

Enforcement Committee Agenda

March 29, 2011

1pm – 5pm

Hilton Hotel

Anchorage, Alaska

I. C-2 Final action on halibut/sablefish hired skipper restrictions

This action would narrow the restrictions for initial recipients of quota share to use a hired master to harvest their IFQs in all areas where hired skippers are allowed. In February 2010, the Council initiated an analysis to prohibit use of hired skippers for transfers of halibut and sablefish B, C, and D class quota share, after a control date of February 12, 2010. This action would not affect category A quota share or individual initial recipients in Area 2C (halibut) and Southeast (sablefish) (who are not allowed to use hired skippers).

The Council is concerned about the apparent consolidation and reduced opportunities for new entrants/second generation fishermen to enter the fishery. This action is necessary to promote an owner/operator catcher vessel fleet in the halibut and sablefish fixed gear fisheries off Alaska and to further the objectives of the IFQ Program.

This analysis considers two alternatives. Alternative 1 is the No Action Alternative. Alternative 2 would prohibit the use by a hired master for quota share transferred after the control date. During the Council's review of the initial draft of the analysis of these two alternatives during the February 2011 meeting, the Council added two options to Alternative 2 to address the disposition of catcher vessels quota shares transferred between the control date (February 12, 2010) and the effective date of the proposed action. Option 1 would allow the hired skipper provision to be retained for those quota shares swept up into blocks after the February 12, 2010 control date and before the effective date of the amendment. Option 2 would allow initial recipients of quota share to sweep up additional quota share units to the amounts they own after the effective date, but these swept up blocks would not retain the hired skipper privilege (i.e., the quota share holder must be on board then the IFQs are fished).

In addition, the Council requested a discussion paper be developed on potential alternatives to prohibit leasing in the IFQ halibut and sablefish fisheries.

As a reminder, the Committee made the following recommendations at its February 1, 2011 meeting.

The analysis provides a thorough presentation on the enforcement issues relative to the hired skipper proposed action. The Committee does not see any difficult enforcement issues associated with the hired skipper proposed action. However, the Committee notes that the proposed Council action will likely not be effective in addressing abuses in leasing without first addressing abuses in leasing without first addressing the specifics of leasing, namely defining leasing and prohibiting leasing. The Committee recommends the Council review its objectives for the hired skipper provision to provide clear definitions of leasing. This would enable those crafting regulations to better meet the Council's objectives.

II. C-3(b) Preliminary review of GOA Chinook salmon bycatch control measures

The purpose of this action is to address Chinook salmon bycatch in the GOA. Chinook salmon are a prohibited species in the GOA groundfish fisheries, and as such must be returned immediately to the sea

with a minimum of injury if caught incidentally in the groundfish fisheries¹. The Council has determined that Chinook salmon bycatch levels in 2010 were unacceptably high, and has developed this amendment package as a high priority consideration, in order to reduce the risk of high bycatch levels in the future. The directed pollock fishery in the Western and Central GOA is responsible for the majority of Chinook salmon caught as bycatch in the GOA groundfish fisheries. As such, the Council has focused this amendment package specifically on management measures for the GOA pollock fisheries in these areas. The Council has purposely identified alternatives that can be implemented within a short timeframe. The alternatives would establish measures that both encourage participants in the pollock fishery to develop mechanisms to reduce bycatch, and protect against the risk of high bycatch in future years. A subsequent amendment package will evaluate a broader range of alternatives that may offer other solutions to reduce

The alternatives that are analyzed in this amendment package propose management measures that would apply exclusively to the directed pollock fishery in the Western and Central GOA. At the time that the Council initiated this analysis, they identified that this amendment package should be moved forward on an expedited timeframe as the highest priority of Council actions currently under consideration. The Council has tentatively signaled that it will advance both a PSC limit and mandatory bycatch cooperatives as a preliminary preferred alternative at initial review, in April 2011. The Council plans to take final action on this issue in June 2011, which could allow implementation of the proposed action in mid-2012. The Council adopted the following alternatives for analysis. Both Alternatives 2 and 3 may be selected together.

- Alternative 1: Status quo
- Alternative 2: Establish a Chinook salmon PSC limit for the directed pollock fishery (hard cap, by regulatory area) and increase observer coverage on vessels under 60 foot
- Alternative 3: Require membership in a mandatory salmon bycatch control cooperative in order to fish in the directed pollock fishery

Under Alternative 2, the range of PSC limits to be analyzed for the directed pollock fishery includes 15,000, 22,500, or 30,000 fish, applied to the Western/Central GOA fisheries as a whole. These limits would be apportioned among regulatory areas based on the relative historic pollock catch in each regulatory area, relative historic bycatch amounts in each area, or a weighted ratio of catch and bycatch. In order to reduce the uncertainty associated with bycatch estimates, expanded observer coverage could be required for under 60 foot vessels as an interim measure, until the observer program restructuring amendment is implemented.

The Council specified a number of conditions for the mandatory bycatch cooperative. Alternative 3 would establish a program under which qualified license holders would be required to join a limited-purpose cooperative to participate in the Central and Western GOA pollock fisheries. Actions that may be undertaken by the cooperatives would be restricted to specific measures with the exclusive purpose of limiting Chinook salmon bycatch. Cooperative formation rules would allow two or three cooperatives to be created in each regulatory area, but would require an intercooperative agreement to ensure each cooperative could adopt Chinook salmon bycatch control measures without jeopardizing its members' opportunities in the fishery. Each cooperative would be required to annually report the effects of its Chinook salmon bycatch control measures to the Council. Contractual requirements aimed at limiting Chinook salmon bycatch must include full retention of salmon, and monitoring, reporting, and information sharing mechanisms among cooperative members to allow for salmon hotspot reporting and individual vessel bycatch performance, and may include other measures such as gear innovations, fishing practices, and vessel performance standards to promote salmon avoidance.

NMFS has raised concerns with the administration of the mandatory cooperative alternative. Specifically, the administration of cooperatives (including approval of annual cooperative contracts and any penalties for violation of the cooperative agreement) must be implemented in a manner that maintains NMFS' management authority over the fishery. Whether cooperatives would be able to serve their intended purpose, while maintaining a level of oversight that maintains that authority, is uncertain.³ For example, the imposition of certain cooperative penalties would require notice, and an opportunity for a hearing, consistent with applicable Magnuson-Stevens Act and Administrative Procedures Act requirements. These administrative reviews typically take several weeks (or even months). A reasonable cooperative penalty might be to require a vessel to temporarily suspend fishing due for failure to abide by a hotspot limitation or some other agreed constraint on fishing effort. Measures of this type are likely subject to notice and hearing requirements. Pending completion of such a hearing, penalties are typically suspended. Such a hearing requirement could make any standdown ineffective. **An additional concern arises from a mandatory reporting of catch data within cooperatives. Any such reporting requirement would need to comport with data confidentiality constraints.** Whether confidentiality requirements could be satisfied requires additional consideration. These concerns are discussed more completely at the conclusion of the analysis of Alternative 3, in Section 3.11.3. In addition, some possible alternatives to this mandatory cooperative structure are discussed.

III. C-5 Initial review/final action to revise GOA Pacific cod jig fishery management

In December 2010, the Council received a discussion paper that reviewed options to revise management of the GOA Pacific cod jig fishery. The Council decided to initiate an analysis of two alternatives, including the status quo fishery and the proposed “reverse parallel fishery.” The proposed action would open Federal waters to directed fishing for Pacific cod with jig gear concurrent with the State of Alaska Guideline Harvest Limit (GHL) fishery for Pacific cod in the GOA. Catches in Federal waters would accrue to the State jig GHL, which is specified as a percentage of the GOA Pacific cod ABC. Jig gear was recently exempted from the Limited License Program (LLP) requirement in the GOA subject to gear limits.

Under the proposed action, operators using jig gear would likely have year-round access to Federal waters. In the absence of this action, jig operators would only have access to Federal waters during the parallel/Federal waters A and B seasons, and the timing of the jig fishery may continue to be a factor limiting jig catches. At this meeting, the Council is scheduled to take final action on the proposed amendment.

Effects on management, monitoring, and enforcement

No management, catch accounting, or enforcement issues are anticipated. Currently, in the Prince William Sound, Kodiak, and South Alaska Peninsula areas, the State waters Pacific cod fisheries open 7 days after the parallel waters A seasons for the Central GOA (Prince William Sound and Kodiak) and Western GOA (South Alaska Peninsula). The Cook Inlet fishery opens 24 hours after the Central GOA inshore A season closes, and the Chignik fishery opening date is set in regulation on March 1. The Board of Fisheries is scheduled to meet in fall 2011 to consider revising the season opening dates for the 2012 fishing year, because GOA Pacific cod sector allocations are expected to be implemented in 2012 and will likely affect the timing of the parallel/Federal waters TAC fisheries.

State managers currently track State waters GHL harvests and close the fisheries when the GHLs are fully harvested (or when the parallel B season begins on September 1). NMFS also tracks GHL harvests in its Catch Accounting system, because GHLs are specified as a portion of the GOA Pacific cod ABCs. Both

agencies would continue to track GHL harvests. Under Alternative 2, ADF&G managers would also track Federal waters jig GHL harvests and attribute these catches to the appropriate GHL. A map showing the location of State management areas in relation to NMFS management areas in Federal waters of the GOA is shown in Figure A-1.

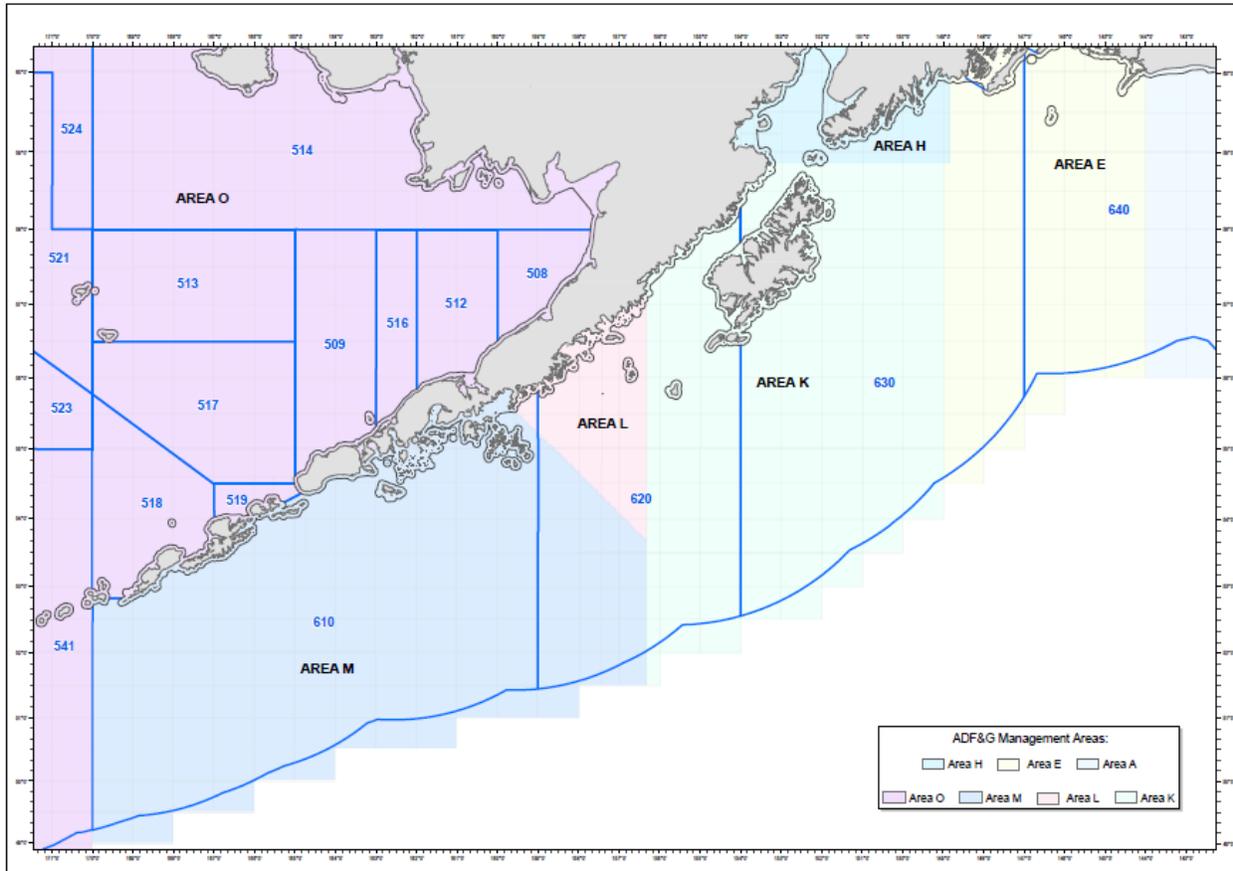


Figure A-1 Map of State management areas (South Alaska Peninsula, Chignik, Kodiak, Cook Inlet, and Prince William Sound) and Federal management areas (Western, Central, and Eastern) in the GOA.

IV. C-6(c) Final action on Pribilof BKC Rebuilding Plan

This final draft environmental assessment evaluates five proposed alternative rebuilding measures for the Pribilof Islands blue king crab (*Paralithodes platypus*) stock. The Pribilof Islands blue king crab stock remains overfished and the current rebuilding plan has not achieved adequate progress towards rebuilding the stock by 2014. This revised rebuilding plan considers five alternatives. Four of the alternatives are different closure configurations to restrict groundfish fisheries in the areas of the stock distribution. The fifth alternative considers trigger caps and associated area closures in all groundfish fisheries. The impacts of these alternatives on rebuilding the Pribilof Island blue king crab stock as well as the environmental and social/economic impacts of these measures are considered in this analysis.

Alternative 1 retains the current Pribilof Islands Habitat Conservation Zone (PIHCZ) trawl closure around the Pribilof Islands. Alternative 2 applies the PIHCZ closure additionally to those groundfish fisheries contributing to PIBKC bycatch (Option 2a) or to fishing for Pacific cod with pot gear (Option 2b). Alternative 3 proposes to apply the existing State of Alaska (State) crab closure areas to those groundfish

fisheries contributing to PIBKC bycatch (Option 3a) or to fishing for Pacific cod with pot gear (Option 3b). Alternative 4 proposes two closure configurations to cover the distribution of the PIBKC stock. These closures are then proposed to apply to either those groundfish fisheries contributing to PIBKC bycatch (Option 4a) or to fishing for Pacific cod with pot gear (Option 4b). Alternative 5 proposes a trigger cap on those groundfish fisheries contributing to PIBKC bycatch that, if reached, would close that area to fishing (Options 5a-5d). For each of Alternatives 2-5, there is the option of increasing observer coverage, either to all fisheries to which a cap or closure applies (Option 1), or to specific fisheries (Option 2).

As a reminder, the Committee made the following recommendation at its December 7, 2010 meeting.

The Enforcement Committee focused their attention on the potential for having two different rules for trawling in proposed closures. It was noted that Options 2a, 3a, and 4a, which would prohibit all groundfish fisheries which have contributed to PIBKC bycatch, are determined by gear and target and therefore would allow for the possibility of different trawl rules in the proposed closure area. In general, with respect to closed area enforcement, the more exceptions there are to closed areas, the more problematic for enforcement. This is especially true when an exception allows pelagic trawling while prohibiting non pelagic trawling. Although VMS is currently required in these fisheries, VMS it is not a tool that can be used to differentiate gear types. In addition, an aircraft can easily differentiate between a trawl, pot, and longline vessel, but cannot differentiate between vessels operating pelagic and non-pelagic trawl gear. This requires an at-sea boarding. In summary, the Enforcement Committee recommends the analysis clearly analyze the monitoring and enforcement issues involved in enforcing the regulations that allow different trawl rules within area closure.

V. Future Agenda Items and Review of the Three Meeting Outlook