



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RTID 0648-XD130

Notice of Intent to Prepare an Environmental Impact Statement for Minimizing Non-Chinook Salmon Bycatch in the Bering Sea Pollock Fishery in the Bering Sea/Aleutian Islands Fishery Management Plan Area.

AGENCY: National Marine Fisheries Service (NMFS), Alaska Regional Office (AKR), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification; intent to prepare an environmental impact statement; request for written comments.

SUMMARY: NMFS, in consultation with the North Pacific Fishery Management Council (Council), announces its intent to prepare an Environmental Impact Statement (EIS) on management measures to minimize non-Chinook salmon bycatch, particularly bycatch of chum salmon (*Oncorhynchus keta*) of western Alaska origin (Western Alaska chum), in accordance with the National Environmental Policy Act of 1969 (NEPA). The management measures analyzed in this EIS would apply exclusively to participants in the Bering Sea pollock (*Gadus chalcogrammus*) fishery, managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), and consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), National Standards, and other applicable law. The scope of the EIS will be to analyze the impacts to the human environment resulting from alternatives for measures to minimize non-Chinook salmon bycatch. NMFS will accept written comments from the public to identify the issues of concern and assist the Council and NMFS in determining the appropriate range of alternatives for the EIS.

DATES: Written comments will be accepted through September 15, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0089, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0089 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Susan Meyer. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, (907) 586-7228,

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SUPPLEMENTARY INFORMATION:

Authority for Action

Under the Magnuson-Stevens Act, the United States has exclusive fishery management authority over all living marine resources found within the exclusive economic zone (EEZ) (*i.e.*, those waters that are 3 to 200 nautical miles (approximately 6 to 370 kilometers) from shore). The management of these marine resources, with the exception of birds and some marine mammals, is vested in the Secretary of Commerce. The Council shares responsibility for

preparing FMPs for the fisheries that require conservation and management in the EEZ off Alaska. Management of the Federal groundfish fisheries in the BSAI is carried out under the BSAI FMP. The BSAI FMP, its amendments, and implementing regulations (found at 50 CFR part 679) are developed in accordance with the requirements of the Magnuson-Stevens Act and other applicable Federal laws and executive orders, notably NEPA and the Endangered Species Act.

Non-Chinook (Chum) Salmon Bycatch Management in the BSAI Groundfish Fisheries

The Magnuson-Stevens Act authorizes the Council and NMFS to manage groundfish fisheries in the Alaska EEZ. Some of these fisheries incidentally catch salmon as bycatch while targeting groundfish. The Council has designated salmon and several other species (herring, Pacific halibut, steelhead, and king and Tanner crab) as “prohibited species” (Section 3.6.1 of the BSAI FMP). By regulation, the operator of any vessel fishing for groundfish in the BSAI must minimize the catch of prohibited species (§ 679.21(a)(2)(i)). For catch accounting purposes, NMFS monitors salmon prohibited species catch (PSC) as either ‘ ”Chinook (*Oncorhynchus tshawytscha*) PSC” ’ or ‘ ”non-Chinook PSC.” ’ Sockeye (*O. nerka*), coho (*O. kisutch*), pink (*O. gorbuscha*), and chum salmon are included in the non-Chinook PSC category. However, over 99 percent of the salmon bycatch in the non-Chinook category are chum salmon. PSC limits are the upper bound of the PSC allowances apportioned to BSAI groundfish fisheries as specified annually under § 679.21. NMFS closes a fishery to avoid exceeding some specified PSC limits.

The Council and NMFS have been actively managing salmon bycatch in the Bering Sea since the mid-1990s. The Council’s current salmon bycatch management program is designed to minimize salmon bycatch at all levels of salmon and pollock abundance, although the PSC limit for Chinook salmon in the Bering Sea pollock fishery is reduced in years of low Chinook salmon abundance (§ 679.21(f)(2)). Much of the salmon bycatch reduction focus has been on Chinook salmon, although salmon bycatch reduction measures also include chum salmon. Salmon bycatch reduction actions previously implemented include the following measures.

The Chum Salmon Savings Area, established in 1994 by emergency rule, was formalized through BSAI FMP Amendment 35 in 1995 (60 FR 34904, July 5, 1995). These actions closed the Chum Salmon Savings Area in the Bering Sea to all trawling from August 1 through August 31 and stipulated it would remain closed through October 14 if the bycatch limit of 42,000 non-Chinook salmon was met in the Catcher Vessel Operational Area (CVOA) after August 31. The CVOA encompasses the Chum Salmon Savings Area, effectively closing both areas to trawling if the limit was reached.

The voluntary rolling hot spot closure system (VRHS) was implemented by the pollock industry for chum salmon in 2001 and Chinook salmon in 2002 to facilitate sharing real-time salmon bycatch information to avoid areas with high Chinook and chum salmon bycatch rates (*i.e.*, the number of salmon incidentally caught per metric ton of pollock).

In 2007, BSAI FMP Amendment 84 implementing regulations addressed increases in Chinook and chum salmon bycatch that were occurring despite the PSC limits in place to trigger closures of the Chinook and Chum Salmon Savings Areas (72 FR 61070, October 29, 2007). These regulations established the salmon bycatch Intercooperative Agreement (ICA), which allowed vessels participating in the Bering Sea pollock fishery to use their internal cooperative structure to reduce Chinook and chum salmon bycatch using the VRHS. Under Amendment 84 vessels participating in the VRHS under the ICA were exempt from the Salmon Savings Area closures. Amendment 84 also requires the efficacy of the VRHS program and bycatch reduction efforts to be reported to the Council annually.

Prior to Amendment 84's implementing regulations, the Council began to work on a comprehensive bycatch management package for both Chinook and chum salmon which considered updated closure areas and a range of overall PSC limits by fishery sector, season, and species. However, 2007 saw the highest historical bycatch of Chinook salmon coincide with ongoing observations of and concerns about declining Chinook stocks of western Alaska origin.

Therefore, the Council prioritized management measures for Chinook salmon bycatch, resulting in BSAI FMP Amendment 91 in 2010 (75 FR 53026, August 30, 2010).

Amendment 91 substantially changed Chinook salmon bycatch management in the Bering Sea pollock fishery by creating two Chinook salmon PSC limits or “hard caps.” The Chinook salmon PSC limits were implemented alongside industry-developed contractual arrangements called Incentive Plan Agreements (IPAs). IPAs are designed to incentivize the pollock industry to minimize their Chinook salmon bycatch at all levels of Chinook salmon abundance. This combined approach also provides the pollock industry with the flexibility to harvest the Bering Sea pollock Total Allowable Catch (TAC) in years when encounter rates for Chinook salmon are higher and salmon are difficult to avoid on the fishing grounds. Under Amendment 91, if the pollock industry developed IPAs, an overall cap of 60,000 Chinook salmon was implemented. If the pollock industry did not develop IPAs, a lower limit of 47,591 Chinook salmon applied fleet wide. Three IPAs have been in place since 2010. The overall hard cap is divided between the A and B pollock seasons and allocated among the catcher/processor (CP), mothership, inshore catcher vessel (CV), and Community Development Quota (CDQ) sectors. Amendment 91 also created a performance standard that required that each sector not exceed its allocation of 47,591 Chinook salmon in any 3 out of 7 consecutive years.

Salmon bycatch monitoring in the Bering Sea pollock fishery changed in 2011 to enable Chinook salmon bycatch accounting, although the measures are applied to all salmon. Bycatch monitoring of all salmon species in the Bering Sea pollock fishery is accomplished through the following measures: (1) requirements for 100 percent observer coverage for all vessels and processing plants; (2) salmon retention requirements; (3) specific areas to store and count all salmon, regardless of species; (4) video monitoring on at-sea processors; and (5) electronic reporting of salmon, by species, by haul (for CPs) or delivery (for motherships and shoreside processors). Full retention of all salmon is required because it is difficult to differentiate Chinook salmon from other salmon species, and salmon of all species are counted using the same

methods. The North Pacific Observer Program also implemented more robust genetic sampling, which is required to achieve the Council's priority of minimizing Western Alaska chum salmon bycatch. Every salmon caught as bycatch in the Bering Sea pollock fishery is counted and recorded. Every 10th Chinook salmon and every 30th chum salmon are sampled by a NMFS-certified observer and are used to collect biological information including length and tissues used to determine the genetic stock of origin, among other data.

Amendment 110 to the BSAI FMP, implemented in 2016, further refined salmon bycatch management in the Bering Sea pollock fishery to improve the incentives to avoid Chinook and chum salmon, while providing more flexibility to the pollock fleet to change fishing operations to improve its opportunity to harvest the pollock TAC (81 FR 37534, June 10, 2016). Key elements of Amendment 110 and implementing regulations that addressed salmon bycatch included:

- Incorporate chum salmon avoidance into the IPAs established under Amendment 91, and remove the non-Chinook salmon bycatch reduction ICA previously established under Amendment 84 to the FMP;
- Modify the requirements for the content of the IPAs to increase the incentives for fishermen to avoid Chinook salmon;
- Change the seasonal apportionments of the pollock TAC to allow more pollock to be harvested earlier in the year when Chinook salmon PSC use tends to be lower;
- Reduce the Chinook salmon PSC limit to 45,000 Chinook salmon and performance standard to 33,318 Chinook salmon in years with low Chinook salmon abundance in western Alaska; and
- Improve the monitoring of salmon bycatch in the pollock fishery.

Amendment 110 further clarified and strengthened salmon monitoring regulations implemented under Amendment 91. Those changes: (1) revised salmon retention and handling

requirements on catcher vessels; (2) improved observer data entry and transmission requirements for catcher vessels; (3) clarified requirements applicable to viewing salmon in a storage container; and (4) clarified requirements for the removal of salmon from an observer sampling station at the end of a haul or delivery.

Proposed Action

The Council is now considering management measures to further minimize non-Chinook salmon bycatch in light of the ongoing declines in chum salmon run strength across western and Interior Alaska. Concurrent with the changes in chum salmon stock abundance, the Council reviewed scientific reports outlining the impact of warming ocean conditions on salmon mortality at sea and received substantial public comment from western and Interior Alaska Tribes, Tribal Consortia, and subsistence salmon fishermen describing the importance of chum salmon for food security, wellbeing, and the continuation of meaningful cultural practices and related Traditional Knowledge (TK) systems. The Council also received public comments and annual presentations from IPA representatives on the industry's efforts to minimize their salmon bycatch. As part of this action, the EIS will analyze the extent to which implementing additional chum salmon bycatch management measures could have some positive benefit on the number of chum salmon that return to western Alaska rivers. Any additional chum salmon returning to Alaska river systems improves the ability to meet the State's spawning escapement goals, which is necessary for the long-term sustainability of chum salmon.

The Council's intent for this proposed action is to minimize the bycatch of chum salmon, particularly those of western Alaska origin. The management measures to be analyzed in this EIS would apply exclusively to participants in the Bering Sea pollock fishery because the majority of non-Chinook bycatch occurs in the Bering Sea pollock fishery (~98%). The EIS will analyze a range of alternatives considered for the proposed action to minimize non-Chinook salmon bycatch, particularly the bycatch of Western Alaska chum salmon, in the Bering Sea pollock fishery. The chum salmon bycatch reduction measures under consideration would augment

current bycatch reduction measures in the Bering Sea pollock fishery. The BSAI area is defined at § 679.2 and shown in Figures 1 to 50 CFR part 679.

In June 2023, the Council and NMFS agreed that NMFS would initiate public scoping to prepare an EIS for the proposed action to minimize non-Chinook salmon bycatch, particularly bycatch of Western Alaska chum salmon in the Bering Sea pollock fishery. Additional information on the Council's proposed action to minimize chum salmon bycatch is available on the Council's web site at <https://www.npfmc.org/>.

Purpose and Need Statement

In April 2023, the Council adopted the following Purpose and Need Statement with additional language added by NMFS that addresses National Standard 9:

Salmon are an important fishery resource throughout Alaska, and chum salmon that rear in the Bering Sea support subsistence, commercial, sport, and recreational fisheries throughout western and Interior Alaska. Western and Interior Alaska salmon stocks are undergoing extreme crises and collapses, with long-running stock problems and consecutive years' failures to achieve escapement goals, U.S.-Canada fish passage treaty requirements, and subsistence harvest needs in the Yukon, Kuskokwim, and Norton Sound regions. These multi-salmon species declines have created adverse impacts to culture and food security and have resulted in reduced access to traditional foods and commercial salmon fisheries.

The best available science suggests that ecosystem and climate changes are the leading causes of recent chum salmon run failures; however, non-Chinook (primarily chum) salmon are taken in the Eastern Bering Sea pollock trawl fishery, which reduces the amount of salmon that return to western and Interior Alaska rivers and subsistence fisheries. It is important to acknowledge and understand all sources of chum mortality and the cumulative impact of various fishing activities. In light of the critical importance of chum salmon to western Alaska communities and ecosystems, the Council is considering additional measures to further minimize Western Alaska chum bycatch in the pollock fishery.

The purpose of this proposed action is to develop actions to minimize bycatch of Western Alaska chum salmon in the Eastern Bering Sea pollock fishery consistent with the Magnuson-Stevens Act, National Standards, and other applicable law. In particular, National Standard 9 provides that conservation and management measures shall, to the extent practicable, (a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. Consistent, annual genetics stock composition information indicates that the majority of non-Chinook bycatch in the pollock fishery is of Russian/Asian hatchery origin; therefore, alternatives should structure non-Chinook bycatch management measures around improving performance in avoiding Western Alaska chum salmon specifically.

The Council intends to consider establishing additional regulatory non-Chinook bycatch management measures that reduce Western Alaska chum bycatch and meet the following objectives; (1) provide additional opportunities for the pollock trawl fleet to improve performance in avoiding non-Chinook salmon, while maintaining the priority of the objectives of the Amendment 91 and Amendment 110 Chinook salmon bycatch avoidance program; (2) meet and balance the requirements of the Magnuson-Stevens Act, particularly to minimize salmon bycatch to the extent practicable under National Standard 9; (3) include the best scientific information available including Local Knowledge and TK as required by National Standard 2; (4) take into account the importance of fishery resources to fishing communities including those that are dependent on Bering Sea pollock and subsistence salmon fisheries as required under National Standard 8; and (5) achieve optimum yield in the BSAI groundfish fisheries on a continuing basis, in the groundfish fisheries as required under National Standard 1.

Alternatives and Options for Non-Chinook (Chum) Salmon Bycatch Reduction

NMFS, in coordination with the Council, will evaluate a range of alternative methods to minimize non-Chinook salmon bycatch, with a primary focus on reducing Western Alaska chum salmon bycatch in the Bering Sea pollock fishery in accordance with the Magnuson-Stevens Act. NMFS and the Council recognize that implementation of additional measures to minimize chum

PSC could change aspects of the existing management measures for non-Chinook PSC in the Bering Sea pollock fishery.

Possible alternatives for minimizing non-Chinook bycatch in the Bering Sea pollock fishery could be constructed from one or more of the following draft alternatives and options developed by the Council, in addition to those developed through the public scoping and future Council processes:

Alternative 1: Status Quo, no action

Alternative 1 is the current management of the Bering Sea pollock fishery with the measures to minimize non-Chinook salmon PSC under Amendment 110, as described above, and the associated monitoring and genetic data collection and analysis.

All action alternatives apply to the entire Bering Sea pollock B season, the season in which chum salmon are taken as bycatch.

Alternative 2: Overall PSC limit for chum salmon

Option 1: Chum salmon PSC limit (a range to be informed by PSC data).

PSC limits are apportioned among CDQ, CP, mothership, and inshore sectors based on historical total bycatch by sector. The inshore limit is further apportioned among the inshore cooperatives. The CDQ limit is further apportioned among the CDQ groups. Reaching a PSC limit closes the pollock fishery sector to which the PSC limit applies.

Option 2: Weighted, step-down PSC limit triggered by a three-river chum index (Kwiniuk (or index developed for Norton Sound area), Yukon, Kuskokwim) that is linked to prior years' chum abundance/amount necessary for subsistence (ANS)/escapement and weighted to account for variance in stock sizes across river systems.

PSC limits would be triggered and in effect when one or more Western Alaska chum index areas fails to meet index thresholds. As more areas fail to meet index thresholds, chum PSC limits would step-down and become more restrictive. PSC limits are apportioned among CDQ, CP, mothership and inshore sectors. The inshore limit is further apportioned among the

inshore cooperatives. The CDQ limit is further apportioned among the CDQ groups. Reaching a PSC limit closes the pollock fishery sector to which the PSC limit applies.

Alternative 3: PSC limit for Western Alaska chum salmon

Option 1: Western Alaska chum salmon PSC limit (range to be informed by PSC data).

PSC limits are apportioned among CDQ, CP, mothership, and inshore sectors based on historical total bycatch by sector. The inshore limit is further apportioned among the inshore cooperatives. The CDQ limit is further apportioned among the CDQ groups. Reaching a PSC limit closes the pollock fishery sector to which the PSC limit applies.

Option 2: Weighted, step-down Western Alaska chum PSC limit triggered by a three-river chum index (Kwiniuk (or index developed for Norton Sound area), Yukon, Kuskokwim) that is linked to prior years' chum abundance/ANS/escapement and weighted to account for variance in stock sizes across river systems.

PSC limits would be triggered and in effect when one or more Western Alaska chum index areas fails to meet index thresholds. As more areas fail to meet index thresholds, chum PSC limits would step-down and become more restrictive. PSC limits are apportioned among CDQ, CP, mothership, and inshore sectors. The inshore limit is further apportioned among the inshore cooperatives. The CDQ limit is further apportioned among the CDQ groups. Reaching a PSC limit closes the pollock fishery sector to which the PSC limit applies.

Alternative 4: Additional regulatory requirements for IPAs to be managed by either NMFS or within the IPAs

Option 1: Require a chum salmon reduction plan agreement to prioritize avoidance in Genetic Cluster Areas 1 and 2 for a specified amount of time based on two triggers: 1) exceeding an established chum salmon incidental catch rate; and 2) exceeding a historical genetic composition (proportion) of Western Alaska chum salmon to non-Western Alaska chum salmon.

Option 2: Additional regulatory provisions requiring IPAs to utilize the most refined genetic information available to further prioritize avoidance of areas and times with higher proportions of Western Alaska and Upper/Middle Yukon chum stocks.

Issues to be Analyzed

The EIS will analyze these alternatives, and any additional alternatives developed through the scoping and Council processes, and their likely impacts on non-Chinook salmon stocks, elements of associated marine resources, and participants in the directed pollock fishery. The EIS also will analyze the likely impacts of such additional non-Chinook salmon PSC limits on related Chinook salmon stocks and on participants in subsistence salmon fisheries in the area.

When the Council adopted a Purpose and Need statement in April 2023, the Council asked for a preliminary analysis, which will be presented at the October 2023 Council meeting, along with a summary of scoping comments received in response to this notice, to provide information to inform a reasonable range of PSC limits and an index associated with Western Alaska chum salmon stock status under the action alternatives. The preliminary analysis will address:

- Non-Chinook PSC data by year from 2011 through 2022; 3-, 5-, 10-year average non-Chinook PSC levels from 2011 through 2022; and potential ranges for average PSC levels during warm/cold years from 2011 through 2022.
- Whether the identified areas (Kwiniuk (or Norton Sound area), Kuskokwim, Yukon) are appropriate as indices to determine Western Alaska chum salmon abundance and whether there are data to support consistent use of each area in an index.
- Which criteria should be used to define low index abundance in each area (*i.e.*, a number of chum defining poor abundance) for each area? Examples:
 - abundance (*e.g.*, a percentile of historical abundance)
 - subsistence harvest performance (*e.g.*, subsistence harvest in relation to historical subsistence harvest and/or ANS)
 - achievement of escapement goals (*e.g.*, a percentage of total escapement goals met or

exceeded)

- The feasibility of NMFS implementing a Western Alaska chum PSC limit under Alternative 3. For example, can NMFS apply the Western Alaska chum stock proportion available in spring 2025 to total chum PSC at the end of year 2024 to trigger management measures in B season 2025? Or a measure whereby Western Alaska chum PSC limit is reduced if exceeded for a maximum number of consecutive years (*e.g.*, 2 out of 5 years or 3 out of 7 years)?
- Additional information necessary to analyze IPAs such as the base rate for triggering action, *e.g.*, the proportion of Western Alaska and non-Western Alaska chum salmon for the second trigger in Alternative 4, Option 1.
- A summary of research and TK that can be gathered to understand all causes of the population decline.

Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed in an EIS and for identifying the significant issues related to the proposed action (40 CFR 1501.9). An EIS is a detailed statement on a proposed agency action, but it does not mandate particular results or substantive outcomes as the purpose and function of NEPA is satisfied if the agency considered relevant environmental information and the public has been informed regarding the decision-making process (40 CFR 1500.1(a)). A principal objective of the scoping and public involvement process is to identify a range of reasonable management alternatives that, with adequate analysis in an EIS, will delineate critical issues and provide a clear basis for distinguishing among those alternatives and informing the selection of a preferred alternative. Through this notice, NMFS is notifying the public that an EIS and a decision-making process for this proposed action have been initiated so that interested or affected people may participate and contribute to the final decision.

NMFS is seeking written public comments on the scope of issues, including potential

impacts, and alternatives that should be considered to minimize non-Chinook salmon bycatch, particularly the bycatch of Western Alaska chum salmon, in the Bering Sea pollock fishery. Written comments should be as specific as possible to be the most helpful. Written comments received during the scoping process, including the names and addresses of those submitting them, will be considered part of the public record of this proposal and will be available for public inspection. Written comments will be accepted at the address above (see **ADDRESSES**). Please visit the NMFS Alaska Region web site at <https://www.alaskafisheries.noaa.gov> for more information on salmon bycatch management in Alaska.

Subsequent to the formal scoping period for written comments, which this notice announces, the public is invited to participate and provide additional relevant input at Council meetings, where the latest scientific information regarding chum bycatch in the Bering Sea pollock fishery is reviewed and alternatives will be developed and evaluated for this EIS. Notice of future Council meetings will be published in the *Federal Register* and on the internet at

<https://www.npfmc.org/>. Please visit this website for information and guidance on participating in Council meetings.

Authority: 16 U.S.C. 1801 *et seq.*

Dated July 5, 2023

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National Marine Fisheries Service.

