

REVISED 1991 BYCATCH MANAGEMENT INCENTIVE PROGRAM

The following outlines the elements of a revised bycatch incentive program for implementation in 1991 which has been proposed to correct the deficiencies of the penalty box provisions proposed under Amendments 16/21 to the groundfish FMPs. Under the revised program, penalties would be imposed after observers have been fully debriefed and their data analyzed. In most cases, this would result in post-season action against vessels that have exhibited bycatch rates in excess of acceptable standard bycatch rates.

If the Council adopts a revised bycatch incentive program, the program would be subject to public review and comment as part of the Secretarial review process.

I. Scope of 1991 incentive program.

- A. (Alternative 1 as recommended by the Bycatch Committee): The 1991 incentive program would encompass (1) halibut bycatch in the BSAI and GOA Pacific cod trawl fisheries and the GOA "bottom rockfish" trawl fishery; and (2) red king crab bycatch in the BSAI flatfish fisheries. All catcher/processor vessels and catcher vessels (including those that deliver unsorted codends to mothership processors) that participate in these fisheries and from which observer data are collected would be participants in the incentive program.
- B. Alternative 2. Same as alternative 1 except that halibut bycatch in the BSAI flatfish fisheries would be monitored under the incentive program.

II. Fishery Definitions.

- A. If a trawl vessel's observed BSAI groundfish catch during a week was comprised of 45 percent or more of Pacific cod, the vessel would be assigned to the Pacific cod fishery for that week. If the vessel did not qualify as a Pacific cod fishery and its observed groundfish catch was comprised of [] percent or more of rock sole, yellowfin sole, or "other flatfish" TAC category in the aggregate, the vessel would be assigned to the "flatfish fishery" category for that week.

- B. If a trawl vessel's observed GOA groundfish catch during a week was comprised of [] percent or more of slope rockfish, demersal shelf rockfish, and thornyhead rockfish, in the aggregate, the vessel would be assigned to the "bottom rockfish" fishery for that week. If the vessel did not qualify as a bottom rockfish fishery and its observed groundfish catch was comprised of [] percent or more of Pacific cod, the vessel would be assigned to the GOA Pacific cod fishery for that week.

III. Bycatch Standards.

- A. Red king crab and halibut bycatch performance standards for vessels in the monitored fisheries would be based on seasonal fixed rates. Prior to January 1 and July 1 of each year, fixed standard rates for the first and second calendar quarters and third and fourth calendar quarters, respectively, would be established by Federal Register notice. Seasonal rates would be based on prior seasonal bycatch rates and other relevant criteria.
- B. Separate halibut bycatch standards would be established for the BSAI Pacific cod and flatfish fisheries.
- C. A single halibut bycatch standard would be established for the GOA Pacific cod and bottom rockfish fisheries that would be weighted in favor of the bottom rockfish fishery.

IV. Fishery Checkpoints and Penalties.

- A. At the end of each fishing month¹, the average observed bycatch rate of red king crab and/or halibut for each vessel assigned to the BSAI flatfish fishery, the BSAI/GOA Pacific cod fisheries or the GOA bottom rockfish fishery during that month would then be judged against the fixed seasonal standard established for those fisheries. If the vessel's average bycatch rate for a fishing month exceeded a seasonal standard, a separate violation could be considered for each week

¹ For purposes of the incentive program, a fishing month is a calendar month refined to accommodate associated reporting weeks (defined as a Monday through Sunday period). Each fishing month begins on the first day of the first reporting week that has at least 4 days in the associated calendar month and ends on the last day of the last reporting week that has at least 4 days in that same calendar month.

during the month that the standard was exceeded. If the Magnuson Act amendments as passed by the House and Senate are signed by the President, each violation would carry a maximum civil penalty of \$100,000, so total civil penalties for a monthly period could total a maximum of \$400,000.

- B. Observer sampling procedures would be standardized, to the extent possible, to remove discretionary sampling procedures by observers. Standardized procedures would be used to determine vessel bycatch rates and fishery assignments.
- C. General Counsel, Alaska Region, would have discretion to determine whether to prorate vessel penalties, taking into account a number of factors, including resource or economic damage to the groundfish trawl fishery, relevant participation in voluntary programs designed to reduce prohibited species bycatch, and culpability of the vessel operator/owner.
- D. NMFS would institute an enforcement policy to expedite citation and penalty procedures for vessels with the most flagrant apparent violations (excessive bycatch rates) which are identified inseason. Once such a vessel was preliminarily identified through weekly observer reports, the vessel could be placed on a priority list for observer debriefing, citation, and GCAK legal proceedings.

IV. Public Release of Vessel Bycatch Rates.

- A. Under a proposed regulatory amendment to the observer plan, NMFS would have the authority to publicize observed bycatch rates of individual vessels. If such authority is approved, NMFS would have the option of posting weekly observed bycatch rates that could be used by vessel operators as guidance on whether or not changes in fishing practices are necessary to meet bycatch performance standards. At a minimum, NMFS would continue to release a vessel's observed bycatch rate to the vessel's operator or owner upon request. Whether or not NMFS exercises authority for public release of observed bycatch rates, inseason weekly rates available to the industry would continue to be based on unverified observer data and subject to revision as observers are debriefed.