

GROUNDFISH MANAGEMENT TEAM ON ENDANGERED SPECIES ACT MITIGATION MEASURES FOR SALMON- FINAL

The Groundfish Management Team (GMT) was given an overview of this item by Mr. Todd Phillips, Pacific Fishery Management Council (Council) Staff, and has prepared the following statement. The GMT recommends most of the Council's preliminary preferred alternative (PPA) choices from September 2019 for final preferred alternative (FPA) selection at this meeting. We also provide two new alternatives for consideration by the Council, which we have analyzed and describe further below.

Block Area Closures (BACs):

The GMT recommends the Council select their PPA for FPA:

“Alternative 1: BACs would be developed as a routine inseason mitigation tool for salmon bycatch in the midwater trawl fisheries in the whiting and non-whiting sectors.”

The GMT continues to recommend BACs, since they are expected to provide a more flexible, customizable, and effective approach for reducing salmon bycatch in midwater trawl fisheries than the currently-available 200 fathom bycatch reduction area (BRA).

Extension of BACs for All Trawl Gears to Deepest Depth Boundary

The GMT recommends the Council select their PPA for FPA:

“Alternative 1: develop regulations to allow for the extension of any block area closure seaward of 250 fathoms south of 46°16'00" N. latitude (WA/OR border) for all trawl gears to the western boundary of the Exclusive Economic Zone (EEZ) (for midwater trawl) or to the 700 fathom essential fish habitat (EFH) Conservation Area closure (for bottom trawl)”.

As we discussed in September, we believe that the main function of extending BACs beyond the current outer boundary of 250 fathoms would be to completely close an area to trawl fishing in response to Chinook salmon bycatch. The GMT previously demonstrated that bycatch rates of Chinook salmon are lowest in all trawl fisheries beyond 250 fathoms ([Agenda Item G.3.a, GMT Report 1 April 2019](#)), which means the area outside of 250 fathoms would likely only be closed in the case that the Council wanted to temporarily close a specific latitude range to all trawl fisheries.

The Council modified the original Alternative 1 (coastwide BACs) to be applicable only south of the Oregon/Washington boundary line. The GMT supports this modification, because BACs for bottom trawl off Washington were not developed during Amendment 28, making the additional depth boundary irrelevant. Further, as shown in the Regulatory Impact Review (RIR) document ([Agenda Item H.9, Attachment 1 \(Revised\), November 2019](#)), limited midwater trawl effort occurs outside of the 250 fathom line, north of 46° 16' N. lat.

Selective Flatfish Trawl Net Requirement

The GMT recommends the Council select their PPA for FPA:

“Alternative 1: SFFT nets would be available for use as a routine inseason mitigation tool to address salmon bycatch in the groundfish bottom trawl fisheries,”

As described in April 2019, selective flatfish trawl (SFFT) gear should be an effective mitigation tool for reducing bycatch of all stronger-swimming species, including Chinook salmon ([Agenda Item G.3.a GMT Report 1 April 2019](#)). Additionally, this could provide a mechanism for vessels to continue to fish within a BAC using bottom trawl, further incentivizing the use of this more selective gear.

Pacific Whiting Cooperative Rules and Development of a Reserve Rule Provision

These two items are considered in separate sections in the RIR, reflecting the Council's distinct PPA motions in September 2019. The GMT, however, discusses both items together, because they are closely related and impacted by the same issues. Additionally, the RIR indicates, and the GMT recommends that the Council select the GMT's alternative (as discussed below) as their FPA.

The main intent of the Pacific whiting cooperative rules has been to better account for cooperatives taking voluntary actions to reduce salmon bycatch and subsequently provide a mechanism by which the whiting fisheries can access the Reserve. These actions, which would be outlined in salmon mitigation plans (SMPs), would need to be approved by the National Marine Fisheries Service (NMFS) and would represent the "action", as required by the incidental take statement (ITS), to allow a sector to access the Reserve. The GMT has long been supportive of this approach, because the cooperatives can respond in a more directed, timely, and effective manner than can be done via typical inseason management tools. The initial Alternative 2 would have allowed the entire whiting sector (i.e., catcher/processors [CP], motherships [MS], and individual fishing quota [IFQ]) to access the Reserve, even if only one of these individual whiting sectors submitted an SMP. However, the Council's PPA included the need for sector accountability and a requirement for each co-op to submit an SMP in order to access the Reserve.

The Council also expressed concern about applying these rules to the shoreside whiting fishery, because not all vessels are part of the shoreside cooperative. The Council's PPA states that all shoreside vessels must be members of the shoreside cooperative and have an approved SMP to gain access to the Reserve. If any shoreside vessels are not members, the entire shoreside whiting sector would require a different mitigation measure (e.g. a BAC) be put in place prior to being accessing the Reserve. In addition, the Council requested guidance on whether a certain level of participation in the shoreside whiting cooperative would allow the entire sector access to the Reserve.

As it stands, the Council's PPA would penalize shoreside whiting cooperative members, even if they submitted an SMP, purely because not all vessels are part of the cooperative. The GMT believes the main goal of these regulations should be to allow any group or individual, regardless of affiliation, access to the Reserve, if that group or individual submits and abides by an SMP. As described in the RIR, NOAA General Counsel (GC) determined that SMPs cannot be limited to cooperatives. Therefore, if the Council wanted to allow SMPs for the shoreside sector, it would need to expand the PPA to all whiting individuals and/or groups of individuals (see page 27 of the RIR).

The GMT reviewed the two proposed options for the shoreside whiting sector from page 49 of the RIR and offers the following thoughts:

Option A would require all, or a certain threshold of, vessels (for example, the sub-option of 16 of the 22-26 total vessels) to submit an SMP in order for the whole shoreside whiting sector to access the Reserve. The GMT is not supportive of Option A, as it would not provide the same incentive as Option B (discussed below) to implement SMPs. Additionally, the GMT is concerned that the sub-option could provide access to the Reserve to vessels that are not subject to the provisions of the SMP and may not have taken any action to address salmon bycatch. Finally, participation in the shoreside sector might change throughout the season, so a certain number or percentage may not be appropriate.

Option B would allow individual vessels and/or groups of affiliated shoreside whiting fishermen, including the shoreside whiting cooperative, to submit SMPs to NMFS and, if approved, gain access to the Reserve. This option would provide flexibility to industry, as they would be able to create SMPs that utilize their preferred measures and expertise to identify and implement the most effective bycatch reduction tools. The GMT supports the RIR suggestion to clarify that shoreside vessels with approved SMPs could be exempt from other mitigation measures (e.g., BACs), which the RIR states may be possible, based on preliminary discussion with NMFS (page 32). This would provide a strong incentive for all shoreside whiting vessels to submit an SMP and utilize this management tool.

The GMT therefore recommends the Council select as their FPA on the topic of Pacific whiting cooperative rules:

“GMT-Alternative 2: Develop regulations to allow each whiting sector co-op, group of individual vessels, or individual vessels to develop salmon mitigation plans (SMPs) for approval by NMFS”.

The GMT recommends the Council select the GMT’s alternative for FPA on the topic of Development of a Reserve rule provision:

“GMT-Alternative 1: A sector may only access the Reserve if the Council or NMFS has taken action to minimize Chinook salmon bycatch in that sector prior to it reaching its Chinook salmon bycatch guideline.

- The requirement for Council or NMFS action to minimize Chinook salmon bycatch for access to the Reserve by the at-sea whiting sectors would be satisfied upon approval by NMFS of each of those sector’s respective co-op salmon mitigation plans.*
- ~~The requirement for Council or NMFS action to minimize Chinook salmon bycatch for access to the Reserve by the shoreside whiting sector would be satisfied upon approval by NMFS of that sector’s co-op salmon mitigation plans provided all participating vessels are members of a shoreside co-op with an approved salmon mitigation plan.~~*
- ~~If there are vessels participating in the shoreside whiting fishery that are not members of a shoreside whiting co-op, then additional actions by the Council or NMFS may be needed to minimize Chinook salmon bycatch (e.g., BACs, SFFT) prior to allowing access to the reserve by that sector”~~*
- The requirement for Council or NMFS action to minimize Chinook salmon bycatch for access to the Reserve for shoreside whiting vessels would be satisfied upon approval by NMFS of the vessel’s or group of vessels’ salmon mitigation plans. Other shoreside*

vessels not part of an approved SMP would not be granted Reserve access unless they were subject to another inseason mitigation measures (e.g., BAC); those within the SMP could be exempted from this inseason action.”

Automatic Authority for NMFS to Close Trawl Sectors and Preserve 500 Chinook Salmon for Fixed Gear and Recreational Fisheries:

The GMT reiterates our September comment ([Agenda Item H.4.a, Supplemental GMT Report 1, September 2019](#)) that this tool is not necessary for successful management of salmon bycatch, and believes this is ultimately a risk tolerance decision for the Council. As a reminder, the GMT originally recommended that this alternative not be included in the ROA ([Agenda Item G.3.a., Supplemental GMT Report 3 Report, April 2019](#)). In April 2019, the GMT demonstrated to the Council, Groundfish Advisory Subpanel (GAP), and Salmon Advisory Subpanel (SAS) that neither total nor trawl bycatch has approached a level that would potentially close the recreational and fixed gear fisheries since 2004 ([Agenda Item G.3.a Supplemental GMT Presentation 1 April 2019](#); [Agenda Item G.3.a GMT Report 1 April 2019](#)). These new closure points would complicate regulations and reduce flexibility. Further, the inseason tools available to industry, the Council, and NMFS make this automatic authority unnecessary to protect the recreational and fixed gear fisheries from potential closure caused by high bycatch in the trawl fisheries.

The recreational and fixed gear fisheries could potentially be closed at two different points. First, bycatch of 20,000 total Chinook salmon individuals would close all fisheries. However, total bycatch has been well below that threshold since 2004 (Figure 1). High Chinook salmon bycatch in 2014 triggered a reconsultation of the Biological Opinion and heightened industry and management desire to minimize bycatch. Second, the ITS specifies that all non-whiting fisheries, including those select recreational fisheries and commercial fixed gear, will close if both the 5,500 Chinook salmon non-whiting guideline and full 3,500 Reserve Chinook salmon are taken. However, there has not been an instance since 2004 when this would have occurred (Figure 2).

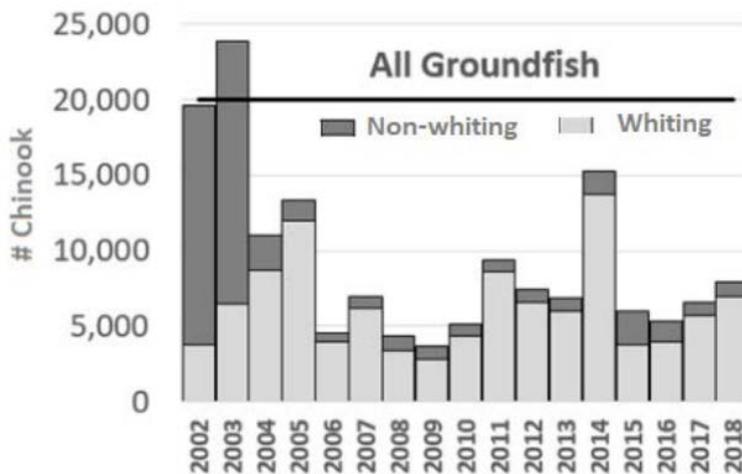


Figure 1. Chinook salmon bycatch (individuals) in 2002-2018, relative to the threshold of 20,000 Chinook salmon individuals, which would close all groundfish fisheries under the 2017 Biological Opinion.

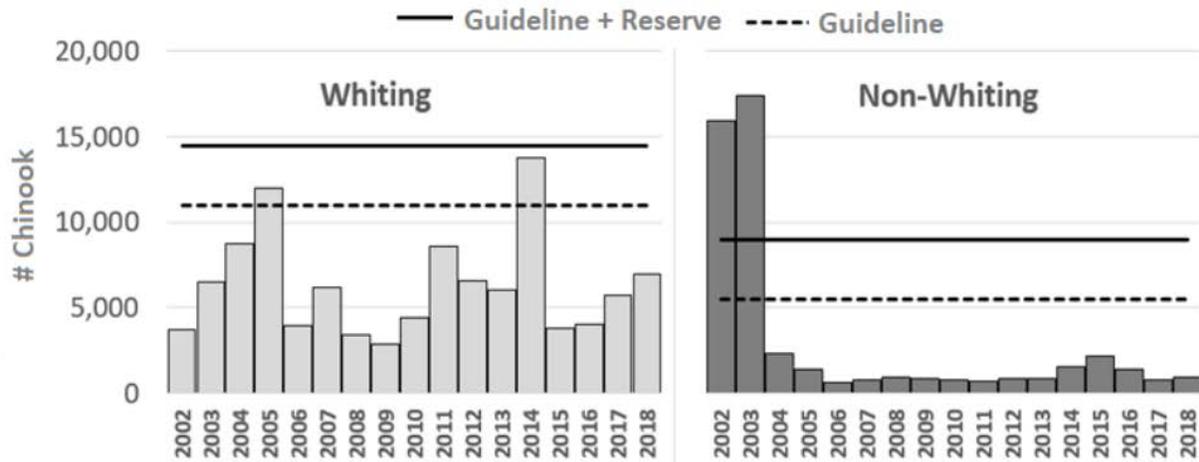


Figure 2. Chinook salmon bycatch (individuals) by sector in 2002-2018, relative to the closure point for each sector, if the PPA were selected as FPA (14,500 individuals for whiting, 8,500 individuals for non-whiting).

Most importantly, the Council and NMFS would have the opportunity to implement inseason actions to restrict groundfish trawl fisheries in the event that high trawl bycatch could prematurely close recreational and fixed gear fisheries. For example, BACs could be used to restrict trawling to the deeper than 250 fathoms, where bycatch rates are relatively minimal ([Agenda Item G.3.a GMT Report 1 April 2019](#)), or to completely close trawl fisheries off Oregon and California, if the PPA to extend the BACs to 700 fathoms (bottom trawl) or the Exclusive Economic Zone (for midwater trawl) is selected for FPA.

For these reasons, the Council considered removing the new trawl closure points (Alternative 1) from the range of alternatives (ROA) in April, but chose instead to further analyze them for consideration. In September, the Council ultimately selected Alternative 1 as the PPA. The GMT understands that a main rationale for Alternative 1 may be to emphasize that recreational and fixed gear seasons would not be jeopardized by high trawl bycatch. When the new ITS became available, all industry groups were concerned about the new automatic closures and the potential of creating a “race to fish”, to the point of discussing the need for sector sub-caps that would prevent high bycatch in one sector impacting other parts of the fleet. In response, the GMT spent considerable time exploring the likelihood that one sector could impact another sector and how using inseason management (e.g., BACs) and relying on industry mitigation efforts (e.g., SMPs) would be the most effective bycatch mitigation methods, with the intent of allowing all fisheries to continue to operate at some level, even if under restrictions. After these discussions and analyses, the GAP ([Agenda Item G.3.a., Supplemental GAP Report 1, April 2019](#)), the SAS ([Agenda Item G.3.a Supplemental SAS Report 1 April 2019](#)), and the GMT all recommended that the more flexible inseason process was sufficient and that Alternative 1 was unnecessary.

The GMT reiterates our September comment that this tool is not necessary for successful management, but believes this is ultimately a risk tolerance decision for the Council. However, if the Council wants to ensure that 500 Chinook salmon are reserved for commercial fixed gear and selected recreational fisheries in their FPA, the GMT suggests a modification to Alternative 1. After further review, the GMT believes that the 14,000 Chinook salmon closure point for whiting is unnecessary. In order to preserve 500 fish for the non-trawl sectors, the only closure points that would be needed are 8,500 Chinook salmon for the non-whiting trawl sector and the 19,500 closure for all trawl fisheries. The 8,500 limit would prevent the entire non-whiting sector from closing, assuming that the 5,500 guideline and 3,500 Reserve were taken by the non-whiting trawl sector. The 19,500 Chinook salmon closure for all trawl fisheries would limit the non-whiting trawl sectors to taking a maximum of 5,000 Chinook salmon in the unlikely scenario that the whiting sector takes the entire whiting threshold (11,000) plus the Reserve (totaling 14,500).

The GMT recommends that, if the Council select their PPA as FPA, they include the following modification:

- *“Close the bottom and mid-water trawl sectors upon attainment of 8,500 Chinook salmon*
- *Close the whiting sectors upon attainment of 14,000 Chinook salmon*
- *Close all trawl fisheries upon attainment of 19,500 Chinook salmon”*

Questions for the Council on SMPs

The GMT reviewed NMFS’ list of questions for the Council in regard to the function and process of SMP management ([Supplemental Agenda Item H.9.a, Supplemental NMFS Report 1, November 2019](#)). The GMT would not have the capacity to evaluate compliance with individual SMP provisions inseason. However, the GMT would continue to provide inseason projections via the salmon scorecard and analyze inseason mitigation measures (e.g., BACs), if voluntary cooperative actions were unsuccessful at ensuring thresholds would not be exceeded.

Language in the Council’s PPA and the NMFS Supplemental Report 1 indicates that SMP participants should describe high bycatch events and the subsequent response in the post-season annual reporting. After discussions with the GAP and industry, the GMT requests the Council clarify the level of detailed reporting expected from those participants that have submitted SMPs. The Council should specify if they would require information on specific events or if an end of year report on the overall actions and performance of the group would be sufficient. Because the GMT will continue inseason monitoring of salmon bycatch using the new scorecard, we support the more general reporting rather than accounting for each bycatch event and response.