

**SUPPORTING STATEMENT
AMERICAN FISHERIES ACT REPORTS IN THE BERING SEA AND ALEUTIAN
ISLANDS MANAGEMENT AREA
OMB CONTROL NO. 0648-0401**

INTRODUCTION

This request is for a renewal of the existing collection-of-information and changes the name of this collection from “Alaska Cooperatives in the Bering Sea & Aleutian Islands” to read “American Fisheries Act Reports in the Bering Sea and Aleutian Islands Management Area.”

National Marine Fisheries Service (NMFS) manages the groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands Management Area (BSAI). The North Pacific Fishery Management Council (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) as amended in 2006. Regulations implementing the FMP appear at [50 CFR part 679](#).

On October 21, 1998, the President signed into law [The American Fisheries Act](#), 16 U.S.C. 1851 (AFA). The AFA established a limited access program for the inshore sector of the BSAI pollock fishery that is based on the formation of fishery cooperatives around each inshore pollock processor. NMFS issues a single pollock allocation to each cooperative and the cooperative may make sub-allocations of pollock to each individual vessel owner in the cooperative.

A. JUSTIFICATION

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

With respect to the fisheries off Alaska, the AFA Program is a suite of management measures that fall into four general categories:

- ◆ Regulations that limit access into the fishing and processing sectors of the BSAI pollock fishery and that allocate pollock to such sectors (50 CFR 679.64)
- ◆ Regulations governing the formation and operation of fishery cooperatives in the BSAI pollock fishery (50 CFR 679.61 and 679.62)
- ◆ Regulations to protect other fisheries from spillover effects from the AFA (50 CFR 679.64).
- ◆ Regulations governing catch measurement and monitoring in the BSAI pollock fishery (50 CFR 679.63)

These regulations are necessary to achieve the AFA's objective of decapitalization and rationalization of the BSAI pollock fishery. The Council and NMFS do not have authority to recommend or implement a program that would define the pollock industry sectors differently, change the sectors allocation percentages, or change the lists of vessels and processors that are authorized to participate in each sector. Consequently, all four of the AFA-based categories mirror the provisions of the AFA with respect to pollock industry sectors and sector allocations.

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 applicable NOAA Information Quality Guidelines.

Fishery cooperatives are formed by groups of vessel owners to provide an alternative to the open access race for fish. Under a fishery cooperative, the members agree to divide the available quota among themselves in a manner that eliminates a wasteful competition for fish and allows participants to maximize productivity. The AFA authorizes the formation of fishery cooperatives in all sectors of the 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.

The cooperatives are taking advantage of the program to remove excess fishing capacity with expectations of up to 30 percent reductions in fleet size for all three sectors of the BSAI pollock fishery. The co-op system also allows cooperatives to make more effective, coordinated use of the vessels remaining in the cooperatives.

Each cooperative must appoint a designated representative and agent for service of process. A designated representative is intended to fulfill regulatory requirements on behalf of the cooperative including, but not limited to: 1) filing of cooperative contracts, 2) filing of annual reports, and in the case of inshore sector catcher vessel cooperatives, 3) signing cooperative fishing permit applications and 4) completing and submitting inshore catcher vessel pollock cooperative catch reports. The designated representative is the primary contact person for NMFS on issues relating to the operation of the cooperative.

In addition, a cooperative must appoint an agent who is authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of the cooperative. The cooperative must provide the Regional Administrator with the name, address and telephone number of the appointed agent. Service on or notice to the cooperative's appointed agent constitutes service on or notice to all members of the cooperative.

a. Cooperative annual report

Initially, all AFA cooperatives were required to submit preliminary and final annual written reports on directed pollock fishing activity to the Council. The AFA annual reporting requirements were implemented under a final rule ([67 FR 79692; December 30, 2002](#))

implementing Amendment 61 to the FMP. The purposes of the annual reports as described in the final rule, are “to assist the Council and NMFS in meeting the requirements of section 210(a)(1) of the AFA” and to provide the Council information upon which to make decisions on cooperative allocations and on sideboard protection measures.

The Council originally recommended both a preliminary and a final annual report, because it wanted to have the preliminary report available for its December Council meeting when it adopts annual groundfish harvest specifications for the upcoming fishing year. The final AFA cooperative report is due by February 1 of the following year. The AFA cooperative annual reports are required to provide information about how the cooperative distributed pollock and other groundfish species allocations, and prohibited species allowances, among the vessels in the cooperative; the catch of these species, by area, for each vessel in the cooperative; information about how the cooperative monitored fishing by its members; and a description of any actions taken by the cooperative to penalize vessels that exceeded the catch allocations and prohibited species catch allowances made to the vessel by the cooperative.

The Council recognized that, because the pollock fisheries close on November 1, one month may not be enough time for the AFA cooperative representatives to compile all of the required information for the annual report. In addition, it was possible that some of the catch and bycatch data would be updated after the end of the year. Therefore, the Council recommended that NMFS require a preliminary report to provide as much information as was available by December 1, and a final report by February 1 of the following year to update or add any information that became available after December 1.

Recently, the Council does not rely on the preliminary cooperative annual report to develop its recommendations on final groundfish specifications to the extent it originally thought it would. Therefore, submittal of annual cooperative reports is changed. The preliminary report was removed in a nonsubstantive change request approved by the Office of Management and Budget on January 29, 2010. The final cooperative report, renamed the annual cooperative report, must cover fishing activities through December 1 of each year, submitted and postmarked by February 1 of the following year or received by a private courier service by the submission deadline. Each AFA fishery cooperative must submit the annual report to the Council at 605 West 4th Ave, Suite 306, Anchorage, AK 99501.

The “race for the fish,” and associated high prohibited species catch (PSC) rates, occur because the competition created by PSC does not encourage individual fishing operations to take full account of their actions when they make fishing decisions. An operation that fished “dirty,” that is, an operation that fished with high rates of associated PSC, obtained a benefit that accrued to it alone: cheaper groundfish. But the operation did so by hastening the closure of the groundfish fishery. If the closure came before the target groundfish total allowable catch (TAC) was fully caught, the entire groundfish fleet would incur a cost associated with the value of the foregone groundfish (unharvested TAC). The operation that was fishing dirty would bear some of this cost, but much of it would be borne by other operations in the fishery because no single operation would fully bear the costs of dirty fishing. However, dirty operations would realize

economic benefits from their actions by shifting a large part of their bycatch costs to other operations. Thus, dirty operations do not have an incentive to control PSC rates.

The accounting necessary for the annual cooperative report involves the services of SeaState, Inc., a company that provides catch accounting services. SeaState is authorized by the companies to receive and process data and to report on the status of the harvest. Each AFA cooperative collects and summarizes information on its allocated target species all through the year and provides it to SeaState to perform parallel accounting of “sideboard” species for each cooperative. Sideboard species are non-pollock groundfish species allocated annually as incidental catch to AFA and other fishery cooperatives. SeaState summarizes each cooperative’s target species and sideboard information and maintains analyses of cooperatives compared with each other in order to keep any one and all cooperatives from overfishing. All three types of information for each cooperative are included in the annual report. The Council posts the reports on its website at <http://www.fakr.noaa.gov/npfmc/default.htm>.

Cooperative annual report must include:

- Cooperative's allocated catch of pollock and sideboard species
- Any sub-allocations of pollock and sideboard species made to individual vessels on a vessel-by-vessel basis
- Cooperative's actual retained catch and discards of pollock, sideboard species, and prohibited species catch (PSC) on an area-by-area and vessel-by-vessel basis
- Description of monitoring method for fisheries in which cooperative vessels participate
- Description of any actions taken by the cooperative in response to any vessels that exceed their allowed catch and bycatch in pollock and all sideboard fisheries
- Total weight of pollock landed outside State of Alaska waters on a vessel-by-vessel basis
- Number of salmon taken by species and season
- Estimated number of salmon avoided as demonstrated by the movement of fishing effort away from salmon savings areas
- List of number of times each vessel appeared on the weekly “dirty” 20 lists for both salmon species

Cooperative annual report, Respondent	
Estimated number of respondents	11
Total annual responses	11
Estimated responses per respondent = 1	
Total burden hours	88 hr
Estimated hours per response = 8	
Total personnel cost	\$2,200
Personnel cost \$25/hr	
Total miscellaneous costs (17.82)	\$18
Postage cost (1.32 x 11 = 14.52)	
Photocopy cost (11 x 6 pg x 0.05 = 3.30)	

Cooperative annual report, Federal Government	
Total annual responses	11
Total burden hours (5.5)	6 hr
Estimated hours per response = 0.5	
Total personnel cost	\$150
Personnel cost \$25/hr	
Total miscellaneous cost	0

b. Cooperative Catch Report.

The designated representative of each AFA inshore catcher vessel cooperative must submit to the Regional Administrator a catcher vessel cooperative pollock 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 and must ensure that the designated representative complies with the applicable recordkeeping and reporting requirements.

The cooperative pollock catch report must be received by the Regional Administrator by 1200 hours Alaska local time, one week after the date of completion of delivery. No form exists for this report. A cooperative catch report may be submitted as an attachment to an e-mail or by fax.

Cooperative catch report

- Cooperative account number
- Catcher vessel Alaska Department of Fish and Game (ADF&G) 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	
Number of respondents	11
Total annual responses	132
Number responses per respondent = 12	
Total burden hours (10.56)	11 hr
Estimated hours per response = 5 min/60 min	
Total personnel cost	
Personnel cost \$25/hr	\$275
Total miscellaneous cost (16.50)	\$17
Fax (\$5 x 2 = 10)	
Email attachment (0.05 x 130 = 6.50)	

Cooperative catch report, Federal Government	
Total annual responses	132
Total burden hours (10.56)	11 hr
Estimated hours per response (5 min/60 min)	
Total personnel cost	\$275
Personnel cost \$25/hr	
Total miscellaneous cost	0

c. Agent for Service of Process

Each cooperative must appoint an agent who is authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of the cooperative. This agent may be the same person as the designated representative. Service on or notice to the cooperative's appointed agent constitutes service on or notice to all members of the cooperative.

Legal process is the proceeding in any civil lawsuit or criminal prosecution and, particularly, describes the formal notice or writ used by a court to exercise jurisdiction over a person or property. Such process is usually "served" upon a party, to compel that party to come to court, and may take the form of a summons, mandate, subpoena, warrant, or other written demand issued by a court.

No form exists for this appointment, but the cooperative must submit to NMFS the name, address and telephone number of the appointed agent. This information may be submitted by e-mail.

Agent for Service of Process, Respondent	
Number of respondents	11
Total annual responses	11
Responses per respondent = 1	
Total burden hours (0.92)	1 hr
Hours per response = 5 min/60 min	
Total personnel cost	\$25
Personnel cost \$25/hr	
Total miscellaneous cost	\$1
Email (0.05 x 11 = \$0.55)	

Agent for Service of Process, Federal Government	
Total annual responses	11
Total burden hours	1 hr
Hours per response= 5 min/60 min	
Total personnel cost	\$25
Total miscellaneous cost	0

d. Salmon bycatch reduction inter-cooperative agreement (ICA).

The salmon bycatch reduction inter-cooperative agreement (ICA) was created to enable the pollock fleet to utilize its internal cooperative structure to coordinate the pollock fishery in a manner that reduces incidental catch rates of salmon. The ICA is a voluntary civil agreement among pollock cooperatives, Western Alaska Community Development Quota (CDQ) groups, and western Alaska subsistence salmon user groups.

The ICA includes provisions to retain the services of a private contractor to collect and analyze bycatch data and report salmon bycatch information to the ICA parties.

The ICA uses real-time salmon bycatch information to avoid unacceptably high incidental catch rates of chum and Chinook salmon. The ICA requires that the bycatch rate of a participating cooperative be compared with a pre-determined bycatch rate (base rate). All ICA provisions for fleet bycatch avoidance behavior, closures, and enforcement are to be based on the ratio of the cooperative's rate to the base rate. An ICA cooperative is to be assigned to one of three tiers based on its bycatch rate relative to the base rate. Higher tiers correspond to higher bycatch rates. Tier assignments determine access privileges to specific fishing areas.

A representative must be appointed by the parties; this ICA Representative will file a signed copy of the initial ICA and any amended ICA to

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

Or by courier delivery to

Regional Administrator
NMFS Alaska Region
709 West 9th St., Suite 401
Juneau, AK 99801

The initial ICA was due to NMFS by December 1, 2007 for the 2008 fishing year. After an ICA is initially filed with NMFS, the ICA representative may submit revisions to NMFS through an ICA renewal letter, also referred to as a revised ICA.

The ICA revision must state that the previously filed ICA will remain in effect for the subsequent fishing year and must detail any material modifications to the ICA. These revisions may include changes of vessels participating in the ICA.

Salmon bycatch reduction ICA (Initial or Revision)

Names of the AFA cooperatives, CDQ groups, and third party groups that are parties to the ICA
Name of contractor retained to facilitate vessel bycatch avoidance behavior and information sharing
Name(s), Federal fisheries permit numbers, and USCG documentation number(s) of ICA vessels
Salmon bycatch avoidance behaviors for ICA vessel operators, including

“A” season salmon bycatch management¹

Initial base rate calculation for Chinook salmon
Inseason adjustments to the Chinook salmon base rate calculation
ICA salmon savings area notices
Fishing restrictions for vessels assigned to Tiers

“B” season salmon bycatch management

“B” season Chinook salmon base rate
Non-Chinook salmon base rate
Inseason adjustments to the non-Chinook base rate calculation
ICA salmon savings area notices
Fishing restrictions for vessels assigned to Tiers

Cooperative tier assignments

Internal monitoring and enforcement provisions to ensure compliance of fishing activities with the provisions of the ICA

Provisions allowing any party of the ICA to bring suit or initiate a binding arbitration action against another for breach of the agreement.
Annual uniform assessments for any violation of savings area closures
\$10,000 for the first offense
\$15,000 for the second offense
\$20,000 for each offense thereafter

ICA representative Name, telephone number, and business address

Provisions requiring the parties to conduct an annual compliance audit, and to cooperate fully in such audit, including providing information required by the auditor
Provisions requiring data dissemination in certain circumstances

¹ The two seasons, A and B, are determined by apportionments of Chinook bycatch allowance and base rates. NMFS, after consultation with the Council, may apportion each halibut PSC limit or bycatch allowance on a seasonal basis. [679.21(e)(5)(i)]. An ICA must include provisions that dictate salmon bycatch avoidance behaviors for vessel operators subject to the ICA, including: [679.21(g)(5)(iii)(A)]

Provisions that dictate salmon bycatch avoidance behaviors for vessel operators subject to the ICA, including “A” season salmon bycatch management with an initial base rate calculation for Chinook salmon. The initial “A” season Chinook base rate shall be calculated by dividing the total number of Chinook taken incidentally in the “A” season in the prior year by the total number of metric tons of “A” season pollock catch during the prior year, with exceptions.

“B” season salmon bycatch management. [679.21(g)(5)(iii)(B)]

(1) “B” season Chinook salmon. For the “B” season of the 2008 fishing year, the Chinook salmon base rate shall be 0.05 Chinook salmon per metric ton of pollock.

Revised ICA, Respondent	
Number of respondents	1
Total annual responses	1
Responses per year = 1	
Total burden hours	1
Estimated time per response	
1 hr for renewal letter or revised ICA	
Total personnel cost	\$25
Cost \$25/hr	
Total miscellaneous cost (\$1.38)	\$2
Photocopy (10 pp x .05 x 1= 0.50)	
Postage (0.88 x 1 = 0.88)	

Revised ICA, Federal Government	
Total annual responses	1
Total burden hours	1
Estimated time per response = 1 hr	
Total personnel cost	\$25
Total miscellaneous cost	0

e. ICA Appeals [REMOVED]

Actual procedure now in use:

The initial ICA is submitted to NMFS. If NMFS finds something questionable, the respondent is contacted and the two work it out to NMFS' satisfaction. There really is no appeal involved, as that term would indicate. The procedure is submittal, review, request for revision or clarification by NMFS, resubmittal, with no need for appeals. The burden for the respondent's time of process is covered under the application time.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. 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 response to 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 reports may be submitted to the Regional Administrator by mail or e-mail. The cooperative catch report may also be sent by fax.

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 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.

This collection-of-information does not impose a significant impact on small entities.

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

NMFS issued sideboards and season/area apportionments of pollock at the sector level and relies on fishery cooperatives for much of the day-to-day management of fishing activity at the co-op and individual vessel level. Development of an inter-cooperative agreement between all of the cooperatives prevents season/area competition for pollock and an “Olympic” race for fish in sideboard fisheries. If this program were not conducted, NMFS would be unable to continue the socioeconomic goals and objectives of the AFA, the Magnuson-Stevens Act, and the FMP.

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 a copy of 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. Public comment or consultation on the information collection.

A Federal Register Notice published on February 4, 2010 (75 FR 5760) solicited public comments. No comments were received.

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.

The information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). It is also confidential under [NOAA Administrative Order 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics.

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 unique respondents: 11. Estimated total responses: 155, down from 156. Estimated total burden: 101, down from 162 hours. Estimated total personnel costs: \$2,525, down from \$4,050.

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 estimated miscellaneous costs: \$38, down from \$225.

14. Provide estimates of annualized cost to the Federal government.

Estimated total burden: 19 down from 48 hr. Estimated total personnel cost: \$475, down from \$1,201. Estimated total miscellaneous cost: \$0, down from \$47.

15. Explain the reasons for any program changes or adjustments reported.

Adjustments are made in this collection. The burden of the newly revised annual cooperative report was reduced based on actual time to complete. Other adjustments correct page count, postage rates, fax costs and in some cases, increased electronic submission.

There is one program change: there are no longer ICA appeals, but requests for additional information as part of the initial ICA submission.

Cooperative annual report

The combined estimated burden had been 12 hr. Feedback from the fishing industry showed that an estimate of 8 hr was more accurate for the one report.

A decrease of 44 burden hours, 88 instead of 132

A decrease of \$1,100 personnel cost, \$2,200 instead of \$3,300

A decrease of \$34 miscellaneous cost, \$18 instead of \$52.

Cooperative pollock catch report

A decrease of \$141 miscellaneous cost, \$17 instead of \$158 (the previously approved cost was stated in error – the complete cost of \$2 was calculated as a per-response cost).

Agent for Service of Process

A decrease of \$10 miscellaneous cost, \$1 instead of \$11.

Salmon ICA

The initial ICA was submitted and approved by NMFS, with an estimated burden of 40 hr, annualized to 14 hr. From now on, renewal or revision of the existing ICA will occur, which is estimated to be 1 hr.

A decrease of 13 burden hours, 1 instead of 14

A decrease of \$325 personnel cost, \$25 instead of \$350.

Salmon ICA Appeals [REMOVED]

A decrease of 1 respondent and response, 0 instead of 1

A decrease of 4 burden hours, 0 instead of 4

A decrease of \$100 personnel cost, \$0 instead of \$100

A decrease of \$2 miscellaneous cost, \$0 instead of \$2.

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

The results of this collection-of-information will not be published.

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

NA.

18. Explain each exception to the certification statement.

NA.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.