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"Whiting") under "West Coast
Updates".

PACIFIC COAST GROUND FISH FISHERY Salmon Bycatch Minimization Measures Compliance Guide

On February 23, 2021, NOAA Fisheries published a final rule in the Federal Register (86 FR 10857) implementing salmon bycatch minimization measures to minimize incidental take of Endangered Species Act-listed salmon by vessels in the Pacific Coast groundfish fishery. These measures are explained below.

Regulations contained in this rule are effective **March 25, 2021**. The final rule, proposed rule, comments, and supporting documents can be found at:

[https://www.fisheries.noaa.gov/
action/salmon-bycatch-minimization-
measures-pacific-coast-groundfish-
fishery](https://www.fisheries.noaa.gov/action/salmon-bycatch-minimization-measures-pacific-coast-groundfish-fishery)

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This document serves as a Small Entity Compliance Guide, complying with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

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Background

On the West Coast, groundfish vessels use gear (e.g. midwater and bottom trawl, fixed gear, and hook-and-line) that interacts with coho and Chinook salmon listed under the Endangered Species Act (ESA). On December 11, 2017, NOAA Fisheries issued a Biological Opinion on the impact of the groundfish fishery on ESA-listed salmonids. The Biological Opinion set forth terms and conditions with which NOAA Fisheries and the Pacific Fishery Management Council (Council) must comply. Compliance with the terms and conditions allows the fishery to take a certain amount of listed salmonid species.

In the 2019-2020 Pacific Coast groundfish harvest specifications and management measures action (83 FR 63970; December 12, 2018) NOAA Fisheries and the Council set up bycatch guidelines for Chinook salmon and created a Chinook salmon bycatch reserve for years of high bycatch.

To address the remaining terms and conditions, the Council developed new salmon bycatch minimization tools to allow for timely inseason management of salmon bycatch. The Council also developed regulations regarding the Chinook salmon bycatch reserve and its use.

This final rule establishes additional management tools to minimize incidental Chinook and coho salmon bycatch to keep fishery sectors within guidelines, establishes rules to allow industry to access the Chinook salmon bycatch reserve, and creates Chinook salmon bycatch closure thresholds for the trawl fishery. Additionally, this final rule allows a Pacific whiting sector cooperative or group of vessels to develop a Salmon Mitigation Plan (SMP), for NOAA Fisheries approval, to manage Chinook salmon bycatch.



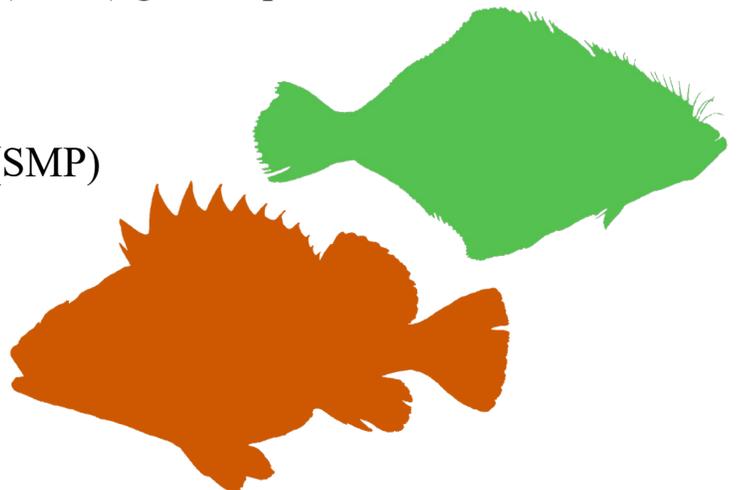
Salmon Bycatch Minimization Measures

Previously established tools to manage Chinook and coho salmon bycatch in the groundfish fishery:

1. Bycatch Reduction Area (BRA) for midwater trawl vessels at the 200-fathom (fm) depth contour (83 FR 63970, December 12, 2018) and
2. Block Area Closures (BACs) for bottom trawl vessels from shore to the 250-fm depth contour (84 FR 63966, November 19, 2019) off Oregon and California

New Management Tools to Minimize ESA-listed Salmon Bycatch (non-tribal fisheries):

1. BACs for midwater trawl fisheries
2. An extension of BACs seaward of the 250-fm depth contour for bottom trawl vessels
3. A selective flatfish trawl (SFFT) gear requirement for bottom trawl vessels; and
4. Salmon Mitigation Plan (SMP)



Block Area Closures

Block Area Closures for Midwater Trawl Fisheries:

As a routine management measure to address specific areas of high salmon bycatch in the midwater trawl fisheries in the whiting and non-whiting sectors, the Council may recommend NOAA Fisheries implement BACs preseason (e.g., before the start of the fishing year or before the May 15 start of the primary season for Pacific whiting fishery) or inseason.

BACs could be implemented or modified in the Exclusive Economic Zone (EEZ) off Oregon and California and may be implemented in the EEZ off Washington shoreward of the boundary line approximating the 250-fm depth contour.

This final rule does not implement specific individual BACs for midwater or bottom trawl fisheries.

What are BACs?

BACs are size variable spatial closures bounded by latitude lines and depth contours in the regulations. BACs allow for more targeted area closures compared to a large fixed closure areas like a BRA.

Extension of Block Area Closures for Bottom Trawl Fisheries:

This final rule allows NOAA Fisheries to implement and modify BACs, as a routine management measure, in open areas beyond the 250-fm depth contour to the existing boundary line approximating the 700-fm Essential Fish Habitat Conservation Area closure for bottom trawl fisheries. This extension only applies south of 46°16'00" N. latitude (in the EEZ off Oregon and California).

Selective Flatfish Trawl Requirement for Bottom Trawl Fisheries

This final rule makes an SFFT gear requirement available as a routine management measure to address ESA-listed salmon bycatch in the **groundfish bottom trawl fisheries**. The requirement to fish with SFFT gear could be used in conjunction with a BAC. It could allow bottom trawl vessels to continue fishing in the BAC if vessels used SFFT gear. The SFFT gear requirement may be implemented preseason or inseason. This final rule does not implement a specific SFFT gear requirement.

Are there any changes to the declaration report?

Yes, this rule made two changes to the declaration report in order to monitor and enforce SFFT gear requirements. This rule **added** a declaration for “**Limited entry selective flatfish trawl, shorebased IFQ**” (#32 on declaration report) and **modified** the existing “Limited entry bottom trawl, shorebased IFQ, not including demersal trawl” declaration to “**Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl**” (#30 on declaration report).

How will I know when measures are implemented?

If BACs, BRAs or SFFT gear requirements are implemented, NOAA Fisheries will post a Federal Register notice with the geographic boundaries, the effective dates, and applicable gear/fishery restrictions. NOAA Fisheries will also do public notice and post on the West Coast Region website. Sign up to receive public notices on the NOAA Fisheries West Coast Region website at www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/public_notices/groundfish_email_group_signup.html.

Rules for Access to the Chinook Salmon Bycatch Reserve

The Chinook salmon bycatch reserve is a pot of 3,500 fish to cover the whiting and non-whiting sectors in years of high bycatch. This final rule establishes that a sector may only access the reserve if NOAA Fisheries has implemented a management measure to minimize Chinook salmon bycatch in that sector prior to it reaching its Chinook salmon bycatch guideline. A vessel may also access the reserve if they are party to a Salmon Mitigation Plan (SMP). See the FAQ on pages 8 and 9 for qualifying bycatch minimization actions for the whiting and non-whiting sectors.

Why a reserve?
 A safety net to minimize disruption to the fishery when other actions to reduce bycatch are insufficient.

This final rule implements automatic fishery closure thresholds shown in Table 1 to ensure rules for access to the reserve are followed.

Table 1. Fishery Closure Thresholds for Reserve Access Rules

Close:	If Chinook salmon catch exceeds:	And:
Whiting sector	11,000 fish in the whiting sector	(1) NOAA Fisheries has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve
Non-whiting sector	5,500 fish in the non-whiting sector	(1) NOAA Fisheries has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The whiting sector has caught its 11,000 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve

Frequently Asked Questions on Reserve Access Rules

The whiting sector:

Q: What is the Chinook salmon bycatch guideline for the whiting sector?

A: 11,000 Chinook salmon

Q: How can the whiting sector access the bycatch reserve once the Chinook salmon bycatch guideline has been reached?

A: A vessel may access the reserve if they are party to a Salmon Mitigation Plan (SMP) (described below) or fish within a component of the whiting sector (i.e. the MS Cooperative Program, C/P Cooperative Program, and the Pacific whiting Shorebased IFQ fishery) where NOAA Fisheries has implemented a management measure to minimize Chinook salmon bycatch. This requirement for a management measure may be satisfied through the implementation of a BRA or BAC for the applicable component. Vessels not party to an SMP may access the reserve **only if** NOAA Fisheries has implemented a routine management measure (e.g., BRA or BAC) to minimize Chinook salmon bycatch for those vessels.

Q: If the whiting sector exceeds its Chinook salmon bycatch guideline of 11,000 fish, will there be an automatic fishery closure for that sector?

A: NOAA Fisheries will automatically close the MS Coop Program, C/P Coop Program, and the Pacific whiting IFQ fishery **if**:

- a) NOAA Fisheries has not implemented a routine management measure to minimize Chinook salmon bycatch **for that individual component** of the whiting sector, **OR**
- b) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.

Frequently Asked Questions on Reserve Access Rules

The non-whiting sector:

Q: What is the Chinook salmon bycatch guideline for the non-whiting sector?

A: 5,500 Chinook salmon.

Q: How can the non-whiting sector access the bycatch reserve once the Chinook salmon bycatch guideline has been reached?

A: The non-whiting sector **may** access the bycatch reserve **only if** NOAA Fisheries has implemented a routine management measure (i.e. BRA, BAC, or SFFT gear requirement) prior to the non-whiting sector reaching its Chinook salmon bycatch guideline. This requirement may be satisfied where NOAA Fisheries has implemented a BAC for bottom trawl and/or midwater trawl fisheries, or an SFFT gear requirement for bottom trawl fisheries.

Q: If the non-whiting sector exceeds its Chinook salmon bycatch guideline of 5,500 fish, will there be an automatic fishery closure for that sector?

A: There will be an automatic fishery closure for the non-whiting sector **if**

- a) NOAA Fisheries has not implemented a routine management measure to minimize Chinook salmon bycatch, **OR**
- b) The whiting sector has caught its 11,000 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.



Trawl Fishery Closures in Response to Chinook Salmon Bycatch

This final rule establishes actions that will automatically close all trawl fisheries if Chinook salmon bycatch exceeds 19,500 fish total in the whiting and non-whiting sectors combined, as well as close non-whiting trawl fisheries if Chinook salmon bycatch exceeds 8,500 fish in the non-whiting sector. The closures ensure that 500 Chinook salmon out of the 20,000 fish total groundfish fishery bycatch limit are available for bycatch in fixed gear and select recreational fisheries. This will allow the recreational and fixed-gear fisheries to continue operating in years of high trawl fishery bycatch.

Table 2 summarizes all of the groundfish fishery closures for Chinook salmon bycatch. The closures described in Table 2 do not apply to Pacific Coast treaty Indian fisheries except for the existing threshold which closes all groundfish fisheries, including Pacific Coast treaty Indian fisheries, if Chinook salmon bycatch in the groundfish fishery exceeds 20,000 fish.

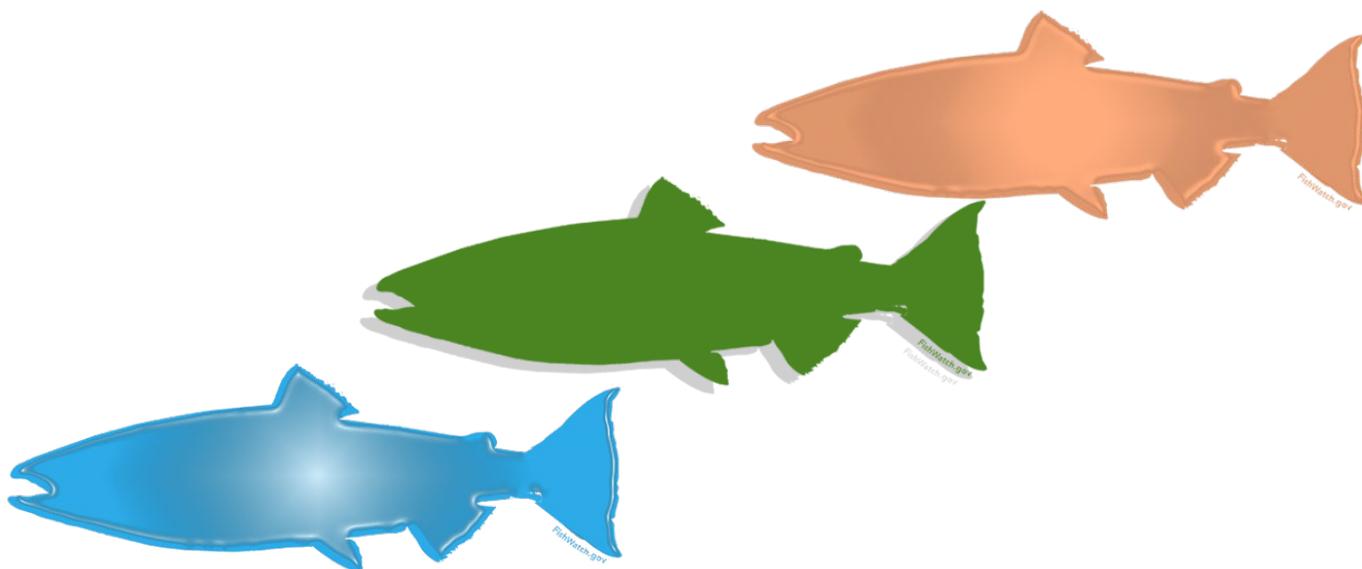


Table 2. Summary of Groundfish Fishery Closures in Response to Chinook Salmon Bycatch

Close:	If Chinook salmon bycatch exceeds:	And:	Implemented with this final rule?:
Whiting sector	11,000 fish in the whiting sector	(1) NOAA Fisheries has not implemented a routine inseason action to minimize Chinook salmon bycatch; OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve	Yes (reserve access rules)
Whiting sector	14,500 fish in the whiting sector	The non-whiting sector has not accessed the Chinook salmon bycatch reserve	No; previously existing (83 FR 63970; December 12, 2018)
Non-whiting sector	5,500 fish in the non-whiting sector	(1) NOAA Fisheries has not implemented a routine inseason action to minimize Chinook salmon bycatch; OR (2) The whiting sector has caught its 11,000 Chinook salmon guideline and 3,500 Chinook salmon from the bycatch reserve	Yes (reserve access rules)
Non-whiting trawl fisheries (midwater trawl and bottom trawl fisheries under the Shorebased IFQ Program)	8,500 fish in the non-whiting sector		Yes (trawl fishery closures)
Non-whiting sector	9,000 fish in the non-whiting sector	The whiting sector has not accessed the Chinook salmon bycatch reserve	No; previously existing (83 FR 63970; December 12, 2018)
All trawl fisheries (whiting sector and non-whiting trawl fisheries)	19,500 fish in the whiting and non-whiting sector		Yes (trawl fishery closures)
All groundfish fisheries	20,000 fish in the whiting and non-whiting sector		No; previous existing (83 FR 63970; December 12, 2018)

Salmon Mitigation Plans

This final rule allows a Pacific whiting sector cooperative or group of vessels to develop a Salmon Mitigation Plan (SMP) for NOAA Fisheries approval. NOAA Fisheries expects the SMP to promote reductions in Chinook salmon bycatch relative to what would have occurred in the absence of an SMP, because the SMP will require bycatch minimization measures for all vessels party to that SMP. Therefore, NOAA Fisheries approval of an SMP will give those vessels party to the SMP access to the Chinook salmon bycatch reserve.

Frequently Asked Questions

Q: What is an SMP?

A: The SMP is a voluntary agreement by a cooperative or group of vessels in the Pacific whiting fishery Mothership (MS) Coop Program, Catcher/processor (C/P) Coop Program, or Pacific whiting Shorebased IFQ fishery to manage Chinook salmon bycatch.

An SMP will require bycatch minimization measures for all vessels party to that SMP.

Vessels party to the SMP will commit to voluntarily comply with the provisions of the SMP.

Q: Who can participate?

A: Groups of vessels, or cooperatives, may create and submit SMPs to NOAA Fisheries for approval.

There is a three vessel minimum for an approved SMP.

Individual vessels are not eligible to submit an SMP for approval.

After NOAA Fisheries approves an SMP, any changes in the membership of vessels party to the SMP, including a vessel leaving an SMP or adding a vessel to an SMP, must be submitted to NOAA Fisheries for approval though an SMP amendment.

Frequently Asked Questions Continued

Q: What are the benefits to participating in an SMP?

A: Vessels that are party to an approved SMP will have automatic access to the Chinook salmon bycatch reserve without the requirement for NOAA Fisheries to implement any inseason Chinook salmon bycatch minimization measures.

Q: What components must the SMP contain for approval?

A: The SMP must detail how those vessels party to the SMP will avoid and minimize Chinook salmon bycatch, including the tools they will employ.

The SMP must contain the names and signatures of the owner or representative for each vessel that is party to the SMP.

The SMP must include the vessel name and USCG vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation, of each vessel that is party to the SMP.

The SMP must designate a representative to serve as the SMP point of contact with NOAA Fisheries and the Council.

- The designated representative will submit the SMP proposal, any SMP amendments, and post-season report.

The SMP must contain a compliance agreement in which all parties to the SMP agree to voluntarily comply with all the provisions of the SMP.

Q: Are there any other requirements for an SMP?

A: Yes. The SMP must also be reasonably expected to reduce Chinook salmon bycatch.

Frequently Asked Questions Continued

Q: When do the proposed SMPs need to be submitted to NOAA Fisheries ?

A: February 1 through March 31. For 2021, NOAA Fisheries will announce the submission deadlines via public notice.

Q: When will an SMP expire?

A: December 31 of the year in which NOAA Fisheries approved it.

Q: Can there be any changes made to an approved SMP?

A: Yes. An amendment to an approved SMP may be submitted to NOAA Fisheries at any time during the year in which the SMP is valid. The amendment must include the SMP identification number. NOAA Fisheries will review the amendment to make sure it still meets the SMP requirements. NOAA Fisheries will provide the SMP representative written notification of approval.

Q: Can a vessel join or leave an SMP after it is approved?

A. Yes. Any changes in SMP membership, including a vessel leaving an SMP or adding a vessel to an SMP, must be submitted to NOAA Fisheries for approval through an SMP amendment.

Q: Can vessels with an approved SMP be subject to additional salmon bycatch minimization measures (i.e. BAC, BRA)?

A.: Yes. The Council may recommend additional measures to manage salmon bycatch to the bycatch thresholds. When recommending and implementing a routine management measure to minimize Chinook salmon bycatch, the Council and NOAA Fisheries will specifically state whether the measure will apply to vessels party to an approved SMP.

Frequently Asked Questions Continued

Q: Can Pacific whiting cooperatives incorporate the SMP into the cooperative agreement, as well as the post-season report into the annual cooperative report?

A: Yes. NOAA Fisheries will work with the cooperatives to implement this administrative efficiency.

Q: Are there any reporting requirements?

A: Yes. The designated SMP representative for an approved SMP must submit a written postseason report to NOAA Fisheries and the Council for the year in which the SMP was approved. The SMP postseason report must be received by NOAA Fisheries and the Council no later than March 31 of the year following that in which the SMP was approved.

Q: What needs to be included in the post-season report?

A: The SMP postseason report must contain:

1. Name of the SMP and SMP identification number.
2. A comprehensive description of Chinook salmon bycatch avoidance measures used in the fishing year in which the SMP was approved, including but not limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.
3. An evaluation of the effectiveness of these avoidance measures in minimizing Chinook salmon bycatch.
4. A description of any amendments to the terms of the SMP that were approved by NOAA Fisheries during the fishing year in which the SMP was approved and the reasons the amendments to the SMP were made.

Frequently Asked Questions Continued

Q: Is there an appeal process if NOAA Fisheries disapproves an SMP?

A: Yes. If NOAA Fisheries' review of the proposed SMP or amendment identifies deficiencies in the proposed SMP that would require disapproval of the proposed SMP or amendment, NOAA Fisheries will first notify the applicant in writing. The applicant will have 30 days to address the deficiencies. If the deficiencies are not addressed, NOAA Fisheries will issue an Initial Administrative Determination (IAD) to the applicant in writing providing the reasons for disapproving the proposed SMP or amendment. An applicant who receives an IAD disapproving a proposed SMP or amendment may appeal. The appeal must be filed in writing within 30 calendar days of when NOAA Fisheries issues the IAD. The NOAA Fisheries National Appeals Office will process any appeal. The regulations and policy of the National Appeals Office will govern the appeals process. The National Appeals Office regulations are specified at [15 CFR part 906](#).

Q: Where does the SMP representative submit the SMP?

A: West Coast Region, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE, Seattle, WA 98115 or WCR-Permits@noaa.gov.

Q: Who can I talk to if I have more questions?

A: Please direct any questions on this rule or any other to the NOAA Fisheries West Coast Region Groundfish Branch at (206) 526-6140 or visit the West Coast Groundfish website at <https://www.fisheries.noaa.gov/species/west-coast-groundfish>.

Table 3. Summary of Salmon Bycatch Minimization Tools in the Non-tribal Pacific Coast Groundfish Fishery

	Sector	Gear	Depth Range	Latitudinal Range	Vehicle	Timing	Salmon Species	Purpose	Reference
Bycatch Reduction Area (BRA)	Whiting; Non-whiting	Mid-water trawl	Shoreward of the boundary line approximating the 200-fm depth contour	Coastwide	Routine management measure	Implement preseason on inseason; Council/NOAA Fisheries specify effective dates	Chinook; Coho	Minimize salmon bycatch in large fixed area; Manage to bycatch thresholds	83 FR 63970, December 12, 2018
Block Area Closure (BAC)	Whiting; Non-whiting	Bottom trawl	Flexible, based on depth contours in regulation	EEZ off Oregon and California; Flexible, based on commonly used latitudes in regulation	Routine management measure	Implement preseason on inseason; Council/NOAA Fisheries specify effective dates	Chinook; Coho	Minimize salmon bycatch in size variable areas; Manage to bycatch thresholds	84 FR 63966, November 19, 2019; 86 FR 10857, February 23, 2021
Block Area Closure (BAC)	Whiting; Non-whiting	Mid-water trawl	Flexible, based on depth contours in regulation; EEZ off Washington shoreward of the boundary line approximating the 250-fm depth contour	EEZ off Oregon and California; EEZ off Washington shoreward of the boundary line approximating the 250-fm depth contour; Flexible, based on commonly used latitudes in regulation	Routine management measure	Implement preseason on inseason; Council/NOAA Fisheries specify effective dates	Chinook; Coho	Minimize salmon bycatch in size variable areas; Manage to bycatch thresholds	86 FR 10857, February 23, 2021
Selective Flatfish Trawl (SFFT) Gear Requirement	Non-whiting	Bottom trawl	All depths or in conjunction with a BAC	Coastwide or in conjunction with a BAC	Routine management measure	Implement preseason on inseason; Council/NOAA Fisheries specify effective dates	Chinook; Coho	Minimize salmon bycatch compared to standard bottom trawl net; Provides flexibility for bottom trawl vessels to continue fishing in a BAC if vessels use SFFT gear	86 FR 10857, February 23, 2021
Salmon Mitigation Plan (SMP)	Whiting	Mid-water trawl	N/A	N/A	NOAA Fisheries Approval	Proposed SMP submitted to NOAA Fisheries between February 1 and March 31; Approved SMP expires December 31	Chinook	Minimize Chinook salmon bycatch through group bycatch management; Vessels with an approved SMP have automatic access to the Chinook salmon bycatch reserve	86 FR 10857, February 23, 2021

