NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 06/10/2016

Department of Commerce
National Oceanic and Atmospheric Administration

FOR CERTIFYING OFFICIAL: Jennifer Jessup
FOR CLEARANCE OFFICER: Jennifer Jessup

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 04/01/2016

ACTION REQUESTED: Revision of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201604-0648-003
AGENCY ICR TRACKING NUMBER:
TITLE: Alaska American Fisheries Act Reports
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0401
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 01/31/2018 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	32	411	93
New	31	446	91
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	-1	35	-2
Change due to Agency Adjustment	0	0	0
Change due to PRA Violation	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Dominic J. Mancini
Acting Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs			
IC Title	Form No.	Form Name	CFR Citation
AFA Annual Cooperative Report			50 CFR 679.61
AFA Cooperative Catch report			50 CFR 679.61
Application for an Incentive Plan Agreement (IPA) and List of IPA Participants	NA	IPA Application	
IPA Annual Report			50 CFR 679.21(f)
AFA cooperative contract			
AFA Catcher Vessel Intercoop Agreement			
AFA Annual Catcher vessel Intercoop report			
IPA appeals			50 CFR 679.43

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request
DOC/NOAA/NMFS/Alaska Region

2. OMB control number
a. 0648 - 0401
b. [ ] None

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [✔] Revision of a currently approved collection
c. [ ] Extension of a currently approved collection
d. [ ] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by ____/____/____
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [ ] Three years from approval date b. [✔] Other Specify: 1/31/2018

7. Title Alaska American Fisheries Act (AFA) Reports

8. Agency form number(s) (*if applicable*)

9. Keywords Fishery

10. Abstract

Chinook salmon and chum salmon bycatch currently are managed under two different programs (Amendment 84 and Amendment 91). This has created inefficiencies and does not allow participants in the pollock fishery the flexibility to modify harvest patterns and practices to effectively minimize both Chinook salmon and chum salmon bycatch. This action will incorporate chum salmon measures into the Incentive Plan Agreement (originally only for Chinook salmon).

This action is intended to improve the management of Chinook and chum salmon bycatch in the Bering Sea pollock fishery by creating a comprehensive salmon bycatch avoidance program. This would minimize Chinook and chum salmon bycatch in the Bering Sea pollock fishery to the extent practicable while maintaining the potential for the full harvest of the pollock total allowable catch within specified prohibited species catch limits.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. ___ Individuals or households d. ___ Farms
b. p Business or other for-profit e. ___ Federal Government
c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [ ] Required to obtain or retain benefits
c. [✔] Mandatory

13. Annual recordkeeping and reporting burden
a. Number of respondents 8
b. Total annual responses 31
1. Percentage of these responses collected electronically 30 %
c. Total annual hours requested 446
d. Current OMB inventory 411
e. Difference 35
f. Explanation of difference
1. Program change 35
2. Adjustment

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)
a. Total annualized capital/startup costs 0
b. Total annual costs (O&M) 0
c. Total annualized cost requested 0
d. Current OMB inventory 0
e. Difference 0
f. Explanation of difference
1. Program change
2. Adjustment

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. ___ Application for benefits e. X Program planning or management
b. X Program evaluation f. ___ Research
c. ___ General purpose statistics g. P Regulatory or compliance
d. ___ Audit

16. Frequency of recordkeeping or reporting (*check all that apply*)
a. [ ] Recordkeeping b. [ ] Third party disclosure
c. [✔] Reporting
1. [✔] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [ ] Quarterly 5. [ ] Semi-annually 6. [✔] Annually
7. [ ] Biennially 8. [ ] Other (describe)

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: Patsy A. Bearden
Phone: (907) 586-7008

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

(a) It is necessary for the proper performance of agency functions;

(b) It avoids unnecessary duplication;

(c) It reduces burden on small entities;

(d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;

(e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;

(f) It indicates the retention period for recordkeeping requirements;

(g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):

- (i) Why the information is being collected;
- (ii) Use of information;
- (iii) Burden estimate;
- (iv) Nature of response (voluntary, required for a benefit, mandatory);
- (v) Nature and extent of confidentiality; and
- (vi) Need to display currently valid OMB control number;

(h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);

(i) It uses effective and efficient statistical survey methodology; and

(j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee	Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature signed by Alan Risenhoover, Director, Office of Sustainable Fisheries	Date 1/19/2016
Signature of NOAA Clearance Officer	
Signature BRABSON.SARAH.1365710488 Digitally signed by BRABSON.SARAH.1365710488 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=OTHER, cn=BRABSON.SARAH.1365710488 Date: 2016.12.28 09:12:44 -05'00'	Date

SUPPORTING STATEMENT
ALASKA AMERICAN FISHERIES ACT (AFA) REPORTS
OMB CONTROL NO. 0648-0401

This is a resubmission, with the final rule of a request is for revision of this information collection due to an associated rule **[RIN No. 0648-BF25].** There are no changes to this request.

BACKGROUND

National Marine Fisheries Service, Alaska Region (NMFS) manages the groundfish fisheries in the Exclusive Economic Zone (EEZ) off Alaska of the Bering Sea and Aleutian Islands Management Area (BSAI). The North Pacific Fishery Management Council prepared the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*. (Magnuson-Stevens Act) and other applicable laws. Regulations implementing the FMP appear at 50 CFR part 679.

The American Fisheries Act (AFA) authorizes the formation of fishery cooperatives in all sectors of the Bering Sea and Aleutian Islands Management Area (BSAI) pollock fishery, grants anti-trust exemptions to cooperatives in the mothership sector, and imposes operational limits on fishery cooperatives in the BSAI pollock fishery. NMFS incorporated the relevant provisions of the AFA into the FMP and established a comprehensive management program to implement the AFA. With respect to the fisheries off Alaska, the AFA affected the management programs of the pollock fishery of the BSAI and to a lesser extent the other groundfish fisheries of the BSAI, the groundfish fisheries of the Gulf of Alaska, the king and Tanner crab fisheries of the BSAI, and the scallop fishery off Alaska. Mitigation of potential adverse impacts to non-AFA fishermen and processors is also mandated by the AFA.

Currently, pollock in the BSAI is managed in three separate geographic units: the Bering Sea subarea, the Aleutian Islands subarea, and the Bogoslof District of the Bering Sea subarea. Amendment 110 would apply only to management of the pollock fishery in the Bering Sea subarea and would not affect the management of pollock fisheries in the Aleutian Islands or the status of pollock fishing in the Bogoslof District. Therefore, in this document, the term "pollock fishery" refers only to the Bering Sea pollock fishery, unless otherwise specified. The four AFA sectors are: Catcher/processor, mothership, inshore processors, and Western Alaska Community Development Quota Program (CDQ). The portions of the Bering Sea subarea pollock directed fishing allowances allocated to each sector under sections 206(a) and 206(b) of the AFA and the CDQ allowance in the BSAI will be divided into two seasonal allowances corresponding to the two fishing seasons set out at § 679.23(e)(2), as follows: A Season, 45 percent and B Season, 55 percent.

Currently, Chinook salmon and chum salmon bycatch are managed under two different programs (Amendment 84 and Amendment 91). This has created inefficiencies and does not allow participants in the pollock fishery the flexibility to modify harvest patterns and practices to effectively minimize both Chinook salmon and chum salmon bycatch. Incorporating chum

salmon measures into the Incentive Plan Agreement (IPA) would make salmon bycatch management more effective, comprehensive, and efficient. IPAs provide measures to prevent high chum salmon bycatch, while allowing for participants in the pollock fishery the flexibility to avoid Alaska chum stocks and to adapt quickly to changing conditions through their coordinated management under the IPAs.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This action is intended to improve the management of Chinook and chum salmon bycatch in the Bering Sea pollock fishery by creating a comprehensive salmon bycatch avoidance program. This would minimize Chinook and chum salmon bycatch in the Bering Sea pollock fishery to the extent practicable while maintaining the potential for the full harvest of the pollock total allowable catch within specified prohibited species catch limits.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

a. Incentive Plan Agreement (IPA) [CHANGED; formerly called Application for Chinook Salmon Incentive Plan Agreement (IPA) and List of IPA Participants]

An IPA establishes an incentive program to minimize bycatch at all levels of Chinook and chum salmon abundance. Participation in an IPA is voluntary; however, any vessel or CDQ group that chooses not to participate in an IPA is subject to a restrictive opt-out allocation (also called a backstop cap). The current, approved IPAs may be viewed at http://www.alaskafisheries.noaa.gov/sustainablefisheries/bycatch/salmon/chinook/ipa/ipas.htm.

The IPA must include an affidavit affirming that each eligible vessel owner or CDQ group, from whom the IPA representative received written notification requesting to join the IPA, has been allowed to join the IPA subject to the same terms and conditions that have been agreed on by, and are applicable to, all other parties to the IPA.

The IPA must identify at least one third party group. Third party groups include any organizations representing western Alaskans who depend on salmon and have an interest in salmon bycatch reduction but do not directly fish in a groundfish fishery.

Deadline*:* A proposed IPA must be received by NMFS no later than 1700 A.l.t., on ***October 1*** prior to the year in which the IPA is proposed to be effective.

When approved, NMFS assigns an IPA identification number to the approved IPA. This number must be used by the IPA representative in amendments to the IPA.

Once approved, an IPA is effective until ***December 31*** of the first year in which it is effective or until ***December 31*** of the year in which the IPA representative notifies NMFS in writing that the IPA is no longer in effect, whichever is later.

Once a member of an IPA, a vessel owner or CDQ group cannot withdraw from the IPA during the fishing year. Changes to an IPA membership must be made after the directed pollock fishery closes by regulation.

This action would remove the requirements for an application form for a proposed IPA or amended IPA. A requirement is added to describe how the IPA addresses the goals and objectives in the IPA provisions related to chum salmon

All of the participants in the pollock fishery are currently subject to IPA agreements. Three NMFS-approved IPA agreements are currently in place: the Inshore Chinook Salmon Savings Incentive Plan Agreement, the Mothership Salmon Savings Incentive Plan Agreement, and the Catcher Processor Chinook Salmon Bycatch Reduction Incentive Plan and Agreement. Because all of the participants are part of IPA agreements, no other participants are expected; so a number of one participant is used in this analysis.

Incentive Plan Agreement (IPA)

- Affidavit
- Name of the IPA
- IPA representative name, telephone number, and e-mail address
- Third party group
- Description of the IPA
  - Incentives to ensure each vessel to avoid Chinook salmon and chum salmon bycatch under any condition of pollock and Chinook salmon abundance in all year
  - How the incentives to avoid chum salmon do not increase Chinook salmon bycatch
  - Rewards for avoiding Chinook salmon and penalties for failure to avoid Chinook salmon at the vessel level
  - How IPA incentive measures will promote reductions in a vessel's Chinook salmon and chum salmon bycatch rates relative to what would have occurred in absence of the incentive program
  - How the incentive measures in the IPA promote Chinook salmon savings and chum salmon savings in any condition of pollock abundance or Chinook salmon abundance in a manner that is expected to influence operational decisions by vessel operators to avoid Chinook salmon and chum salmon
  - How the IPA ensures that the operator of each vessel governed by the IPA will manage that vessel's Chinook salmon bycatch to keep total bycatch below the performance standard for the sector in which the vessel participates
  - How the IPA ensures that the operator of each vessel governed by the IPA will manage that vessel's chum salmon bycatch to keep total bycatch below the performance standard for the sector in which the vessel participates
  - A rolling hot spot program for salmon bycatch avoidance and an agreement to provide notifications of closure areas and any violations of the rolling hot spot program to at least one third party organization representing western Alaskans who depend on salmon and do not directly fish in a groundfish fishery.
  - Restrictions or penalties targeted at vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels fishing at the same time.
  - Require vessels to enter a fishery-wide in-season salmon PSC data sharing agreement
  - Require use of salmon excluder devices, with recognition of contingencies, from January 20 to March 31, and from September 1 until the end of the B season
  - Require a rolling hotspot program that operates throughout the entire A and B seasons
  - Require for savings-credit-based IPAs that the salmon savings credits last for a maximum of three years.
  - Restrictions or performance criteria used to ensure that Chinook salmon PSC rates in October are not significantly higher than those achieved in the preceding months, thereby avoiding late-season spikes

in salmon PSC.

Require the IPAs to require information sharing

Compliance agreement.

IPA must include written statement that all IPA parties agree to comply with all provisions of IPA.

Signatures.

The names and signatures of the owner or representative for each vessel and CDQ group that is a party to the IPA. The representative of an inshore cooperative, or the representative of the entity formed to represent the AFA catcher/processor sector or the AFA mothership sector may sign a proposed IPA on behalf of all vessels that are members of that inshore cooperative or sector level entity

Burden hours are changed from 40 hr to 50 hr because the ICA is incorporated into IPA.

IPA, Respondent	
Estimated number of respondents	**1**
Total annual responses	**1**
Response per respondent = 1	
Total burden hours	**50 hr**
Time per response = 50 hr	
Total personnel cost = $165/hr	**$8,250**
Total miscellaneous cost (1.40)	**$1**
Photocopy (10 pp x .05 = 0.50)	
Postage (1 x 0.90 = 0.90)	

IPA, Federal Government	
Total annual responses	**1**
Total burden hours	**15 hr**
Time per response = 15 hr	
Total personnel cost = $75/hr	**$1,125**
Total miscellaneous cost	**0**

b. IPA annual report (CHANGED; formerly called Chinook Salmon IPA annual report)

This action would add reporting requirements to the IPA Annual Report to require the IPA representative to describe how the IPA addresses the goals and objectives in the IPA provisions related to chum salmon. It is the Council's intent that each vessel actively avoid chum salmon as well as Chinook salmon at all times while fishing for pollock and, that collectively, bycatch is minimized in each year.

The IPA report is the primary tool through which the Council evaluates the effectiveness of the IPA concept in reducing salmon bycatch in the Bering Sea pollock fishery. Information gathered through the annual reports is necessary for the Council to evaluate the salmon bycatch management measures and to provide the public with information about how the programs operate and with information about bycatch reduction under these programs.

Deadline: The IPA Report must be postmarked or received by the Council no later than ***March 15***:

North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

The annual report must contain the following information:

IPA Annual Report

Incentive measures in effect in the previous year, including rolling hot spot program and salmon excluder use
How incentive measures affected individual vessels
Were incentive measures effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures
Measures to ensure that chum salmon were avoided in areas and at times when chum salmon return to Alaska
Restrictions or penalties that target vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels
Restrictions or performance criteria used to ensure that Chinook PSC rates in October are not significantly higher than in previous months.
Amendments to the IPA terms that were approved by NMFS since the last annual report and the reasons that the amendments to the IPA were made
Sub-allocation to each participating vessel of the number of Chinook salmon PSC and amount of pollock (mt) at the start of each fishing season,
Number of Chinook salmon PSC and amount of pollock (mt) caught at the end of each season.

In-season transfer of Chinook salmon PSC and pollock among AFA cooperatives, entities eligible to receive Chinook salmon PSC allocations, or CDQ groups
Date of transfer
Name of transferor
Name of transferee
Number of Chinook salmon PSC transferred
Amount of pollock (mt) transferred

In-season transfers among vessels participating in the IPA
Date of transfer
Name of transferor
Name of transferee
Number of Chinook salmon PSC transferred
Amount pollock (mt) transferred

Changed burden from 30 hr to 40 hr to incorporate ICA report. Corrected personnel cost for Federal Government from $37 to $75; this report would be reviewed by a supervisor or higher.

IPA annual report, Respondent	
Estimated number of respondents	**3**
Total annual responses	**3**
Response per respondent = 1	
Total burden hours	**120 hr**
Time per response = 40 hr	
Total personnel cost (**$**165/hr)	**$19,800**
Total miscellaneous costs (14.35)	**$14**
Photocopy (10 pp x .05 x 2 = 1)	
Fax ($6 x 2 = 12)	
Postage (1 x 1.35 = 1.35)	

IPA annual report, Federal Government	
Total annual responses	**3**
Total burden hours = 10 hr	**30 hr**
Total personnel cost (**$75**/hr)	**$2,250**
Total miscellaneous cost	**0**

c. Non-Chinook Salmon Inter-cooperative Agreement (ICA) (REMOVED; chum salmon avoidance is integrated into the IPAs)

d. ICA Annual Report. [REMOVED; Integrated Into IPA Annual Report]

e. AFA Annual Cooperative Report

Each AFA cooperative must submit a final AFA annual report on fishing activity.

Deadline: postmarked or received by Council by ***April 1*** of the following year

The AFA annual cooperative report must be sent to:

North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

The AFA Annual cooperative reports are posted on the NMFS website at http://alaskafisheries.noaa.gov/fisheries/AFA-pollock

AFA Annual Cooperative Report

Cooperative's allocated catch of pollock and sideboard species
Any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels on vessel-by-vessel basis
Cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC
- on an area-by-area basis
- on a vessel-by-vessel basis

Method used to monitor fisheries in which cooperative vessels participated
Actions taken in response to any vessels that exceed their allowed catch and bycatch
- in pollock and all sideboard fisheries

Total weight of pollock landed outside the State of Alaska on a vessel-by-vessel basis.
Number of salmon taken by species and season
List each vessel's number of appearances on the weekly "dirty 20" lists for non-Chinook salmon

AFA Coop Annual report, Respondent	
Estimated number of respondents	**8**
Total annual responses	**8**
Response per respondent = 1	
Total burden hours	**64 hr**
Time per response = 8 hr	
Total personnel cost ($75/hr)	**$4,800**
Total miscellaneous costs (24.10)	**$24**
Photocopy (10 pp x .05 x 8 = 4)	
Fax ($6 x 2 = 12)	
Postage (1.35 x 6 = 8.10)	

AFA Annual report, Federal Government	
Total annual responses	**8**
Total burden hours = 1	**8 hr**
Total personnel cost ($37/hr)	**$296**
Total miscellaneous cost	**0**

f. AFA Annual cooperative catch report

The authorized representative of each AFA cooperative annually must submit to the Regional Administrator a catcher vessel Cooperative Catch Report detailing each delivery of pollock harvested under the allocation made to that cooperative. The owners of the member catcher vessels in the cooperative are jointly responsible for compliance.

The cooperative catch report may be submitted as an electronic data file in a format approved by NMFS or by Fax. Currently, these reports are sent to NMFS by email and are used by NMFS as an audit check.

Deadline: must be postmarked or received by NMFS by 1200 hours, A.l.t. ***1 week after the date of completion of delivery***.

Annual Cooperative catch report

Cooperative account number
Catcher vessel ADF&G vessel registration number
Inshore processor Federal processor permit number
Delivery date
Amount of pollock (in lb) delivered plus weight of at-sea pollock discards
ADF&G fish ticket number

Cooperative catch report, Respondent	
Estimated number of respondents	**8**
Total annual responses	**8**
Response per respondent = 1	
Total burden hours	**64 hr**
Time per response = 8 hr	
Total personnel cost ($75/hr)	**$4,800**
Total miscellaneous costs (24.10)	**$24**
Photocopy (10 pp x .05 x 8 = 4)	
Fax ($6 x 2 = 12)	
Postage (1.35 x 6 = 8.10)	

Cooperative catch report, Federal Government	
Total annual responses	**8**
Total burden hours = 1	**8 hr**
Total personnel cost ($37/hr)	**$296**
Total miscellaneous cost	**0**

g. AFA Cooperative Contract

Any fishery cooperative formed under section 1 of the Fisherman's Collective Marketing Act 1934 (15 U.S.C. 521) for the purpose of cooperatively managing directed fishing for Bering Sea subarea pollock must comply with the provisions of this section. The owners and operators of all the member vessels that are signatories to a fishery cooperative are jointly and severally responsible for compliance with the requirements of this section.

Annually, each AFA cooperative must file with the Council and NMFS:

- a signed copy of its fishery cooperative contract
- any material modifications to cooperative contract
- a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice
- any response to such letter request.

If the cooperative contract was previously filed, a renewal letter may be submitted to NMFS and the Council by the filing deadline in lieu of the cooperative contract and business review letter. The renewal letter must provide notice that the previously filed cooperative contract will remain in effect for the subsequent fishing year and must detail any material modifications to the cooperative contract that have been made since the last filing including, but not limited to, any changes in cooperative membership.

The cooperative contract or renewal letter and the required supporting materials may be submitted to:

North Pacific Fishery Management Council,
605 West 4th Ave, Suite 306,
Anchorage, AK 99501;

and

NMFS Alaska Region
P.O. Box 21668
Juneau, AK 99802

709 West 9th St., Suite 401
Juneau, AK 99801

Deadline: contract or renewal letter and supporting materials must be received by NMFS and by the Council ***at least 30 days prior to the start of any fishing activity*** conducted under the terms of the contract.

Deadline: In addition, an inshore cooperative that is also applying for an allocation of Bering Sea subarea pollock under § 679.62 must file its contract, any amendments hereto, and

supporting materials no later than ***December 1*** of the year prior to the year in which fishing under the contract will occur.

AFA Cooperative Contract

Requirements for all fishery cooperatives.

List parties to the contract.

List all vessels and processors that will harvest and process pollock harvested under the cooperative.

Specify the amount or percentage of pollock allocated to each party to the contract.

Specify a designated representative and agent for service of process.

Include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery that are not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid will result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).

Additional required elements in all fishery cooperatives that include AFA catcher vessels

Adequate provisions to prevent each non-exempt member catcher vessel from exceeding an individual vessel sideboard limit for each BSAI or GOA sideboard species or species group that is issued to the vessel by the cooperative in accordance with the following formula:

The aggregate individual vessel sideboard limits issued to all member vessels in a cooperative must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.64(b) and as announced to the cooperative by the Regional Administrator, or

In the case of two or more cooperatives that have entered into an inter-cooperative agreement, the aggregate individual vessel sideboard limits issued to all member vessels subject to the inter-cooperative agreement must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.64(b) and as announced by the Regional Administrator.

Cooperative contract, Respondent	
Estimated number of respondents	**8**
Total annual responses	**8**
Response per respondent = 1	
Total burden hours	**64 hr**
Time per response = 8 hr	
Total personnel cost ($75/hr)	**$4,800**
Total miscellaneous costs (24.10)	**$24**
Photocopy (10 pp x .05 x 8 = 4)	
Fax ($6 x 2 = 12)	
Postage (1.35 x 6 = 8.10)	

Cooperative contract, Federal Government	
Total annual responses	**8**
Total burden hours = 1	**8 hr**
Total personnel cost ($37/hr)	**$296**
Total miscellaneous cost	**0**

h. AFA Catcher Vessel Intercooperative Agreement

The AFA catcher vessel cooperatives rewrote portions of the Intercooperative Agreement for 2013 to accommodate the Council's request for additional information. The changes focused on improving the Bering Sea cod fishery in terms of improved catch efficiency and the reduction of halibut bycatch. To improve catch efficiency the allocation timing mechanisms for halibut PSC were revised in a manner intended to maximize cod harvest timing at the peak CPUE time of the season.

Catcher vessel Intercooperative Agreement

Allocation, monitoring, and compliance of the BSAI and GOA sideboard limits and PSC caps among the AFA catcher vessel cooperative members
Allocation, monitoring, and compliance of BSAI pollock harvest inside the Steller sea lion conservation area
Establishment of penalties for coops that exceed pollock and sideboard allocations
Provides for harvest of BSAI pacific cod by the "under 1700 mt" exempt vessels while complying with PSC limits
Establishment and monitoring of sideboard species transfers between cooperatives
Promotes compliance of the Council's recommended sideboard measures and PSC limits while allowing for the maximum harvest of AFA pollock and sideboard allocations
Promotes reduction of PSC in the Bering Sea pollock fishery

Catcher vessel Intercoop Agreement, Respondent	
Estimated number of respondents	**1**
Total annual responses	**1**
Response per respondent = 1	
Total burden hours	**40 hr**
Time per response = 40 hr	
Total personnel cost = $150/hr	**$6,000**
Total miscellaneous cost (0.55)	**$1**
Photocopy (10 pp x .05 = 0.50)	
Online (0.05 x 1 = 0.05)	

Catcher vessel Intercoop Agreement, Federal Government	
Total annual responses	**1**
Total burden hours	**10 hr**
Time per response = 10 hr	
Total personnel cost ($75/hr x 10)	**$750**
Total miscellaneous cost	**0**

i. Annual AFA Catcher Vessel Intercooperative Report [UNCHANGED]

In response to the Council's request for additional voluntary information in 2013, the AFA Catcher Vessel Intercooperative Report was changed. The report is a summary of the eight active catcher vessel cooperative reports required by the AFA regulations. While the individual coop reports track the annual activities of each cooperative at the vessel level, a summary of AFA catcher vessel harvests in the Bering Sea and Gulf of Alaska fisheries is useful as NMFS allocates the catcher vessel sideboard caps and PSC caps and triggers in the aggregate, not by individual cooperatives.

The Catcher Vessel Intercooperative Report provides the Council, and the public, with a simple means of evaluating the AFA catcher vessel fleets' aggregate fishing performance under the AFA regulations. Additionally, this report provides voluntary information requested by the Council beyond the required regulatory elements of the individual coop reports to provide a broader understanding of catcher vessel cooperative activities.

The AFA Catcher Vessel Intercooperative Report may be viewed at https://alaskafisheries.noaa.gov/sites/default/files/reports/cvintercoop2014.pdf

Deadline: must be received by the Council by **April 1** of each year.

AFA Catcher Vessel Intercooperative Report
- Bering Sea Pollock Fishery
  - Allocations and Harvest
  - Salmon Bycatch Reduction Measures
- Sideboard Fishery Management
  - Groundfish Sideboards
  - PSC Catch

AFA Annual Catcher vessel Intercoop report, Respondent	
Estimated number of respondents	**1**
Total annual responses	**1**
Response per respondent = 1	
Total burden hours	**40 hr**
Time per response = 8 hr	
Total personnel cost ($75/hr)	**$3,000**
Total miscellaneous costs (0.55)	**$1**
Photocopy (10 pp x .05 x 1 = 0.50)	
Online (0.05 x 1 = 0.05)	

AFA Annual catcher vessel Intercoop report, Federal Government	
Total annual responses	**1**
Total burden hours = 8	**8 hr**
Total personnel cost ($37/hr)	**$296**
Total miscellaneous cost	**0**

j. Administrative Appeals to Disapproved IPA (NEW)

An IPA representative who receives an IAD disapproving a proposed IPA may appeal under the procedures set forth at § 679.43. If the IPA representative fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. If the IAD is appealed and the final agency action is a determination to approve the proposed IPA, then the IPA will be effective as described in paragraph (f)(12)(iv)(B) of this section.

IPA Appeals, Respondent	
Estimated number of respondents	**1**
Total annual responses	**1**
1 response per year = 1	
Total burden hours = 4 hr	**4 hr**
Total personnel cost ($37/hr x 4)	**$148**
Total miscellaneous cost (1.60)	**$2**
Mail (1.35 x 1 = 1.35)	
Photocopy (5 pp x 0.05 x 1 = 0.25)	

IPA Appeals, Federal Government	
Total annual responses	**1**
Total burden hours = 2 hr	**2 hr**
Total personnel cost ($100/hr)	**$200**
Total miscellaneous cost	**0**

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The "fillable" form for the IPA application is available at the NMFS Alaska Region Home Page at alaskafisheries.noaa.gov for downloading, completing and printing. Other submissions consist of multiple documents. Most documents may be sent by U.S. mail, fax, or as an attachment to an email. The IPA requires signatures, and therefore must be sent by mail.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Amendment 110 would apply to owners and operators of catcher vessels, catcher/processors, motherships, inshore processors, and the six Western Alaska Community Development Quota (CDQ) Program groups participating in the pollock fishery in the Bering Sea subarea of the BSAI. The only small entities that are directly regulated by this action are the six western Alaska CDQ organizations, and the impact is not significant.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The purpose of the information collection is to minimize Chinook salmon and chum salmon PSC to the extent practicable while achieving optimum yield from the pollock fishery. The information is necessary to ensure long-term conservation and abundance of salmon, maintain a healthy marine ecosystem, provide maximum benefit to fishermen and communities that depend on salmon and pollock, and comply with the Magnuson–Stevens Act. If the information were not collected annually, NMFS would be unable to achieve these goals.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No special circumstances exist.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The most recent request for public comments on renewal of the information collection authorized under the AFA (OMB Control Number 0648-0401) was published in the *Federal Register* on June 19, 2014 (79 FR 35150). In response to this request for comments, NMFS received a comment that the requirement to submit an application form in addition to submitting a proposed or amended IPA was duplicative with the information in the IPA itself. NMFS agrees that the application form is unnecessary and therefore removes it from the regulations.

NMFS published a proposed rule to implement Amendment 110 on February 3, 2016 (81 FR 5681) with comments invited through March 4, 2016. The Secretary of Commerce approved Amendment 110 on April 7, 2016. NMFS received 15 comment letters containing 27 specific comments. The commenters consisted of individuals, representatives of the pollock fishery participants, representative of groundfish fishery participants, Alaska Native organizations, and the State of Alaska. The five comments pertaining to this collection are given below with NMFS' responses. The complete list of comments is appended.

◀**Comment 5**: Care needs to be taken to make sure the theoretical salmon avoidance schemes proposed do not make matters worse for Chinook salmon in the attempt to avoid chum salmon. **Response**: The chum salmon-specific requirements in the Amendment 84 implementing regulations sometimes prevent fishery participants from making decisions to avoid Chinook salmon when vessels encounter both chum salmon and Chinook salmon. Adding chum salmon measures to the IPAs increases flexibility in responding to changing conditions and provides greater incentives to reduce bycatch of both salmon species, thereby making salmon bycatch management more effective, comprehensive, and efficient.

◄**Comment 6:** The measures designed to reduce Chinook salmon bycatch are useful tools to fine-tune the IPAs to mandate greater bycatch reduction.
Response: NMFS agrees. Amendment 110 and this final rule modify the IPAs to increase the incentives for fishermen to avoid Chinook salmon. The Council and NMFS recognize that the IPAs were effective at providing incentives for each vessel to avoid Chinook salmon, but that additional measures were necessary to address higher Chinook salmon PSC rates observed in October (the last month when the pollock fishery is authorized to operate) and to address concerns with individual vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels fishing at the same time. The Council and NMFS wanted to ensure the use of salmon excluder devices (i.e., gear modifications that are designed to exclude salmon bycatch while retaining pollock) and a rolling hotspot program. These new provisions increase the incentives to reduce Chinook salmon bycatch within the IPAs, provide an opportunity for IPAs to increase their responsiveness in October, and improve performance of individual vessels.

◄**Comment 22**: Good fisheries management calls for a reduction in salmon bycatch. The pollock fishery should be managed in a way that rewards those fishermen that successfully avoid salmon and other bycatch and reduces quota and opportunity for those fishermen that have significant salmon or other bycatch.
Response: Amendment 110 and this final rule improve the IPAs implemented under Amendment 91 to include chum salmon avoidance measures and to increase the ability for vessels to avoid Chinook salmon. The IPA component is an innovative approach that is designed to provide incentives for each vessel to avoid bycatch at all times with the goal of reducing bycatch below the PSC limits. The requirements for an IPA are performance based (i.e., they address what an IPA should accomplish); any number of different incentive plans could meet these objectives. The requirements for the IPA are performance based because fishery participants have more tools available to them to create incentives to minimize bycatch at the vessel level than could be prescribed through Federal regulation. As designed, an IPA can be more responsive and adaptive than Federal regulations and can use tools not available to managers. IPAs are flexible in allowing the pollock fleet to modify the IPAs as performance information becomes available to ensure that the IPAs meet the goals in Amendment 91. Additionally, this final rule requires the IPA representative to submit an annual report to the Council that will be the primary tool through which the Council will evaluate whether its goals for the IPAs are being met.

◄**Comment 23**: Include a well thought-out plan for this Chinook salmon bycatch avoidance program and outline the possible increased incentives to achieve maximum effectiveness. Without this, the program could have little to no impact on Chinook salmon bycatch. It is ideal to have the IPA incentives visible to the public in order to have complete transparency of industry.
Response: The Council analyzed a number of specific incentive measures in Section 3.5.3 of the Analysis. The Analysis includes the new IPA requirements implemented with this final rule and provides examples of ways the fishery participants could modify their IPAs to meet those requirements. Regulations establish the performance based requirements that each IPA must accomplish. Any number of different incentive plans could meet these regulatory requirements. The requirements for the IPA are performance based because fishery participants have more tools available to them to create incentives to minimize bycatch at the vessel level than could be prescribed through Federal regulation. As designed, an IPA can be more responsive and

adaptive than Federal regulations and can use tools not available to managers, such as fees and penalties.

Additionally, Federal regulations include a number of provisions to ensure transparency of the IPAs. The Amendment 91 implementing regulations require the IPA representative to submit an annual report to the Council as the primary tool through which the Council will evaluate whether its goals for the IPAs are being met. Also, the economic data collection program is designed to provide quantitative information to evaluate how an IPA influences a vessel's operational decisions to avoid Chinook salmon bycatch. This final rule adds additional requirements for IPA transparency, including requiring IPAs to notify at least one third party group representing western Alaskans of closure areas and any violations of the rolling hot spot program and requiring the IPA representative to describe in the IPA annual report how the IPA addresses the goals and objectives in the IPA provisions related to chum salmon.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift is provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All information collections by NMFS Alaska region are protected under confidentiality provisions of section 402(b) of the Magnuson-Stevens Act. It is also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics. However, none of the information in the applications, contracts, or reports submitted under this collection of information contains confidential business information. All of the information in the ICA, IPA, and annual reports will be posted on the NMFS Alaska Region webpage and made available to the public.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total respondents: 8. Estimated total responses: 31, decreased from 32. Estimated total burden: 446 hr, increased from 411 hr. Estimated total personnel costs: $51,598, increased from $45,600.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Estimated total miscellaneous costs: $91, decreased from $93.

14. <u>Provide estimates of annualized cost to the Federal government</u>.

Estimated total responses: 31, decreased from 32. Estimated total burden: 88, decreased from 57. Estimated total personnel cost: $4,940, increased from $2,871.

15. <u>Explain the reasons for any program changes or adjustments</u>.

There is no change to burden, as this is a temporary new collection. After approval of this request, and of a revision to OMB Control No. 0648-0318 in relation to RIN 0648-BF36, this burden will be added to the existing collection.

Program Changes

ICA is integrated into IPA; ICA Report is integrated into IPA report. Both chum salmon and Chinook salmon are analyzed.

IPA

an increase of 10 hours, 50 instead of 40 hr
an increase of $1,650 personnel costs, $8,250 instead of $6,600

IPA Report

an increase of 30 hours, 120 instead of 90 hr
an increase of $530 personnel costs, $19,800 instead of $14,850

ICA [REMOVED; integrated into IPA]

a decrease of 1 respondent and response, 0 instead of 1
a decrease of 1 hour, 0 instead of 1 hr
a decrease of $150 personnel costs, $0 instead of $150
a decrease of $2 miscellaneous costs, $0 instead of $2

Non-Chinook ICA Annual Report [REMOVED; integrated into ICA annual report]

a decrease of 1 respondent and response, 0 instead of 1
a decrease of 8 hours, 0 instead of 8 hr
a decrease of $600 personnel costs, $0 instead of $600
a decrease of $2 miscellaneous costs, $0 instead of $2

Appeals to disapproved IPA [NEW]

an increase of 1 respondent and response, 1 instead of 0
an increase of 4 hours, 4 instead of 0 hr
an increase of $148 personnel costs, $148 instead of $0
an increase of $2 miscellaneous costs, $2 instead of $0

16. <u>For collections whose results will be published, outline the plans for tabulation and publication</u>.

NMFS will make all approved IPAs available to the public on the NMFS Alaska Region Web site (http://alaskafisheries.noaa.gov/).

In addition, NMFS will annually publish on the NMFS Alaska Region Web site:

- The Chinook salmon PSC allocations for each entity receiving a transferable allocation;
- The non-transferable Chinook salmon PSC allocations;
- The vessels fishing under each transferable or non-transferable allocation;
- The amount of Chinook salmon bycatch that accrues towards each transferable or non-transferable allocation;
- Any changes to these allocations due to transfers, rollovers, and deductions from the B season non-transferable allocations; and
- Tables for each sector that provide
  percent of the sector's pollock allocation,
  numbers of Chinook and chum salmon associated with each vessel used to calculate the opt-out allocation and annual threshold amounts
  percent of the pollock allocation associated with each vessel that NMFS will use to calculate IPA minimum participation assigned to each vessel

17. <u>If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate</u>.

Not Applicable.

18. <u>Explain each exception to the certification statement</u>.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

APPENDIX: Comments Received on BF25 (03/31/2016)
Revised

NMFS published the proposed rule to implement Amendment 110 on February 3, 2016 (81 FR 5681) with comments invited through March 4, 2016. The Secretary of Commerce approved Amendment 110 on April 7, 2016. NMFS received 15 comment letters containing 27 specific comments. The commenters consisted of individuals, representatives of the pollock fishery participants, representative of groundfish fishery participants, Alaska Native organizations, and the State of Alaska.

Comment 1: We support the comprehensive salmon bycatch avoidance program outlined in the proposed rule and believe it will be more effective in meeting the Council's objectives for this action, including minimizing salmon bycatch, responding to changing conditions of abundance, and avoiding Alaska-origin salmon stocks.
Response: NMFS acknowledges the comment.

Comment 2: Consistent genetic stock composition data show that Alaska-origin stocks continue to comprise a majority of the Chinook salmon bycatch and almost a quarter of the chum salmon bycatch in the Bering Sea. Recognizing the importance of these stocks to western Alaska commercial and subsistence users, and our increased understanding of the areas and times of year in which Alaska Chinook and chum salmon stocks are more predominate in the bycatch, Amendment 110 provides the necessary flexibility to respond to and incorporate new information in the bycatch avoidance program.
Response: NMFS acknowledges the comment.

Comment 3: Reducing salmon bycatch in the Bering Sea pollock fishery is critical to the future of Chinook salmon runs. Amendment 110 is urgently needed because of the dire status of Chinook salmon stocks in western Alaska. Amendment 110 and the proposed regulations are an important step in further reducing salmon bycatch in the pollock fishery. Amendment 110 will continue to drive bycatch down; however, constant vigilance is required to ensure that the PSC limits are never actually met.
Response: NMFS acknowledges the comment.

Comment 4: It is essential to include the provisions to integrate chum salmon bycatch measures with the Chinook salmon bycatch measures by incorporating them into the IPA and including the accountability and transparency measures.
Response: Amendment 110 and this final rule incorporate chum salmon avoidance into the IPAs established under Amendment 91. Under Amendment 110, incorporating chum salmon into the IPAs provides measures to prevent high chum salmon bycatch, while also giving participants in the pollock fishery the flexibility to avoid Alaska chum stocks, and to use coordinated management under the IPAs to adapt quickly to changing conditions. The Council determined and NMFS agreed that this action for chum salmon bycatch strikes an appropriate balance between regulatory requirements and adaptive management.

◄**Comment 5**: Care needs to be taken to make sure the theoretical salmon avoidance schemes proposed do not make matters worse for Chinook salmon in the attempt to avoid chum salmon.

Response: The chum salmon-specific requirements in the Amendment 84 implementing regulations sometimes prevent fishery participants from making decisions to avoid Chinook salmon when vessels encounter both chum salmon and Chinook salmon. Adding chum salmon measures to the IPAs increases flexibility in responding to changing conditions and provides greater incentives to reduce bycatch of both salmon species, thereby making salmon bycatch management more effective, comprehensive, and efficient.

◄**Comment 6**: The measures designed to reduce Chinook salmon bycatch are useful tools to fine-tune the IPAs to mandate greater bycatch reduction.
Response: NMFS agrees. Amendment 110 and this final rule modify the IPAs to increase the incentives for fishermen to avoid Chinook salmon. The Council and NMFS recognize that the IPAs were effective at providing incentives for each vessel to avoid Chinook salmon, but that additional measures were necessary to address higher Chinook salmon PSC rates observed in October (the last month when the pollock fishery is authorized to operate) and to address concerns with individual vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels fishing at the same time. The Council and NMFS wanted to ensure the use of salmon excluder devices (i.e., gear modifications that are designed to exclude salmon bycatch while retaining pollock) and a rolling hotspot program. These new provisions increase the incentives to reduce Chinook salmon bycatch within the IPAs, provide an opportunity for IPAs to increase their responsiveness in October, and improve performance of individual vessels.

Comment 7: The entire history of the Bering Sea pollock fishery and its impacts on western Alaska salmon has been a disaster and it is within this context that we remain opposed to the allowance of any salmon bycatch during the pollock fishery. Driving bycatch continuously lower, with an ultimate goal of zero, is essential. NMFS should prioritize its responsibilities based on moral and ethical obligation, in addition to its legal obligations, to those tribal communities whose very survival depends on a future of salmon returning in sufficient numbers to their rivers.
Response: The Council recommended and NMFS approved Amendment 110 because it best balances the need to minimize salmon bycatch to the extent practicable while providing the pollock fleet the flexibility to harvest the pollock TAC. NMFS has complied with all applicable laws, executive orders, and international obligations in approving and implementing Amendment 110. Preventing all salmon bycatch would not meet the purpose and need for this action and would not meet NMFS' obligations under the Magnuson-Stevens Act.

While salmon bycatch in the pollock fishery may be a contributing factor in the decline of salmon, the absolute numbers of the ocean bycatch that would have returned to western Alaska are expected to be relatively small due to ocean mortality and the large number of other river systems contributing to the total Chinook or chum salmon bycatch. For Chinook salmon, Section 3.5.1 of the Analysis explains that the Chinook salmon bycatch that would have returned to western Alaska rivers equates to approximately 2.3 percent of coastal western Alaska run size in recent years. For chum salmon, Section 3.5.1 of the Analysis explains that the chum salmon bycatch that would have returned to western Alaska rivers equates to approximately less than half a percent of coastal western Alaska run size in recent years. Under Amendment 110 and this final rule, these impact rates will be reduced further as the pollock fleet improves its ability to avoid salmon at all times.

Although the reasons for the decline of Chinook salmon and some runs of chum salmon are not completely understood, scientists believe they are predominately natural. Changes in ocean

and river conditions, including unfavorable shifts in temperatures and food sources, likely cause poor survival of Chinook salmon and some runs of chum salmon.

Comment 8: The key component of Amendment 110 and the proposed rule is to reduce the performance standard and PSC limit in years of low Chinook salmon abundance in western Alaska. The limits set in Amendment 91 were far too high to ensure a healthy future for our salmon runs. The mechanism to lower these limits in times of low Chinook salmon abundance is the minimum step NMFS must take at this time to fulfill numerous legal responsibilities to reduce the allowable salmon bycatch in the pollock fishery. Taking action now to lower the PSC limit and performance standard in years of extremely low abundance is a critical step to ensure that bycatch is reduced in the years when every source of mortality must be reduced.
Response: NMFS acknowledges the comment.

Comment 9: Amendment 110 reduces the number of Chinook salmon that can be taken as bycatch in years of very low Chinook salmon abundance in western Alaska, which is critical to maintaining objectives under National Standard 9. In years of very low Chinook salmon abundance, the State of Alaska struggles to meet salmon escapement goals in important western Alaska systems, and only does so by prohibiting any directed Chinook salmon harvest for subsistence, as well as restricting subsistence harvest of other species, such as chum salmon, to minimize Chinook salmon mortalities.
Response: NMFS acknowledges the comment.

Comment 10: Amendment 110 will link bycatch limits to a broad index of Chinook salmon abundance based on the Kuskokwim, Unalakleet, and Upper Yukon aggregate stock grouping — the 3-System Index. The 3-System Index includes significant river systems for subsistence fisheries in Alaska and provides a broad regional representation of western Alaska Chinook salmon stocks. Any additional fish returning to these rivers in years of very low abundance improves the State's ability to meet escapement goals.

The Analysis clearly outlined the objectives that proposed indices were evaluated against and the 3-System Index was identified as the most robust and appropriate for this purpose. The primary component of the 3-System Index is preliminary escapement information from total run reconstruction using methods outlined in State publications. The State will provide the 3-System Index estimate to NMFS annually by October 1 and is committed to maintaining a transparent and accessible process for stakeholders as the State improves its understanding of these systems. The State will present any substantive changes to the methods used in developing the 3-System Index to the Council and it's Scientific and Statistical Committee.
Response: NMFS acknowledges the comment.

Comment 11: The provision to reduce the PSC limit and performance standard in years of low Chinook salmon abundance and the State of Alaska's 3-System Index used to determine when Chinook salmon abundance is low are unwarranted, unnecessary, not sound science, and not responsible management. It unfairly targets the pollock fishery and penalizes the fishery for circumstances beyond its control. Science has shown that there is not a relationship between bycatch in the pollock fishery and the size of the runs in coastal western Alaska.
Response: NMFS disagrees. The provisions to reduce the PSC limit and performance standard in years of low abundance are necessary to achieve the program goals. The Council and NMFS determined that a lower performance standard and PSC limit are appropriate at low levels of

Chinook salmon abundance in western Alaska because most of the Chinook salmon bycatch comes from western Alaska. These provisions work in conjunction with the changes to the IPA requirements to ensure that Chinook salmon bycatch is avoided at all times, particularly at low abundance levels.

The Council and State conducted an extensive analysis about the appropriate index to use to indicate a low Chinook salmon abundance year. Low Chinook salmon abundance years are years characterized by difficulty meeting escapement goals and in-river salmon fisheries being severely restricted or fully closed. Section 2.6 of the Analysis evaluates various indices and shows that the 3-System Index (Unalakleet, Upper Yukon, and Kuskokwim river systems) meets the objectives. These river systems provide a broad regional representation of stocks and signify very important river systems and subsistence fisheries in western Alaska. Subsistence harvests from these three river systems account for up to 87 percent of the statewide subsistence harvest of Chinook salmon. As shown in the Analysis, having more than one system in the index and having broad regional representation makes the index more robust. The Analysis also shows a clear natural break in the data that index sizes less than 250,000 Chinook salmon correspond to years with historically low run sizes.

The inclusion of a lower PSC limit and performance standard is based on the need to reduce bycatch when these Chinook salmon stocks are critically low in order to minimize the impact of the pollock fishery on the stocks. Any additional Chinook salmon returning to Alaska rivers improves the ability to meet the State's spawning escapement goals, which is necessary for long-term sustainability of Chinook salmon and the people reliant on salmon fisheries. While the performance standard is the functional limit in the IPAs, the Council and NMFS determined that the 60,000 PSC limit should also be reduced given the potential for decreased bycatch reduction incentives should a sector exceed its performance standard before the PSC limit is reached. The reduced PSC limit is intended to encourage vessels to avoid bycatch to a greater degree in years of low abundance, and to set a maximum permissible PSC limit that reduces the risk of adverse impact on stocks in western Alaska during periods of low abundance.

See the response to Comment 7 for a discussion of the relationship between bycatch in the pollock fishery and the size of the runs in coastal western Alaska.

Comment 12: The history of Alternative 5, reducing the PSC limit and performance standard in years of low Chinook salmon abundance, and the dramatic changes to it between the Council initial review in December 2014 and final action in April 2015, are hard to track and are not well documented in the final Analysis.

Response: Sections 2.6.3 and 2.6.4 of the Analysis discuss of the provision to reduce the PSC limit and performance standard in years of low Chinook salmon abundance (see ADDRESSES). This provision was recommended along with the other four provisions as Alternative 6. Section 2.6.4 explains the history of the 3-System Index and the analysis the State undertook to develop the appropriate Chinook salmon abundance index for determining low Chinook salmon abundance in western Alaska.

Comment 13: There is no discussion in the EA about the methods used to determine a "natural break." The EA identifies 250,000 Chinook as a natural break in the "data," where the data is actually model output. A formal definition for this threshold is required, as there is no guarantee that future models, or revisions to input data, will present a natural break in the model output. Instead of the 250,000 Chinook salmon threshold, NMFS should define (in probabilistic terms)

the threshold level in which to set the performance standard and PSC limit, rather than identifying an arbitrary natural break in future model output.
Response: Section 2.6.4 of the analysis provides a description of the methods for use of in-river run reconstructions with the 3-System Index and rationale for this choice of index and for the 250,000 Chinook salmon threshold. The evaluation of the break in the years is included in the Analysis and represented the best available scientific information.
In-river run reconstructions represent an estimate of all fish harvested in the river and respective coastal areas plus escapement. The relationship upon which the threshold was determined is the relationship between final in-river run abundance of the 3-System Index and the bycatch of adult equivalent Chinook salmon attributed to all western Alaska stocks. In Section 2.6.4.2 of the Analysis, each point in Figure 8 represents a single year in the relationship plotted. The years were referred to in the Analysis as data points for purposes of describing the clustering of these years below a breakpoint which falls above 200,486 Chinook salmon and below 286,692 Chinook salmon (see Table 6 in Section 2.6.4.5 of the Analysis). The clustering of years below 200,486 Chinook salmon also matches years which have been categorized as low abundance years for all three systems due to failures to meet escapement goals and restrictions on subsistence harvests, in addition to Federal fisheries disaster declarations. With this information, the Council determined that a threshold of 250,000 Chinook salmon was an appropriate value within this range to represent when Chinook salmon were in a low abundance year and to base the determination that the lower PSC limit and lower performance standard would be in place for the subsequent year. This information was also used by the Council to select the 3-System Index, a transparent, easily accessible (published ADF&G reports), and annually updated index. The management measure, to reduce the PSC limit and performance standard, is tied to the selected threshold of 250,000 Chinook salmon based on the 3-System Index. No re-estimation of the threshold is planned on an annual basis or in subsequent years.

Comment 14: Clarify in the final rule a transparent public process for ensuring that the State provides the data, assumptions, and methods it uses to generate the 3-System Index to NMFS, the public, and the Council.
Response: NMFS agrees that a transparent public process is necessary for ensuring that the 3-System Index represents the best available scientific information. However, it is not appropriate to establish a stock assessment and review process between NMFS, the Council, and the State in Federal regulations. NMFS is committed to working with the Council and the State to define a transparent process to ensure that the data, assumptions, and methods used in the 3-System Index continue to incorporate the best available scientific information and provide a reliable indicator of Chinook salmon abundance necessary to reduce the PSC limit and performance standard. NMFS will work with the State and the Council to refine this process before the State provides the index for the 2017 fishing year on October 1, 2016.

Comment 15: The State must use the 3-System Index and associated methods and models described the Analysis and recommended by the Council in April 2015. Any changes to the 3-System Index and associated methods and models should be vetted through the Council and its Scientific and Statistical Committee. Other models and methods may produce different run size estimates and a different threshold of low abundance. Structural changes to the run-reconstruction model would have resulted in a different “natural break” in the data that was used to determine the threshold for the 3-System Index. There are no provisions in the proposed rule

to accommodate changes in the threshold that are associated with future changes to the run-reconstruction model, or revisions to the historical input data.

Response: The Council and State conducted an extensive analysis about the appropriate index to use to indicate a low Chinook salmon abundance year. Low Chinook salmon abundance years are years characterized by difficulty meeting escapement goals and in-river salmon fisheries being severely restricted or fully closed. Section 2.6 of the Analysis evaluates various indices and shows that the 3-System Index (Unalakleet, Upper Yukon, and Kuskokwim river systems) meets the objectives. These river systems provide a broad regional representation of stocks and signify very important river systems and subsistence fisheries in western Alaska. Subsistence harvests from these three river systems account for up to 87 percent of the statewide subsistence harvest of Chinook salmon. As shown in the Analysis, having more than one system in the index and having broad regional representation makes the index more robust. The Analysis also shows a clear natural break in the data that index sizes less than 250,000 Chinook salmon correspond to years with historically low run sizes.

NMFS agrees that any changes to the 3-System Index or the methods and models used should be reviewed by the Council and its Scientific and Statistical Committee. NMFS is committed to working with the State and the Council to define a transparent process for review of the State's 3-System Index and associated methods and models. However, the Council did not prescribe that the State must use the exact methods that were used to develop the 3-System Index for annually calculating the index. Methods and models change over time based on the best available scientific information, and this process is designed to continue to apply relevant methods to the 3-System Index. The 3-System Index is a type of stock assessment and should be subject to a similar transparent process of improvement and review.

In recommending Amendment 110, the Council chose a threshold of 250,000 Chinook salmon on which to determine when Chinook salmon are at low abundance. In order to change that threshold amount, the Council would need to amend the FMP and NMFS would need to amend the regulations. The process for changing the 250,000 Chinook salmon threshold would be the same as for any FMP amendment.

Comment 16: NMFS does not have the latitude to just receive and apply ADF&G's estimate of Chinook salmon abundance from the 3-System Index without analysis to independently verify the estimates. Applying ADF&G's estimate would constitute delegation of management to the State of vessels fishing for pollock outside the boundaries of the State, which cannot occur because an applicable Federal fishery management plan does not authorize delegation to the State. The proposed rule grants ADF&G sole authority over the annual run size estimate and does not contemplate independent verification of the estimate by NMFS. NMFS compares the estimate to the low abundance threshold fixed in the regulations to determine whether or not a year is one of low Chinook salmon abundance, which in turn determines the following year's Chinook salmon PSC limit and performance standard applicable to vessels participating in the Federal pollock fishery. That determination does not involve any discretion on the part of NMFS.

Response: Each year, NMFS will rely on a Chinook salmon abundance estimate from the State using the established 3-System Index as the best available scientific information on Chinook salmon abundance in western Alaska. NMFS' independent verification of the 3-System Index will not be a condition for using the 3-System Index to determine a low Chinook salmon abundance year.

The 3-System Index was reviewed by the Council's Scientific and Statistical Committee and recommended by the Council. NMFS relies on the State for this abundance estimate because the State has management authority over salmon and collects and analyzes the scientific data necessary to estimate Chinook salmon abundance. Relying on the State to provide a type of stock assessment is not the same as delegating authority to the State to manage the pollock fishery. NMFS will use the Chinook salmon abundance index to apply the appropriate PSC limit and performance standard. The PSC limit and performance standard are the measures Council and NMFS determined were required in low Chinook salmon abundance years to achieve the program goals.

Under Amendment 110, it is each pollock vessel's responsibility to avoid salmon bycatch at all times. If fishery participants maintain their bycatch below their performance standard and PSC limit, then these measures achieve their purpose without closing the pollock fishery. Alternatively, the Council could have recommended to permanently reduce the performance standard and PSC limit in order to achieve the goals of encouraging vessels to avoid bycatch to a greater degree in years of low abundance and reducing the risk of adverse impact on stocks in western Alaska during periods of low abundance. Instead, by using the 3-System Index, the Council recommended a reduced PSC limit and performance standard only during years of low Chinook salmon abundance.

Comment 17: To avoid unauthorized delegation, the proposed rule should be revised to require that NMFS annually confirm that the ADF&G estimate was calculated using the Council-approved index and models from April 2015 and reproduce the estimate using the data provided by ADF&G. These standards would address the requirement that, when a core agency function—such as PSC management—is involved, there must be Federal standards in place and a process for NMFS to review the application of those standards.

Response: The Council designed and this final rule implements a program where ADF&G provides NMFS an estimate of Chinook salmon abundance using the 3-System Index for western Alaska. The Council did not constrain the State to only using the methods, data sources, and models developed for Council final action in April 2015. To do so would result in an index that failed to use the best scientific information available to adapt to improvements in methods, data, and models. Therefore, NMFS did not change this final rule to require that ADF&G use the methods and data sources presented to the Council in April 2015.

NMFS relies on the State to produce the 3-System Index annually because the State has management authority over salmon and collects and analyzes the scientific data necessary to estimate Chinook salmon abundance. While NMFS will review the 3-System Index provided each October 1, NMFS does not need to reproduce ADF&G's Chinook salmon abundance estimate each year. Therefore, NMFS did not change this final rule to require that NMFS reproduce the estimate using the models and data provided by ADF&G.

Comment 18: What action would NMFS take if the State is unable to provide an estimate of Chinook salmon abundance by October 1? NMFS should not determine low abundance if ADF&G does not timely deliver an estimate, whether because of difficulty obtaining relevant data, budget restrictions, or other reason. The final rule should specify that NMFS will not determine it is a year of low Chinook salmon abundance if ADF&G does not provide a Chinook salmon abundance estimate by October 1. If no such determination is made, the 60,000 Chinook salmon PSC limit and 47,591 Chinook salmon performance standard would apply.

Response: Absent a letter from the State showing Chinook salmon abundance is equal to or below the 250,000 Chinook salmon threshold, the 60,000 PSC limit and 45,591 performance standard will remain in effect. The State's reporting of the 3-System Index by October 1 is necessary to determine if it is a low Chinook salmon abundance year and to reduce the PSC limit and performance standard in the next fishing year. A change to this final rule is not necessary.

Comment 19: Change the text of Amendment 110 to state that NMFS will verify ADF&G's estimate of abundance and that ADF&G must use the index approved by the Council at its April 2015 meeting.
Response: NMFS cannot change amendment text after it has been transmitted by the Council and NMFS as published in the Notice of Availability. Under section 304(a) of the Magnuson-Stevens Act, NMFS is limited to approval, disapproval, or partial approval of a fishery management plan amendment. If NMFS disapproves or partially approves an amendment, NMFS has to notify the Council and specify the applicable law with which the amendment is inconsistent, the nature of such inconsistencies, and make recommendations to conform to applicable law. The Council may then submit a revised amendment to the Secretary of Commerce. Amendment 110 and the provision to reduce the PSC limit and performance standard are consistent with applicable law and the commenter did not recommend disapproval or partial disapproval of Amendment 110.

NMFS responds to the issue of verifying ADF&G's Chinook salmon abundance index in the response to Comment 16. NMFS responds to the issue of requiring ADF&G to use the index approved by the Council at its April 2015 meeting in the response to Comment 15.

Comment 20: Many comments expressed concerned with a letter ADF&G sent to NMFS on September 17, 2015, before Amendment 110 was approved and implemented. In this letter, ADF&G provided an index estimate of 252,000 Chinook salmon to provide NMFS, the Council, and the public with a preview of Chinook salmon abundance using the 3-System Index for 2016. Commenters are concerned that this estimate reflected changes the State made in how it modeled abundance from the methods outlined in the Analysis. ADF&G subsequently sent another letter on March 3, 2016, revising the index estimate to 279,000 Chinook salmon. ADF&G made this revision to the index estimate based largely on the public review of the 3-System Index used to inform the September 17, 2015, letter.
Response: In their March 3, 2016, letter, ADF&G explains that the September 2015 letter had provided a post-season run size estimate for the 3-System Index using a Kuskokwim River run reconstruction estimate that employed a modification to the model that ADF&G incorporated after the Council's analysis, and that modification has not yet been reviewed by the Council. As such, ADF&G amended the 2015 post-season run size estimate to reflect the unmodified model and will continue to use the unmodified model in the 3-System Index until the Council determines the modification is appropriate to use.

Further, ADF&G explains in their comment letter (see ADDRESSES) that the primary component of the post-season run index is preliminary escapement information and the total run reconstruction methods outlined in ADF&G publications. ADF&G is committed to maintaining a transparent and accessible process for stakeholders and ADF&G will present any substantive changes to the methods used in developing the 3-System Index to the Council and its Scientific and Statistical Committee.

Comment 21: Commenters made a number of technical comments on the State's 3-System Index and the methods and models that the State used to develop the index and to generate the September 17, 2015, index estimate of 252,000 Chinook salmon.
Response: The State can modify the 3-System Index over time to represent the best available scientific information, as with all stock assessments. These comments are important for that process. However, they are outside of the scope of Amendment 110 and this final rule.

◄**Comment 22**: Good fisheries management calls for a reduction in salmon bycatch. The pollock fishery should be managed in a way that rewards those fishermen that successfully avoid salmon and other bycatch and reduces quota and opportunity for those fishermen that have significant salmon or other bycatch.
Response: Amendment 110 and this final rule improve the IPAs implemented under Amendment 91 to include chum salmon avoidance measures and to increase the ability for vessels to avoid Chinook salmon. The IPA component is an innovative approach that is designed to provide incentives for each vessel to avoid bycatch at all times with the goal of reducing bycatch below the PSC limits. The requirements for an IPA are performance based (i.e., they address what an IPA should accomplish); any number of different incentive plans could meet these objectives. The requirements for the IPA are performance based because fishery participants have more tools available to them to create incentives to minimize bycatch at the vessel level than could be prescribed through Federal regulation. As designed, an IPA can be more responsive and adaptive than Federal regulations and can use tools not available to managers. IPAs are flexible in allowing the pollock fleet to modify the IPAs as performance information becomes available to ensure that the IPAs meet the goals in Amendment 91. Additionally, this final rule requires the IPA representative to submit an annual report to the Council that will be the primary tool through which the Council will evaluate whether its goals for the IPAs are being met.

◄**Comment 23**: Include a well thought-out plan for this Chinook salmon bycatch avoidance program and outline the possible increased incentives to achieve maximum effectiveness. Without this, the program could have little to no impact on Chinook salmon bycatch. It is ideal to have the IPA incentives visible to the public in order to have complete transparency of industry.
Response: The Council analyzed a number of specific incentive measures in Section 3.5.3 of the Analysis. The Analysis includes the new IPA requirements implemented with this final rule and provides examples of ways the fishery participants could modify their IPAs to meet those requirements. Regulations establish the performance based requirements that each IPA must accomplish. Any number of different incentive plans could meet these regulatory requirements. The requirements for the IPA are performance based because fishery participants have more tools available to them to create incentives to minimize bycatch at the vessel level than could be prescribed through Federal regulation. As designed, an IPA can be more responsive and adaptive than Federal regulations and can use tools not available to managers, such as fees and penalties.

Additionally, Federal regulations include a number of provisions to ensure transparency of the IPAs. The Amendment 91 implementing regulations require the IPA representative to submit an annual report to the Council as the primary tool through which the Council will evaluate whether its goals for the IPAs are being met. Also, the economic data collection program is designed to provide quantitative information to evaluate how an IPA influences a vessel's

operational decisions to avoid Chinook salmon bycatch. This final rule adds additional requirements for IPA transparency, including requiring IPAs to notify at least one third party group representing western Alaskans of closure areas and any violations of the rolling hot spot program and requiring the IPA representative to describe in the IPA annula report how the IPA addresses the goals and objectives in the IPA provisions related to chum salmon.

Comment 24: Research should be done on the Chinook salmon bycatch to determine which stock they are from since there are some stocks from which the Chinook salmon catch must be limited. If Chinook salmon from those stocks are being taken by the pollock fishery in a year in which those Chinook salmon stocks are limited, then the pollock fishery should have to wait till those Chinook salmon leave the areas in which pollock are taken.
Response: NMFS conducts research on the Chinook salmon caught in the pollock fishery. Amendment 91 improved the collection of Chinook salmon information by increasing observer coverage to 100 percent for all vessels and shoreside processing facilities and by requiring a census of Chinook salmon in every haul or fishing trip. NMFS also collects and analyzes scientific data and biological samples from the Chinook salmon bycatch. NMFS conducts a genetic analysis of samples from the Chinook salmon bycatch in the pollock fishery to determine the overall stock composition of the bycatch. The most recent analysis is available from the Alaska Fisheries Science Center (http://www.afsc.noaa.gov/Publications/AFSC-TM/NOAA-TM-AFSC-310.pdf).

Comment 24: The over allocation of pollock has ruined the livelihoods of all that depend on it for a living. A two-thirds reduction in the Bering Sea pollock TAC would get escapement to the Yukon River system and raise the price of the pollock products. We have been giving pollock away at the expense of traditional Alaskan salmon fisheries. Everything that swims in the Bering Sea eats pollock and every fishery and northern fur seals have declined due to the over allocation of pollock.
Response: Setting the Bering Sea pollock TAC is outside the scope of this action. There is no evidence that a two-thirds reduction in the pollock TAC would measurably increase escapement to the Yukon River system. While salmon bycatch in the pollock fishery may be a contributing factor in the decline of salmon, the absolute numbers of the ocean bycatch that would have returned to western Alaska are expected to be relatively small due to ocean mortality and the large number of other river systems contributing to the total Chinook or chum salmon bycatch. For Chinook salmon, Section 3.5.1 of the Analysis explains that the Chinook salmon bycatch that would have returned to western Alaska rivers equates to approximately 2.3 percent of coastal western Alaska run size in recent years. For chum salmon, Section 3.5.1 of the Analysis explains that the chum salmon bycatch that would have returned to western Alaska rivers equates to approximately less than half a percent of coastal western Alaska run size in recent years. Under Amendment 110 and this final rule, these impact rates will be reduced further as the pollock fleet improves its ability to avoid salmon at all times.

NMFS agrees that much needs to be learned about the potential effects of the pollock fishery on northern fur seals and about fur seal biology. A description of past and ongoing research is available on the National Marine Mammal Laboratory's website (http://www.afsc.noaa.gov/nmml/species/species_nfs.php). This research includes studies that should provide additional information regarding the pollock fishery interactions with northern fur seals. NMFS is actively pursuing research on northern fur seals to help us understand the reasons for the decline and potential threats to the population. The research projects investigate a

broad range of topics related to fisheries interactions around the Pribilof Islands, including studies to quantify area-specific food habits and animal conditions, describe foraging behavior in different environments, delineate foraging habitats, and model habitat suitability in relation to fur seals and their overlap with commercial fisheries.

Comment 25: The Analysis did not fully describe the potential impacts to the pollock fishery under the lower PSC performance standard and limits in years of low Chinook salmon abundance. The Analysis only compared the impacts to current bycatch levels and not to potential or historical levels. Little to no forgone pollock harvest was noted under any scenario. Amendment 110 and the proposed rule are a potential threat that could suspend fishing operations in one of the largest fisheries in the world. Large juvenile Chinook salmon year classes persist in the marine environment for multiple years before returning as mature fish to the river systems. Recent unpredictability in the BSAI ecosystem likely only increases the probability of constraining the pollock fishery in future years based on management decisions made today. The Analysis should have attempted to quantify the probability of the limit shutting the fishery down in a given year.

Response: The purpose of a RIR is to analyze the potential costs and benefits associated with a regulatory change. To do so, the RIR must compare potential effects of the alternatives being considered with the regulatory status quo condition. In this case, the status quo is defined by the incentive-based Chinook salmon PSC avoidance structure established under Amendment 91. Since Amendment 91, Chinook PSC has been much lower than the "potential or historical" levels the commenter presumably is referring to and these lower levels, as properly considered in the analysis, represent the regulatory status quo conditions. Historically higher levels of bycatch occurred under differing regulatory conditions, do not represent status quo conditions, and are inappropriate to consider in the Analysis.

Amendment 110 and this final rule provide further incentive for industry to avoid Chinook salmon PSC, particularly in years of low Chinook salmon abundance. As explained in Section 4.8.2 of the Analysis, economic analysis has demonstrated the ability of a catcher-processor fleet to adapt their behavior to reduce PSC when faced with individual caps. The reduced caps, in times of low Chinook abundance, are not intended to shut the pollock fishery down. They are intended to alter fishing behavior to further avoid Chinook PSC. The flexibility given to industry to self-regulate PSC avoidance, provided in Amendment 91, remains and is augmented by this rule. Thus, the probability of the limit shutting down the fishery in a given year is dependent on changes in fishing activity that are not presently known and are dependent on the actions of the fishing fleet.

Comment 26: Revise the Regulatory Flexibility Act (RFA) analysis to determine the number of directly regulated entities that are small entities without applying the cooperative affiliations. NMFS considers a vessel owner's membership in a cooperative to be an affiliation; this shows a misunderstanding of the nature of fishery cooperatives. Fishery cooperatives in Alaska are not large vertically or horizontally integrated businesses. Cooperative members are joined by simple rules to help remove the race for fish by coordinating selected fishing activities, but each catcher vessel (or collection of commonly owned catcher vessels) is a distinct business unit. The fact that cooperatives coordinate harvests in a manner that allows for more complete harvest of the quota should not be interpreted as creating a single business unit in the manner intended for defining a small business that is appropriate for protection by the RFA.

Response: When NMFS calculates the size of an entity to determine if it is a small entity, NMFS must include the annual receipts and the employees of affiliates. Affiliation is determined by the ability to control. Control may arise through ownership, management, or other relationships or interactions between the parties. When the ability to control exists, even if it is not exercised, affiliation exists. The Small Business Administration (SBA) has a specific set of rules that explain when another person, business, or entity is considered an affiliate for size purposes in its Small Business Size Regulations (13 CFR 121.103). Therefore, NMFS will not revise the RFA analysis to reestimate the number of small entities directly regulated by this action.

NMFS appropriately evaluates cooperative membership as an affiliation to determine if an entity is small. Cooperatives have the ability to control member vessels. Cooperatives are predicated on collective agreements among their members, to abide by the terms and practices set out for membership. That is, the entity instituted and constituted by creation of the cooperative is, by definition, a third party that controls or has the power to control its member concerns. The small entity standard to be met is "independently owned and operated."

Cooperative members may be independently owned and still fail to meet the standard due to not being independently operated. Cooperatives coordinate harvests, which is operational control of the input side of the business. The cooperative has enough operational control that members are not independently operated.

Cooperative membership does not automatically mean an entity is large (not small). A cooperative may be a small entity if the combined annual gross receipts of all cooperative members meets the size standard used by the SBA or, after July 1, 2016, NMFS' small business size standard for RFA compliance at 50 CFR 200.2(a). For more information on NMFS' small business size standard for RFA compliance, see 80 FR 81194 (December 29, 2015).

Comment 27: NMFS' aggregation of cooperative member's gross earnings eliminates a fishing business's access to the benefits of SBA review and runs against the intent of the RFA.
Response: The RFA is primarily concerned with assuring that Federal agency decision-makers contemplating regulatory action, seriously and systematically consider disproportionate economic impacts on small entities that may result therefrom. The purpose of the RFA was to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. To comply with the RFA, agencies prepare an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) following the required contents specified in the RFA. The complete RFA is available at https://www.sba.gov/advocacy/regulatory-flexibility-act.
NMFS has complied with the RFA for this action. NMFS has prepared an IRFA and a FRFA following the required contents specified in the RFA. The IRFA was prepared and summarized in the "Classification" section of the preamble to the proposed rule (81 FR 5681, February 3, 2016). The FRFA is in the "Classification" section of the preamble to this final rule.

	Request for Approval **PROPOSED INCENTIVE PLAN AGREEMENT (IPA)**	U.S. Dept. of Commerce NOAA/National Marine Fisheries Service (NMFS) Sustainable Fisheries Division P.O. Box 21668 Juneau, AK 99802-1668 Fax: 907-586-7131 Telephone: 907-596-7228

A proposed IPA must be received by NMFS no later than 1700 hours, A.l.t., on October 1 of the year prior to the year for which the IPA is proposed to be effective.

NOTE: An IPA may take any format. The content of the IPA must include the following information.

AFFIDAVIT
Each eligible vessel owner or CDQ group, from whom the IPA representative received written notification, requesting to join the IPA, has been allowed to join the IPA subject to the same terms and conditions that have been agreed on by, and are applicable to, all other parties to the IPA.

MEMBERSHIP IN AN IPA
♦ No vessel owner or Western Alaska Community Development Quota (CDQ) group is required to join an IPA. ♦ For a vessel owner in the catcher/processor sector or mothership sector to join an IPA, that vessel owner must be a member of the entity representing that sector. ♦ For a CDQ group to be a member of an IPA, the CDQ group must sign the IPA and list in that IPA each vessel harvesting Bering Sea pollock CDQ, on behalf of that CDQ group, that will participate in that IPA. ♦ Once a member of an IPA, a vessel owner or CDQ group cannot withdraw from the IPA during a fishing year.

IPA INFORMATION
Name of IPA
IPA identification number. If approved, NMFS will assign an IPA identification number to the approved IPA. This number must be used by the IPA representative in amendments to the IPA.
Name of IPA Representative. The IPA must include the name, telephone number, and e-mail address of the IPA representative who submits the proposed IPA on behalf of the parties and who is responsible for submitting proposed amendments to the IPA and the annual report
Third party group. The IPA must identify at least one third party group. Third party groups include any organizations representing western Alaskans who depend on salmon and have an interest in salmon bycatch reduction but do not directly fish in a groundfish fishery.
Description of the incentive plan. The IPA must contain a description of the following: ♦ The incentive(s) that will be implemented under the IPA for the operator of each vessel participating in the IPA to avoid Chinook salmon and chum salmon bycatch under any condition of pollock and Chinook salmon abundance in all years. ♦ How the incentive(s) to avoid chum salmon do not increase Chinook salmon bycatch. ♦ The rewards for avoiding Chinook salmon, penalties for failure to avoid Chinook salmon at the vessel level, or both. ♦ How the incentive measures in the IPA are expected to promote reductions in a vessel's Chinook salmon and chum salmon bycatch rates relative to what would have occurred in absence of the incentive program. ♦ How the incentive measures in the IPA promote Chinook salmon and chum salmon savings in any condition of pollock abundance or Chinook salmon abundance in a manner that is expected to influence operational decisions by vessel operators to avoid Chinook salmon and chum salmon. ♦ How the IPA ensures that the operator of each vessel governed by the IPA will manage that vessel's Chinook

salmon bycatch to keep total bycatch below the performance standard for the sector in which the vessel participates.

- How the IPA ensures that the operator of each vessel governed by the IPA will manage that vessel's chum salmon bycatch to avoid areas and times where the chum salmon are likely to return to western Alaska.
- The rolling hot spot program for salmon bycatch avoidance that operates throughout the entire A season and B season and the agreement to provide notifications of closure areas and any violations of the rolling hot spot program to the third party group.
- The restrictions or penalties targeted at vessels that consistently have significantly higher Chinook salmon prohibited species catch (PSC) rates relative to other vessels fishing at the same time.
- The requirement for vessels to enter a fishery-wide in-season salmon PSC data sharing agreement.
- The requirement for the use of salmon excluder devices, with recognition of contingencies, from January 20 to March 31, and from September 1 until the end of the B season.
- The requirement that credits must last for a maximum of three years for IPAs with salmon savings credits.
- The restrictions or performance criteria used to ensure that Chinook salmon PSC rates in October are not significantly higher than those achieved in the preceding months.

Compliance agreement.
The IPA must include a written statement that all parties to the IPA agree to comply with all provisions of the IPA.

Signatures.
The names and signatures of the owner or representative for each vessel and CDQ group that is a party to the IPA. The representative of an inshore cooperative, or the representative of the entity formed to represent the AFA catcher/processor sector or the AFA mothership sector may sign a proposed IPA on behalf of all vessels that are members of that inshore cooperative or sector level entity.

Duration.
Once approved, an IPA is effective starting January 1 of the year following the year in which NMFS approves the IPA, unless the IPA is approved between January 1 and January 19, in which case the IPA is effective starting in the year in which it is approved. Once approved, an IPA is effective until December 31 of the first year in which it is effective or until December 31 of the year in which the IPA representative notifies NMFS in writing that the IPA is no longer in effect, whichever is later. An IPA may not expire mid-year. No party may join or leave an IPA once it is approved.

AMENDMENTS TO AN IPA.

Amendments to an approved IPA may be submitted to NMFS at any time. An amendment to an approved IPA is effective upon written notification of approval by NMFS to the IPA representative.

SUBMITTAL INFORMATION

Submit the completed application:

- by mail to Regional Administrator, NMFS
  P.O. Box 21668
  Juneau, AK 99802

- by courier to Office of the Regional Administrator
  709 West 9th Street
  Juneau, AK 99801

The IPA may not be faxed to NMFS, because original signatures are required.

For assistance, please call NMFS Sustainable Fisheries at 907-586-7228.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection-of-information is estimated to average 40 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act, unless that collection-of-information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

	INCENTIVE PLAN AGREEMENT (IPA) ANNUAL REPORT	U.S. Dept. of Commerce NOAA/National Marine Fisheries Service (NMFS) Sustainable Fisheries Division P.O. Box 21668 Juneau, AK 99802-1668 Fax: 907-586-7131 Telephone: 907-596-7228

An IPA Annual Report must be received by the Council no later than March 1

NOTE: An IPA Final Report may take any format. The content of the IPA Final Report must include the following information.

IPA FINAL REPORT INFORMATION
Name of IPA
IPA identification number
Name of IPA Representative Name, telephone number, and e-mail address of the IPA representative
The IPA Annual Report must contain a description of the following: ♦ A comprehensive description of the incentive measures, including the rolling hot spot program and salmon excluder use, in effect in the previous year; ♦ A description of how these incentive measures affected individual vessels;. ♦ An evaluation of whether incentive measures were effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures, including the effectiveness of ◊ Measures to ensure that chum salmon were avoided in areas and at times where chum salmon are likely to return to western Alaska; ◊ Restrictions or penalties that target vessels that consistently have significantly higher Chinook salmon PSC rates relative to other vessels; and ◊ Restrictions or performance criteria used to ensure that Chinook PSC rates in October are not significantly higher than in previous months. ♦ A description of any amendments to the terms of the IPA that were approved by NMFS since the last annual report and the reasons that the amendments to the IPA were made. ♦ The sub-allocation to each participating vessel of the number of Chinook salmon PSC and amount of pollock (mt) at the start of each fishing season, and number of Chinook salmon PSC and amount of pollock (mt) caught at the end of each season. ♦ The following information on in-season transfer of Chinook salmon PSC and pollock among AFA cooperatives, entities eligible to receive Chinook salmon PSC allocations, or CDQ groups: ◊ Date of transfer ◊ Name of transferor ◊ Name of transferee ◊ Number of Chinook salmon PSC transferred ◊ Amount of pollock (mt) transferred ♦ The following information on in-season transfers among vessels participating in the IPA: ◊ Date of transfer ◊ Name of transferor ◊ Name of transferee ◊ Number of Chinook salmon PSC transferred ◊ Amount pollock (mt) transferred

SUBMITTAL INFORMATION
Submit the IPA Annual Report: ♦ to North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501. ♦ For assistance, please call NMFS Sustainable Fisheries at 907-586-7228.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection-of-information is estimated to average 8 hours per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act, unless that collection-of-information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.