



## **D3 AI Pacific Cod Set-Aside Discussion Paper**

June 2019 Council Meeting

### **Action Memo**

Staff: Jon McCracken

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

### **BACKGROUND**

In April 2019, the Council tasked staff to prepare a discussion paper that includes a status report on the Amendment 113 litigation, the Council's December 2018 revision to Amendment 113 including the purpose and need and alternatives considered, and a brief summary of conditions in the Aleutian Islands Pacific cod fishery that have occurred since Amendment 113 was implemented. The Council also asked staff to include in the discussion paper potential regulatory approaches that could be used to provide opportunities for trawl catcher vessels harvesting Pacific cod in the AI and delivering to AI shoreplants.

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.