

ENDANGERED SPECIES ACT BIOLOGICAL OPINION ON THE TAKE OF LISTED SALMON IN GROUND FISH FISHERIES

In 2013, National Marine Fisheries Service (NMFS) Sustainable Fisheries Division requested to reinstate consultation pursuant to section 7 of the Endangered Species Act on the take of listed salmonids in the groundfish fishery. NMFS has worked with the Council to develop the proposed action upon which the consultation would be based with the Council finalizing its guidance at the April 2017 meeting.

The Incidental Take Statement (ITS) attached to the biological opinion (Attachment 1) finds, for the Pacific whiting fishery, the distribution of bycatch will not change substantially from that presented in the Opinion, the fishery will take actions to keep Chinook salmon bycatch below a guideline level of 11,000 Chinook per year, bycatch will not exceed 14,500 Chinook per year including a Reserve amount of 3,500 Chinook considered in the event of unexpected high bycatch, and coho salmon bycatch will not exceed 474 coho per year. For the nonwhiting portion of the fishery (including the shoreside IFQ sector, other commercial groundfish sectors, and the recreational groundfish fishery), the ITS finds that the distribution of bycatch will not change substantially from that presented in the Opinion, the fishery will take actions to keep Chinook salmon bycatch below a guideline level of 5,500 Chinook per year, bycatch will not exceed 9,000 Chinook per year including a Reserve amount of 3,500 Chinook considered in the event of unexpected high bycatch, and coho salmon bycatch will not exceed 560 coho per year. Based on this assessment NMFS concludes the amount or extent of anticipated take, coupled with other effects of the proposed actions, is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

The ITS identifies six reasonable and prudent measures (RPMs) and associated terms and conditions, which are nondiscretionary. These RPMs address monitoring, developing measures to keep bycatch within guidelines, measures associated with the Reserve amount of Chinook salmon considered in the event of unexpectedly high bycatch, allowing the fishery to occur at new times of year and in new areas, identifying and addressing conditions related to high salmon bycatch, and reporting and evaluation. Several of these terms and conditions place obligations on the Council for analysis and action; others are identified as an obligation of NMFS but may be aided by input from the Council. Terms and conditions requiring Council engagement are:

- Term and condition 1a, among other things, requires NMFS to work with the Council to improve inseason and post-season monitoring of salmon bycatch.
- Term and condition 2a requires the Council, as part of the 2019-20 biennial harvest specification process, to review the existing mechanisms in the FMP and related regulations for avoiding and reducing salmon bycatch, including the effectiveness of the Ocean Salmon Conservation Zone and Bycatch Reduction Areas (BRAs). Based on this review the Council will make recommendations for increasing the effectiveness of these measures.
- Term and condition 2b requires the Council to assess the need for additional management measures to allow for timely inseason management of salmon bycatch and recommend any such measures within three years.

- Term and condition 2d requires the Council and NMFS to retain certain existing restrictions to minimize Chinook bycatch for the duration of the Opinion.
- Term and condition 2e requires the Council and NMFS to implement regulations within two years to prohibit bottom trawling and nonwhiting midwater trawling within the nearshore Klamath and Columbia River Salmon Conservation Zones.
- Term and condition 3a requires NMFS and the Council, as part of the 2019-20 biennial harvest specification process, to develop and implement initial regulations governing the Reserve of 3,500 Chinook. These regulations will be designed to, among other things, allow for inseason action to prevent any sector guideline plus the full amount of the Reserve from being exceeded and to minimize the chance that the Reserve is used in three out of any consecutive five years.
- Term and condition 3b requires NMFS to monitor the use of the Reserve in 2019 and provide a report to the Council when it is developing the biennial specifications for 2021-2022.
- Term and condition 3c requires NMFS and the Council, as part of the 2019-20 biennial harvest specification process, to develop and implement regulations governing closure of the fishery sector(s) when either the whiting or nonwhiting fishery sector exceeds its Chinook bycatch guideline plus the Reserve.
- Terms and conditions under RPM #4 provide guidance on opening areas currently within the trawl RCA, allowing further development of the nonwhiting midwater and bottom trawl fisheries south of 42° N. latitude, and allowing further development of the midwater nonwhiting fishery (targeting widow and yellowtail rockfish) coastwide.
- Terms and conditions under RPM #5 direct NMFS and the Council to identify high salmon bycatch areas, regularly conduct analyses to identify conditions contributing to salmon bycatch including extreme bycatch events, and report the findings of these analysis within two years.
- Terms and conditions under RPM #6 require NMFS to produce an annual post-season report on salmon bycatch and within one year; working with the Council, within two years produce a report evaluating the timeliness of existing monitoring and reporting systems in the commercial fixed gear and recreational groundfish fisheries and making recommendations to address identified deficiencies; and one year after the production of that report implement the recommendations made in the report.

The attached Groundfish Management Team (GMT) Report provides analysis and information for RPMs #1, #2, and #3. The GMT Report also lays out proposed alternatives for addressing the terms and conditions under RPMs #2 and #3. RPM #2 requires completion of an analysis of certain bycatch mitigation measures as part of the biennial harvest specifications and management measures process; mitigation measures could be implemented as part of the biennial process or through a follow-on process. RPM #3 requires action as part of biennial process. For any measures included in the biennial process the Council would formally adopt alternatives, and identify a preliminary preferred alternative, at the April 2018 Council meeting. The Council should provide guidance to the GMT on the proposed ranges of alternatives so they can be brought forward in April for adoption.

Council Action:

Review Biological Opinion Incidental Take Statement and Identify Council Tasks and Schedule for Addressing Reasonable and Prudent Measures and Pursuant Terms and Conditions.

Reference Materials:

1. Agenda Item H.5, Attachment 1: Incidental Take Statement (Pages 2-180–2-193) From Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion; Reinitiation of Section 7 Consultation Regarding the Pacific Fisheries Management Council's Groundfish Fishery Management Plan [regarding take of listed salmonids] (Complete document available on [Council website](#)).
2. Agenda Item H.5.a, Groundfish Management Team Report 1.

Agenda Order:

- H.5 Endangered Species Act Biological Opinion on the Take of Listed Salmon in Groundfish Fisheries Kit Dahl
- a. Reports and Comments of Management Entities and Advisory Bodies
 - b. Public Comment
 - c. **Council Action:** Review Biological Opinion Incidental Take Statement and Identify Council Tasks and Schedule for Addressing Reasonable and Prudent Measures and Pursuant Terms and Conditions

PFMC
02/11/18