

North Pacific Fishery Management Council April 2009 C-2 Bering Sea AFA pollock trawl fishery Chinook salmon bycatch motion

The Council adopts the preferred alternative specified below for final action. The preferred alternative is Amendment 91 to the BSAI Groundfish FMP. The language below incorporates all amendments to the original motion adopted during Council action.

Preferred alternative

This alternative would establish a Chinook salmon bycatch cap for each pollock fishery season which, when reached, would require all directed pollock fishing to cease for that season. Components 2-4 specify the allocation and transferability provisions associated with the cap.

Component 1: Hard cap with option for incentive plan agreements (IPA)

Annual scenario 1: Hard cap with an IPA(s) that provides explicit incentive(s) to promote Chinook salmon avoidance in all years

Hard cap if an IPA(s) is in place that provides explicit incentive(s) for each participant to avoid Chinook salmon bycatch in all years:

Overall Chinook salmon cap: 60,000, allocated by season and under Components 2-4 as described below.

For those vessels or CDQ groups that opt out of such a NMFS approved incentive plan agreement, the maximum hard cap (backstop cap) will be established as follows:

An amount no greater than the overall cap: 28,496

Option 3: To ensure the overall cap can be managed as a hard cap, subtract from the overall cap a proportion representing vessels or CDQ groups opting out of the incentive plan(s), and create a backstop cap so that the sum of the caps does not exceed the high cap.

Option C: Subtract from the overall cap the proportion of the backstop cap represented by vessels or CDQ groups opting out and fishing under the backstop cap and use this same amount to create the backstop cap.

Adjustments to the overall cap and backstop cap for vessels or CDQ groups opting out will be made after sector allocations. The amount of the adjustments will be based on the opt out vessel's percentage of AFA pollock within their sector as specified on pages 67-70 of the DEIS or on the CDQ group's current percentage allocation of their sector allocation of the Chinook salmon cap.

IPA requirements (for NMFS approval):

- An IPA must describe incentive(s) for each vessel to avoid Chinook salmon bycatch under any condition of pollock and Chinook salmon abundance in all years.
- Incentive measures must describe rewards for Chinook salmon bycatch avoidance, penalties for failure to avoid Chinook salmon bycatch at the vessel level, or both.
- The IPA must specify how those incentives are expected to promote reductions in actual individual vessel bycatch rates relative to what would have occurred in absence of the incentive program. Incentive measures must promote Chinook salmon savings in any condition of pollock and Chinook salmon abundance, such that they are expected to influence operational decisions to avoid Chinook salmon bycatch.
- The IPA must describe how the IPA ensures each vessel will manage their bycatch to keep total bycatch below the sector level regulatory performance standard.

Annual reporting:

- The IPA(s) must be made available for Council and public review. In addition, year-end annual reports are required to be submitted to the Council by April 1 the following year to provide sufficient time for independent evaluation by the Council.
- An annual report to the Council must include:
 - 1) a comprehensive explanation of incentive measures in effect in the previous year,
 - 2) how incentive measures affected individual vessels, and
 - 3) evaluation of whether incentive measures were effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures.

IPA eligibility:

On an annual basis, before a date certain established by NMFS through regulation, participants in the pollock fishery may file an IPA with NMFS or join or exit an existing approved IPA. An IPA will be considered valid if 1) it meets the criteria set forth above; 2) it commits each party to be bound by the rules of the IPA; and 3) the parties to the IPA represent not less than 9% of the pollock quota and at least two non-affiliated companies using the AFA definition of affiliation.

Membership in an IPA is voluntary. No person may be required to join an IPA. Upon receipt of written notification that a person wants to join an IPA, that IPA must allow the person to join subject to the terms and agreements that apply to all members of the IPA as established in the contract governing the conduct of the IPA.

In the event that no IPA is approved by NMFS, then the pollock fishery shall be managed under annual scenario 2.

Annual scenario 2: Hard cap in absence of an approved IPA with explicit incentive(s) to promote Chinook salmon avoidance

Hard cap in absence of an approved IPA that provides explicit incentive(s) to all participants to avoid salmon bycatch in all years:

Overall Chinook salmon cap: 47,591, allocated by season and under Components 2-4 as described below

Seasonal distribution of caps

Any hard cap would be apportioned between the pollock A and B seasons. The seasonal distribution is 70/30.

Seasonal rollover of caps

Unused salmon from the A season would be made available to the recipient of the salmon bycatch hard cap in the B season within each management year at an amount equal to the recipient's unused A season bycatch cap.

Component 2: Sector allocation

Separate sector level caps will be distributed within each season for the CDQ sector and the three remaining AFA sectors, the inshore catcher vessel (CV) sector, the mothership sector, and the offshore catcher processor (CP) sector, as follows:

A season: CDQ 9.3%; inshore CV fleet 49.8%; mothership fleet 8.0%; offshore CP fleet 32.9%

B season: CDQ 5.5%; inshore CV fleet 69.3%; mothership fleet 7.3%; offshore CP fleet 17.9%

Rationale for distribution: This distribution is based on an estimate of the 5-year (2002-2006) historical average of the annual proportion of Chinook salmon bycatch by sector within each

season, adjusted by blending the reported bycatch for CDQ and non-CDQ partner sectors. It is also weighted by the AFA pollock allocation for each sector. In each season, the proportional allocation by sector is made up of 0.75 multiplied by the adjusted 5-year historical average bycatch by sector and 0.25 multiplied by the AFA pollock allocation by sector.

Component 3: Sector transfers

Allocate Chinook salmon bycatch caps to each sector and allow the entity representing each non-CDQ sector and the CDQ groups to transfer Chinook salmon bycatch caps among the sectors and inshore cooperatives and CDQ groups.

Allow post-delivery (bycatch) transfer of Chinook salmon allocations. This provision would be administered consistent with the post-delivery provisions the Council adopted for the BSAI crab rationalization program, Amendment 80, and Rockfish Program, except that any recipient of a post delivery transfer during a season may not fish for the remainder of that season.

Component 4: Cooperative provisions

Each inshore cooperative and the inshore limited access fishery (if the inshore limited access fishery existed in a particular year) shall receive a Chinook salmon allocation managed at the cooperative level. If the cooperative or limited access fishery Chinook salmon cap is reached, the cooperative or limited access fishery must stop fishing for pollock.

The initial allocation of Chinook salmon by cooperative within the shore-based CV fleet or to the limited access fishery would be based upon the proportion of total sector pollock catch associated with the vessels in the cooperative or limited access fishery.

Cooperative transfers

When a Chinook salmon cooperative cap is reached, the cooperative must stop fishing for pollock. Cooperatives may transfer Chinook salmon bycatch with other sectors, inshore cooperatives, or CDQ groups.

Allow post-delivery (bycatch) transfer of Chinook salmon allocations. This provision would be administered consistent with the post-delivery provisions the Council adopted for the BSAI crab rationalization program, Amendment 80, and Rockfish Program, except that any recipient of a post delivery transfer during a season may not fish for the remainder of that season.

Component 5: Performance standard

Each sector will be annually evaluated against a performance standard. If the sector's annual Chinook salmon bycatch exceeds the sector's portion of the annual scenario 2 cap level in any 3 years within a consecutive 7-year period, all vessels within that sector will operate under annual scenario 2 in all subsequent years. Any vessel or CDQ group that fishes under the opt out backstop pool will not be evaluated or included in annual calculations of a sector's performance standard.

Component 6: Observer program

The Council includes in its preferred alternative the observer coverage and monitoring requirements recommended by NMFS for the PPA and described in section 2.5.4.3 (page 98) of the DEIS and in sections 2.5.2.7 and 2.5.2.8 (pages 81 - 84). These recommendations increase observer coverage to 100 percent for catcher vessels regardless of vessel length. This increase in observer coverage does not apply to catcher vessels delivering unsorted codends at sea. Chinook salmon would be allowed to be discarded from catcher vessels only after being reported to and recorded by the vessel observer.

The Council also authorizes NMFS to develop modifications to regulations for the shoreside processors' catch monitoring and control plans to add performance standards to ensure accurate accounting for Chinook salmon at the plants, if NMFS determines that such modifications are needed.

Remove current regulations for Chinook salmon bycatch management

In taking final action, the Council's intent is for NMFS to remove current regulations governing Chinook salmon bycatch management in the Bering Sea and replace those regulations with the preferred alternative. Revisions to current regulations are as follows:

- Remove regulations for the current BS Chinook salmon PSC limit of 29,000 salmon that triggers closure of the Chinook salmon savings area for the BS pollock fishery.
- Remove Chinook salmon savings area definition for the BS.
- Remove exemptions to closure of the BS Chinook salmon savings areas for those cooperatives and CDQ groups participating in the current voluntary rolling hot spot (VRHS) ICA.
- Remove all elements of the current VRHS ICA regulations addressing Chinook salmon. New Chinook salmon bycatch management measures, including any incentive plan agreement requirements, would be added to the regulations. Retain regulations for the non-Chinook salmon components of the current VRHS ICA would remain.

The Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303 (c) and therefore the Council authorizes the Executive Director and the Chair to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303 (c) are consistent with these instructions.