

January 11, 2024

To: Members of the Alaska Board of Fisheries
Attn: Art Nelson

From: Steve Ricci, Jeff Regnart
Bristol Bay Economic Development Corporation

Subject: Emergency Petition – Dutch Harbor Subdistrict State-Water Pacific Cod (RC 14)

Board of Fisheries members,

The emergency petition before you during your Kodiak meeting (RC 14) is asking the Board to amend the Dutch Harbor Subdistrict Pacific Cod Management Plan (Plan) that was recently reworked by the Board in 2022. The petition does not meet the emergency criteria set out in paragraph (f) of 5 AAC 96.625.

Furthermore, making emergency regulatory changes does not make sense since the Plan already allows for more pots to be fished, should the Commissioner deem, *in-season*, it necessary based on the fishery's performance. Increasing the pot limit in regulation at the beginning of the season (e.g., via this emergency petition) will have allocative effects on individual fisherman within the state-water fishery given the variation in the size of vessels and the number of pots each can physically fish; a concern highlighted in comments provided by fishery participants.

The petition, if granted, also undermines the Board's recent actions amending the Plan, which was reached in response to numerous Alaskan stakeholder concerns.

To review the work the BOF did in 2022, it amended the Dutch Harbor Subdistrict Pacific Cod Management Plan to do the following.

- Provided a path to increase state-water cod harvest. For pot gear in 2023, 12 percent of the estimated total allowable harvest of Pacific cod for the federal Bering Sea Subarea was allocated to the state-water fishery. If the guideline harvest level (GHL) established under this subparagraph is achieved during two consecutive calendar years, the GHL will increase by one percent of the estimated total allowable harvest beginning the subsequent calendar year.
- Capped the maximum percentage of the federal allowable harvest. a GHL established under this subparagraph may not exceed 15 percent of the estimated total allowable harvest of Pacific cod for the federal Bering Sea Subarea.
- Set out how the percentage of the federal allowable harvest if the state-water fishery would be reduced if the fishery is unable to harvest it. If not achieved during two consecutive calendar years the GHL will be reduced by one percent of the estimated total allowable harvest of Pacific cod for the federal Bering Sea Subarea beginning the subsequent calendar year but may not be reduced below 10 percent of the estimated total allowable harvest.

- Made clear what constitutes “achieved” the GHL. The GHL is considered to have been achieved if, by November 15, 90 percent of the GHL is projected to be harvested by the end of that calendar year.
- Capped (or restated?) the number of pots per vessel. Except as provided in (h) of this section, no more than **60 groundfish pots** may be operated from a vessel registered to fish for Pacific cod.

Importantly, under existing regulations, the Commissioner has the authority to lift the 60-pot limit. Doing so at the beginning of the season before understanding the participation and performance of the fishery (as proposed in the emergency petition) would be premature, and could create more grounds competition amongst the fleet, and allocate more of the harvest to larger vessels. The regulations state that: if at any time after October 1 the Commissioner determines that the guideline harvest level for Pacific cod will not be achieved by December 31, the Commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest rate in an attempt to reach the guideline harvest level.

- (h) removal of the limits on the number of pots and mechanical jigging machines that may be operated from a vessel.

The Plan was modified so that access to the resource was safeguarded in the GHL fishery while attempting to prevent cod from going unharvested in the GHL fishery thus stranding part of the overall TAC. The reasons for not obtaining a given year’s GHL were and are the following: changes in abundance, changes in effort, unfavorable market conditions or other unanticipated factors. ADFG, through the Plan has the authority after October 1 to increase the pot limit if they feel the GHL will not be met.