems to be intended to address difficulties associated with furthering analysis on small sablefish release.*
- *Many AP members supported the idea of taking a look at Small Sablefish Release, but the motion as written appears to include many of the items slated to come up in front of the Council in June and therefore appears to be redundant to a currently scheduled item.*
- *At prior meetings, Council staff and NOAA Fisheries have noted before the AP relating management and staffing difficulties with making progress on a Small Sablefish Release analysis. Now that an update to those efforts are on the June 2023 agenda, the motion does not appear to be necessary.*

Motion 3

Approve the minutes from the February 2023 meeting.

Motion passed 15/0