under a valid Hawaii longline limited access permit must use leaders and branch lines that all have a diameter of 2.0 mm or larger if the leaders and branch lines are made of monofilament nylon. If any other material is used for a leader or branch line, that material must have a breaking strength of at least 400 lb (181 kg).

[FR Doc. 2011–17965 Filed 7–15–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 110207103–1113–01]

RIN 0648–BA80

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Bering Sea Pollock Fishery; Economic Data Collection

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement the Chinook Salmon Economic Data Report Program to evaluate the effectiveness of Chinook salmon bycatch management measures for the Bering Sea pollock fishery that were implemented under Amendment 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The data collected for this program would be submitted by members of the American Fisheries Act inshore, catcher/processor, and mothership sectors, as well as representatives for the six western Alaska Community Development Quota organizations that presently receive allocations of Bering Sea pollock. The proposed rule is intended to promote the goals and objectives of the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

DATES: Written comments must be received no later than August 17, 2011.

ADDRESSES: Send comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–BA80, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586–7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA), Categorical Exclusion, and the four Paperwork Reduction Act Analyses (including Chinook salmon Economic Data Report forms) prepared for this action may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address, and by e-mail to *mailto:OIRA_Submission@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman or Patsy A. Bearden at 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) in the exclusive economic zone under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) 16 U.S.C. 1801, *et seq.* Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

This proposed rule would implement the Chinook Salmon Economic Data Report (EDR) program for the Chinook salmon bycatch management measures implemented under Amendment 91 to the FMP. The Chinook Salmon EDR program applies to owners and operators of catcher vessels, catcher/processors, motherships, and the six Western Alaska Community Development Quota (CDQ) Program groups qualified to participate in the pollock (*Theragra chalcogramma*) fishery in the Bering Sea subarea of the BSAI. The proposed rule also applies to the representatives of participants in the Bering Sea pollock fishery.

Background

AFA Sectors, Cooperatives, and CDQ Groups

NMFS manages the Bering Sea pollock fishery under the American Fisheries Act (AFA) (16 U.S.C. 1851 note). The AFA ''rationalized'' the Bering Sea pollock fishery in part by authorizing the formation and management of fishery cooperatives in the three pollock sectors (catcher/processor, mothership, and inshore). A portion of the Bering Sea pollock fishery is managed by a separate CDQ program. The inshore sector's pollock is subdivided among seven inshore cooperatives. The purpose of these AFA cooperatives is to further subdivide each sector's or inshore cooperative's pollock allocation among participants in the sector or cooperative through private contractual agreements. The cooperatives manage these allocations to ensure that individual vessels and companies do not harvest more than their agreed upon share of pollock. The cooperatives also facilitate transfers of pollock among the cooperative members, enforce contract provisions, and are allowed to participate in an intercooperative agreement to reduce salmon bycatch. A more detailed description of AFA cooperatives and intercooperative agreements may be found in the RIR/IRFA for this proposed action (see **ADDRESSES**).

The total allowable catch (TAC) for Bering Sea pollock and allocations to each of the AFA sectors and CDQ groups participating in the Bering Sea pollock fishery are specified annually (see 75 FR 11749, March 12, 2010 for 2010/2011 specifications). After the CDQ Program allocation and allowance for incidental catch of pollock in other fisheries is subtracted, NMFS allocates the remaining TAC to vessels harvesting pollock for processing by inshore processors, vessels harvesting pollock for processing by catcher/processors, and vessels harvesting pollock for processing by motherships. Some

catcher vessels do not join an inshore cooperative. These CVs participate in the inshore open-access fishery and so do not receive an allocation of pollock. Each year, catcher vessels eligible to deliver pollock to the seven AFA inshore processors may form inshore cooperatives associated with a particular inshore processor. The AFA catcher/processor sector consists of AFA-eligible vessels in the Pollock Conservation Cooperative (PCC) and High Seas Catcher's Cooperative (HSCC). The HSCC consists of owners of the catcher vessels eligible to deliver pollock to the catcher/processors. NMFS issues an annual allocation of pollock to the entire catcher/processor sector, based on the aggregate of each vessel's pollock catch history.

The AFA mothership sector consists of three motherships and the AFA-eligible catcher vessels that deliver pollock to these motherships. The catcher vessels have formed a cooperative called the Mothership Fleet Cooperative (MFC). The MFC sub-allocates the mothership sector pollock allocation among the catcher vessels authorized to harvest this pollock. NMFS does not manage the sub-allocations of pollock among members of the PCC, HSCC, or MFC. The cooperatives control the harvest by their member vessels so that the pollock allocation to the sector is not exceeded. However, NMFS monitors pollock harvest by all members of the catcher/processor sector and mothership sector. NMFS retains the authority to close directed fishing by sector if vessels in that sector continue to fish once the sector's seasonal allocation of pollock has been harvested.

Chinook Salmon Bycatch in the Bering Sea Pollock Fishery

The Magnuson-Stevens Act defines bycatch as fish that are harvested in a commercial fishery but neither sold nor kept for personal use. Chinook salmon is categorized as bycatch under the Magnuson-Stevens Act, the BSAI FMP, and NMFS regulations at 50 CFR part 679. Bycatch of any species, including discard or other mortality caused by fishing, is a concern of the Council and NMFS. National Standard 9 of the Magnuson-Stevens Act specifically requires the Council to select conservation and management measures and that NMFS implement those measures to minimize bycatch and bycatch mortality to the extent practicable. Due to the deployment methods used in large-scale trawl operations, Chinook salmon bycatch in the Bering Sea pollock fishery is assumed to have 100 percent mortality.

Fishing vessels harvest pollock using pelagic (mid-water) trawl gear, which consists of large nets towed through the water by the vessel. At times, Chinook salmon and pollock occur in the same locations in the Bering Sea. Consequently, Chinook salmon are accidently caught in the nets as fishermen catch pollock; this incidental catch is called bycatch.

The Bering Sea pollock fishery catches up to 95 percent of the Chinook salmon taken incidentally as bycatch in the BSAI groundfish fisheries. From 1992 through 2001, the average Chinook salmon bycatch in the Bering Sea pollock fishery was 32,482 fish. Bycatch increased substantially from 2002 through 2007, with an average of 74,067 Chinook salmon per year caught during this period. A historic high of approximately 122,000 Chinook salmon were taken in the Bering Sea pollock fishery in 2007. However, Chinook salmon bycatch has declined in recent years to 21,500 fish in 2008, 12,424 fish in 2009, and 12,195 fish in 2010.

Chinook salmon bycatch varies seasonally and by sector. In most years, the majority of Chinook salmon bycatch occurs during the A season of the Bering Sea pollock fishery. The variation in bycatch rates among sectors and seasons (A and B season) is due, in part, to the different fishing practices, location of Chinook salmon, and location of fishing effort for each sector to fully harvest their pollock allocations in the A and B seasons.

As documented in the RIR/IRFA for this action (See **ADDRESSES**), AFA pollock vessel operators and members of AFA sectors and cooperatives are often unable to detect the location of Chinook salmon prior to intercepting them while fishing for pollock. Some of the challenges to minimizing Chinook salmon bycatch include:

- Individual Chinook salmon are difficult to detect in the water column with current sonar technology, prior to or during a haul and retrieval of pollock trawl gear;
- Chinook salmon migrate throughout many areas frequented by pollock trawlers;
- On the pollock fishing grounds, Chinook salmon bycatch rates change for multiple reasons, including variation in the Chinook salmon population strength and spatial and temporal migration through the Bering Sea; and
- Most actions taken to avoid Chinook salmon bycatch are likely to be costly to participants in this fishery and difficult for individual vessel operators to assess if voluntary efforts to avoid Chinook salmon bycatch will result in a future benefit to themselves or others.

Amendment 91 to the BSAI FMP

In January 2011, NMFS implemented Amendment 91 to the BSAI FMP to manage Chinook salmon bycatch in the Bering Sea pollock fishery. Amendment 91 combines limits on the amount of Chinook salmon that may be caught incidentally with an Incentive Plan Agreement (IPA) and a performance standard. This combination of measures is designed to minimize bycatch to the extent practicable in all years and prevent bycatch from reaching the limit in most years.

Under Amendment 91, NMFS allocates transferable Chinook salmon prohibited species catch (PSC) to an entity representing the catcher/processor sector, mothership sector, inshore cooperatives, and CDQ groups participating in the Bering Sea pollock fishery. The entity representative administers any transfer of Chinook salmon PSC with the representative of any other group that received transferable Chinook salmon PSC. These transfers could occur between any qualifying sector, inshore cooperative, or CDQ group, and must be approved by NMFS. Chinook salmon PSC allocations may be further sub-allocated to members of the sector or cooperative and may be exchanged among the members of that sector or cooperative. NMFS does not monitor or account for these sub-allocations and transfers of Chinook salmon PSC within a qualifying sector or cooperative.

The requirements for receiving transferable Chinook salmon PSC, as well as the amount of Chinook salmon PSC vary among sectors, inshore cooperatives, or CDQ groups. If all members of the catcher/processor or mothership sector form a single ''sector-level entity'' and join an IPA that is approved by NMFS and meet other qualifications in Amendment 91, that sector will receive an allocation of Chinook salmon PSC that is based on that sector's proportional amount of 60,000 Chinook salmon. The proposed rule for Amendment 91 provides a detailed explanation of these requirements (75 FR 14016, March 23, 2010).

NMFS authorizes inshore cooperatives and the CDQ groups as entities eligible to receive annual allocations on behalf of others. The representative that receives Chinook salmon PSC for the inshore cooperatives would be the same person named on the cooperative's annual application for pollock allocations. An inshore cooperative or a CDQ group must notify NMFS in writing if its representative for purposes of Chinook salmon PSC

allocations is a different person. The CDQ groups are authorized under section 305(i)(1) of the Magnuson-Stevens Act to receive fishery allocations from NMFS. The representative for a CDQ group would be its chief executive officer.

PSC allocations are based on either a 60,000 Chinook salmon PSC limit if some or all of the pollock industry participates in an industry-developed IPA, or a lower limit of 47,591 Chinook salmon PSC if industry does not form any IPAs.

Amendment 91 requires that each sector meet the terms of a ''performance standard,'' including a requirement to not exceed that sector's portion of a lower limit for Chinook salmon PSC of 47,591 Chinook salmon in all but two of any seven consecutive years. The Chinook salmon performance standard in Amendment 91 is intended to encourage pollock vessels to avoid Chinook salmon bycatch, even in years when Chinook salmon bycatch is low.

A key component of Amendment 91 is the ability for fishery participants to form IPAs and work together to avoid Chinook salmon bycatch. An IPA is a private contract among vessel owners or CDQ groups that establishes incentives for participants to avoid bycatch at all levels of Chinook salmon abundance. The parties to an IPA must be owners of AFA-eligible catcher vessels, catcher/processors, or motherships, or the representatives of CDQ groups, and meet other participation requirements.

Each IPA must have an IPA representative that is responsible for submitting the IPA to NMFS for approval and submitting the IPA Annual Report to the Council. The IPA representative must manage the bycatch of participating vessels to keep total bycatch below the performance standard for the sector in which the vessel participates.

Participation in an IPA is voluntary. Any vessel or CDQ group that chooses not to participate in an IPA would be subject to a restrictive opt-out cap or backstop that provides a maximum of 28,496 Chinook salmon PSC. Any vessel or CDQ group that fishes under the backstop cap would not be evaluated in an IPA Annual Report or included in annual calculations of a sector's performance standard. These caps are described in greater detail in the RIR/IRFA for this proposed action (see **ADDRESSES**).

For the 2011 pollock fishery, three IPAs have been formed to represent catcher/processors, catcher vessels delivering to inshore processors, and catcher vessels delivering to motherships. A variety of incentives is applied in each IPA and summarized in the RIR/IRFA for this proposed action (see **ADDRESSES**). An IPA plan is required for each IPA to describe the structure of the incentives or penalties for reducing Chinook salmon PSC at the level of a sector, cooperative, or individual vessel. Participants are required to demonstrate through an IPA Annual Report that the vessel owners that are signatories to the IPA are accomplishing the Council's intent that each vessel does its best to avoid Chinook salmon at all times while fishing for pollock and that collectively, bycatch is minimized in each year.

After implementing Amendment 91 and its performance standard, allocation of transferable Chinook salmon PSC allocations, and the formation of incentives developed in each IPA, the Council anticipates the likelihood of the following responses from participants in the pollock fishery:

- Substantial changes in sector or cooperative plans and agreements for distribution and use of Chinook salmon PSC;
- Creation of a market for trading Chinook salmon PSC between sectors and cooperatives and among their members and the joint trading of sub-allocations of Chinook salmon PSC and pollock by vessels;
- Changes in the location and timing of fishing effort for pollock and the bycatch of Chinook salmon;
- Increase in cost of harvesting pollock; and
- Reduction of the annual bycatch of Chinook salmon.

Current Data for Evaluating Amendment 91

IPA and IPA Annual Report

The IPA and IPA Annual Report were described and implemented in the final rule for Amendment 91 (75 FR 53026, August 30, 2010). These two required documents, along with other existing data (e.g., catch accounting and observer data) provide useful information for evaluating some aspects of the effectiveness of Amendment 91.

The representative of each approved IPA is required to submit a written IPA Annual Report to the Council for each year following the year in which the IPA is first effective. Each IPA Annual Report is intended to provide a qualitative evaluation and some quantitative information on the effectiveness of the IPAs. Each IPA Annual Report must describe—

- The incentive measures in effect in the previous year;
- How the incentive measures affected individual vessels;
- Whether incentive measures were effective in achieving Chinook salmon savings beyond levels that would have been achieved in the absence of the incentive measures;
- Any amendments to the terms of the IPA that were approved by NMFS since the last annual report; and
- The reasons that any amendments to the IPA plan were made.

The RIR for this action anticipates that the IPA and IPA Annual Reports implemented may provide limited qualitative and quantitative industry data on the effects of the Amendment 91 management measures including—

- Summaries of temporal and spatial shifts in effort undertaken by the fleets;
- Comparisons of Chinook salmon bycatch rates achieved by vessels participating in an IPA versus any vessels not participating in an IPA;
- An overview of the use of new gear technologies;
- Assessment of the effect of area closures for directed pollock fishing or other restrictions required by an IPA; and
- Descriptions of research undertaken to reduce Chinook salmon bycatch.

AFA Annual Cooperative Report

At the beginning of each year, all AFA cooperatives must submit an AFA Cooperative Report to the Council by April 1 of the following year, detailing the activities of the cooperative for the previous year (50 CFR 679.61(f)). Each AFA Cooperative Report must include the cooperative's allocated catch of pollock and sideboard species, actions taken by the cooperative for vessels that exceeded their allowed catch and bycatch in pollock and all sideboard fisheries, any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels, total weight of pollock landed outside the State of Alaska on a vessel-by-vessel basis, and the number of salmon taken by species and season, including Chinook salmon.

AFA Cooperative Reports may contain some information for evaluating Amendment 91. Specifically, the Council's purpose and need statement identifies the need to evaluate how Amendment 91 affects ''where, when, and how pollock fishing and salmon bycatch occur.'' The AFA Cooperative Reports could provide helpful data for that element of the assessment. For example, AFA Cooperative Reports could provide some explanation for why fishing effort at the beginning of a pollock season or at some other point in a season may have been lower, higher, or similar to a previous season (and if

Amendment 91 caused any of the changes).

Limitations to IPA, IPA Annual Report, and AFA Cooperative Annual Report for Evaluating Amendment 91

While IPAs, IPA Annual Reports, and AFA Cooperative Annual Reports may contain information on the response of AFA sectors to Amendment 91, the data are limited for evaluating the effectiveness of the incentives and performance standards in Amendment 91. Some of the limitations are as follows.

- IPAs, IPA Annual Report, or AFA Cooperative Annual Report data are not required to be reported in a specific or systematic format, so the format may vary by each group submitting a report. As a result, it is likely that data will not be sufficiently uniform and consistent to provide reliable comparisons between two or more AFA sectors, AFA cooperatives, or IPAs.
- Except for the sector-level entity allocation and transfer data provided by Amendment 91, the IPA Annual Report and AFA Cooperative Annual Reports are not required to include tracking of sub-allocations or transfers of Chinook salmon PSC that may occur among participants in each sector. Additional information on transfers of Chinook salmon PSC and pollock between members of a sector or cooperative would assist in the evaluation of Amendment 91.
- Prices of pollock and Chinook salmon PSC allocations and transactions could be helpful in evaluating Amendment 91. The market value of PSC allocations reflects its expected value to the pollock fishery. However, neither IPA Annual Reports nor AFA Cooperative Annual Reports presently require that each transaction between a person buying and selling Chinook salmon PSC be recorded with a corresponding price.
- Amendment 91 does not require reporting information in the IPA Annual Report or AFA Cooperative Annual Reports to track how costs may vary by vessel under the new program. It would be helpful to have data on certain operating costs, such as how the amount of fuel and cost of fuel used by AFA vessels operating in the Bering Sea pollock fishery would change under the various IPAs.

Catch Accounting and Observer Data

The two primary sources of information used to account for pollock harvests and salmon bycatch in the Bering Sea pollock fishery are onboard and shoreside observer information and industry-reported data on catch and processed product amounts. Both sources are electronically recorded and submitted to NMFS.

Catch accounting and observer data provide analysts with information on the amount, date and location of pollock catch and Chinook salmon bycatch. This information would assist with verification of qualitative information, submitted by industry in the IPA Annual Reports on how Amendment 91 has altered pollock catch and Chinook salmon bycatch.

In 2005, NMFS implemented an interagency electronic reporting system with its data entry component, eLandings, for the catch accounting system to reduce reporting redundancy and consolidate fishery landings reported to three different agencies. All vessels in the Bering Sea pollock fishery are required to report all groundfish landings, discard, and production through a web-based interface known as eLandings. There is also a stand-alone application (SeaLandings) available for the vessels fishing and processing catch at sea (the at-sea fleet). The at-sea fleet submits eLandings files via e-mail. The eLandings software provides managers with real-time access to individual vessel information, including individual pollock vessel catch and bycatch and unused amounts of allocated pollock and Chinook salmon PSC. Each industry report submitted via eLandings undergoes error checking by NMFS. Data are then stored in a database and are made available to management staff at NMFS and the Alaska Department of Fish and Game. There are two basic eLandings report types used for catch estimation: Production reports and landing reports.

In addition to electronic catch reporting for the AFA pollock fishery, the trawl gear catcher vessel daily fishing log (DFL) is a required paper log used to record trawl groundfish discard and disposition data by haul and location. A trawl catcher vessel delivering groundfish to a shoreside processor, stationary floating processor, or mothership, is required to submit a DFL to the shoreside processor, stationary floating processor, or mothership. Any discard and disposition information submitted by a trawl catcher vessel in the DFL to a shoreside processor, stationary floating processor or mothership, must also be reported by the shoreside processor, stationary floating processor or mothership in eLandings.

Observer data are also used in the catch accounting system; and a multi-stage sampling design is used to sample the species composition of the catch, length distribution of select species, and other catch components. Observer data collected on vessels in the Bering Sea pollock fishery are transmitted electronically to a NMFS database. This database contains all data collected by observers at processing plants and onboard vessels, including fishing locations, groundfish and non-target catch, catch composition, length frequencies, age structures, and salmon PSC (including Chinook salmon PSC). Observer data are merged with industry reports nightly and are available to fishery managers the following day.

For catcher/processors and catcher vessels delivering pollock to motherships, observer data combined with each vessel's eLandings landing report may be used to analyze a variety of effects, including—

- Comparisons of Chinook salmon bycatch rates of vessels fishing in different areas during the same period of time or similar areas at different periods of time;
- Comparisons of percentages of the TAC harvested at times of relatively high or low Chinook salmon encounter rates; and
- Trends in rates and variation of Chinook salmon bycatch by vessel type and location week or season, and across cooperatives, sectors, or the entire AFA fleet.

Limitations to the Use of Catch Accounting and Observer Data for Evaluating Amendment 91

While tracking periodic trends in Chinook salmon bycatch may offer insights to the effectiveness of Amendment 91, catch and observer data would need to be augmented by other supporting data to evaluate whether Amendment 91 incentives have caused a given change in Chinook salmon bycatch. For example, a decrease in bycatch rates may be the result of either a decrease in Chinook salmon abundance on the fishing grounds or may be caused by a change in fishing behavior where the fleet is intentionally avoiding Chinook salmon bycatch because of a regulatory or industry incentive to avoid bycatch. Catch accounting and observer data do not provide quantitative or qualitative information to identify effects of Amendment 91 incentives.

For catcher vessels delivering shoreside to a stationary floating processor or mothership, all groundfish catch and Chinook salmon PSC is accounted for at the time of landing. Because catcher vessels delivering shoreside or to a stationary floating processor may trawl in several locations before delivering to a processor, it is not possible to verify the amount of

Chinook salmon bycatch in each haul. Attempts to apportion Chinook salmon bycatch to a specific trawl catcher vessel haul using vessel monitoring system (VMS) or other data are subject to error. This data limitation may complicate efforts to attribute a change in Chinook salmon bycatch by a trawl catcher vessel to a specific incentive designed to reduce Chinook salmon bycatch. For example, the effect of an IPA penalty for a catcher vessel that exceeded a predetermined Chinook salmon bycatch rate in a specific statistical area may be difficult to assess if the catcher vessel is deploying trawl gear on consecutive hauls inside and outside that statistical area and during the same fishing trip. Because catcher vessels delivering to motherships are required to deliver catch from a single unsorted haul to a mothership, some accounting of Chinook salmon bycatch by haul and location of catch may be possible, thus improving the prospects for tracking the effects of some Chinook salmon bycatch incentives.

Determining the amount of Chinook salmon bycatch in each catcher/processor haul is more straightforward than is to determine for each catcher vessel haul. Each catcher/processor is currently required to provide a continuous census accounting of Chinook salmon bycatch at sea. For example, each haul must be observed, and all salmon are removed and counted at the flow scale. The haul start and end times and location of each haul are recorded by the observer and the validated with VMS. The combination of this location data and haul-by-haul catch accounting allows for Chinook salmon bycatch to be accurately recorded. Even for catcher/processors, however, catch accounting and observer data alone will not explain which bycatch incentives for each sector or cooperative may have affected the amount of bycatch by time and location. For example, catch accounting data, by itself, would not verify if an operator of a catcher/processor or catcher vessel transited to new fishing grounds to avoid Chinook salmon bycatch. Various factors such as weather, time, area encounters with Chinook salmon, or market prices for pollock could easily have influenced the movements and fishing effort by a vessel, and its rate of Chinook salmon bycatch.

New Data Collection for Evaluating Amendment 91

Introduction

In December 2009, the Council recommended revisions of two existing recordkeeping and reporting collections and requirements for three new data surveys/reports to improve the quality and quantity of data to assess the effectiveness of Amendment 91. NMFS proposes to collect information on vessel movements on the fishing grounds and information on pollock allocations, sub-allocations, and transfers between members in an AFA cooperative through revisions to the existing IPA Annual Report and AFA Cooperative Annual Report requirements. These new data requirements are described below in the section entitled: Revisions to Existing Collections for Chinook Salmon EDR Program. The three new EDR surveys/reports recommended by the Council are collectively referred to as the Chinook Salmon EDR, and are described below in the section titled: New Collection of Economic Data.

The new proposed Reports/Surveys are—

- Chinook Salmon PSC Allocation Compensated Transfer Report (CTR);
- Vessel Fuel Survey; and
- Vessel Master Survey.

NMFS will use the revised and new data to conduct analyses that include descriptive analysis and quantitative and qualitative comparisons of the annual and seasonal, changes in the pollock fleet under Amendment 91. Examples of some of the potential analyses with these data are described in the RIR/IRFA for this action (See **ADDRESSES**).

Proposed Revisions to Existing Collections for Chinook Salmon EDR Program

To implement the Chinook salmon EDR program, NMFS would revise existing recordkeeping and recording requirements to add data on movement of vessels in the Bering Sea pollock fishery to avoid Chinook salmon bycatch and data on transfers of Chinook salmon PSC and pollock to the IPA Annual Report.

The following documents would be amended for purposes of supplementing information for the Chinook salmon EDR:

- IPA Annual Report;
- AFA Cooperative Report;
- Catcher Vessel Trawl Gear Groundfish Daily Fishing Logbook (DFL);
- Catcher/processor Trawl Gear Electronic Logbook (ELB); and
- eLandings landing report.

Revisions to the IPA Annual Report

The IPA Annual Report would be revised to include requirements to submit information on the sub-allocation of Chinook salmon PSC and pollock to each participating vessel at the start of each fishing season, and the number of Chinook salmon PSC and amount of pollock caught at the end of a season. These revisions would also require submission of information on transfers of Chinook salmon PSC regardless of whether the transfers were ''compensated'' transfers.

While NMFS currently approves and tracks initial allocation and transfers of Chinook salmon PSC among the catcher/processor sector, mothership sector, inshore cooperatives, and CDQ groups under Amendment 91, this proposed action would require each IPA representative to report additional sub-allocations or transfers of Chinook salmon PSC within a sector-level entity or cooperative. NMFS would require a record of these sub-allocations and transfers of pollock between members of a sector or an inshore cooperative in the IPA Annual Report. NMFS anticipates that the parties to an IPA or the IPA representative will be informed of the number and amounts of Chinook salmon PSC transferred among parties to each IPA. Though NMFS will maintain a record of all initial allocations and transfers from entities authorized to receive Chinook salmon PSC, NMFS anticipates that the representative for an IPA may report some of those same allocation and transfer amounts in the IPA Annual Report to facilitate the accounting of sub-allocations to vessels and transfers between the members of an IPA.

Proposed Revisions to AFA Cooperative Report

NMFS would relocate the requirement for submitting some pollock catch data from the AFA Cooperative Annual Report to the IPA Annual Report, to provide a single location for Chinook salmon and pollock data on initial allocation, sub-allocations, NMFS-approved Chinook salmon PSC transfers, internal cooperative or sector-level entity Chinook salmon PSC transfers, and catch by season and year for each catcher vessel, catcher/processor, or mothership participating in an IPA. Pollock would be removed from the requirement at § 679.61(f)(2)(ii) to submit in the AFA Cooperative Annual Report the cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC on an area-by-area and vessel-by-vessel basis. However, if members of an AFA cooperative elected to move all the allocations and sub-allocations, and transferred, retained and discarded catch of pollock and Chinook salmon PSC listed at § 679.21(f)(13)(ii)(E) and (f)(13)(ii)(F) to the AFA Cooperative

Annual Report, they would no longer need to report that data in the IPA Annual Report. If the members of an AFA inshore cooperative, mothership sector level entity, or catcher/processor sector level entity are not the same as the parties to an IPA for each AFA inshore cooperative, mothership sector-level entity, or catcher/processor sector level entity, then NMFS anticipates that all the data at § 679.21(f)(13)(ii)(E) would be included in the AFA Cooperative Annual Report under § 679.61(f)(2)(vii).

Proposed Revisions to eLandings, Daily Fishing Log, and ELB for Reporting Change in Location on Fishing Grounds

Revisions are proposed to various existing catch and production reports to require additional data describing the reasons that AFA vessels change locations in the CDQ and non-CDQ pollock fishery to avoid Chinook salmon bycatch. The proposed revisions would be:

- Whenever the operator of an AFA catcher vessel chooses to move the vessel primarily to avoid Chinook salmon bycatch, the operator would indicate each change in location for any haul by checking a vessel movement box in the trawl gear DFL.
- Whenever the operator of an AFA catcher/processor chooses to move the vessel primarily to avoid Chinook salmon bycatch, the operator would indicate each change in location for any haul by checking a vessel movement box in the catcher/processor trawl gear ELB.
- Whenever the operator of an AFA mothership receives notification that an AFA catcher vessel delivering pollock moved the vessel to avoid Chinook salmon bycatch, the operator would indicate each change in location for any haul by checking a vessel movement box in the eLandings landing report.

Proposed New Economic Data Collections

Each of the three proposed surveys/reports—the Chinook Salmon CTR, the Vessel Fuel Survey, and Vessel Master Survey—would be available in a fillable electronic format on the NMFS Alaska Region Web site. Persons responsible for submitting each of the three EDR data survey/reports differ based on the requirements listed in each form, but would include vessel owners, vessel leaseholders, or vessel masters of AFA vessels. Submitters would also include representatives for or participants in an AFA catcher/processor or mothership sector, inshore cooperative, the inshore open access fishery, CDQ groups, or parties to an IPA. Each of the forms would be submitted annually to NMFS or the NMFS-designated data collection agent by June 1, based on fishing conducted in the previous fishing year. For example, data from fishing in the 2012 Bering Sea pollock season would be submitted to the NMFS-designated data collection agent in the fillable Chinook salmon EDR forms by June 1, 2013.

Chinook Salmon PSC Allocation Compensated Transfer Report (CTR)

All persons who conducted a Chinook salmon PSC transfer that was paid for with an exchange of money (called a compensated transfer) would be required to submit an annual CTR detailing the quantity and amount paid for each compensated transfer. The persons conducting these transfers of Chinook salmon PSC would be an owner or leaseholder of an AFA-permitted vessel, or a representative for an AFA cooperative, sector-level entity, or CDQ group.

Each transfer would be identified as either an independent transfer of Chinook salmon PSC for monetary compensation or a transfer with a portion of the transfer that includes monetary compensation and a portion of the transfer that did not include monetary compensation. Each transfer would be identified as to type as follows:

Transaction type	Transaction description
1	Between 2 entities which are affiliated as defined by AFA.
2	Between 2 entities in the same cooperative but not affiliated as defined by AFA.
3	Between 2 entities in the same sector but not affiliated as defined by AFA or in the same cooperative.
4	Between 2 entities not part of the same sector or cooperative, or affiliated as defined by AFA.

The CTR would require each transfer of Chinook salmon PSC to include the transferor and transferee names, along with the NMFS identifier (NMFS person ID), date of the transfer, the amount transferred, and the price of the monetary compensated transfer. A Chinook salmon PSC transfer that did not involve monetary compensation, but had some form of compensation, would be indicated on the form, but without an estimate of transfer prices.

The purpose of the proposed CTR would be to account for Chinook salmon PSC transfers and the amount of money exchanged for transfers between AFA vessel owners and other entities transferring Chinook salmon PSC. NMFS would examine data reported for each transaction and compare the amount of Chinook salmon PSC transferred in each transaction, number of transactions by vessel type (sector and AFA cooperative), and time intervals of the transfers in a season or year. Also, this data would allow for tabulation of the average and variation in price paid for transactions by vessel operation type, sector, and AFA cooperative.

Vessel Fuel Survey

After each calendar year, each owner of an AFA-permitted vessel catching CDQ or non-CDQ pollock in the Bering Sea would submit to NMFS the Vessel Fuel Survey to report annual fuel use and cost in the Bering Sea pollock fishery. The owner would include identifying information on the certification page of the report, including a NMFS person ID. The Vessel Fuel Survey, which would be submitted by June 1 of the following year, would include average annual hourly fuel burned while fishing and transiting and annual fuel purchases in cost per gallon. Each of these values would be combined with other NMFS data (such as VMS and observer data reports) to estimate the costs of moving vessels to avoid Chinook salmon bycatch (including the fuel use during trawling, transit between trawls, and lost fishing time).

Vessel Master Survey

The proposed new Vessel Master Survey would be a qualitative assessment survey that would pose a series of questions to elicit vessel operator input on factors that impacted the vessel's performance during the year. The Vessel Master Survey would be conducted at the end of each fishing year. The owner of each AFA-permitted vessel would be responsible for submitting the Vessel Master Survey to NMFS on behalf of any person who is an operator, vessel master, or skipper of an AFA-permitted vessel. The owner of the AFA-permitted vessel would be required to verify that each person listed

on the Certification page for this form is a master of the AFA-permitted vessel.

The intent of the Vessel Master Survey would be to identify the purpose for decision-making during the pollock season with respect to fishing location choices, Chinook salmon bycatch incentives, and availability or costs of accessing Chinook salmon PSC allocations. The survey would be designed to obtain operator responses to conditions on the fishing grounds to gain information regarding the effect of IPAs and Chinook salmon bycatch measures on decision-making. The nine questions in the Vessel Master Survey would collect operator assessments of the past year's fishing performance regarding the causes for bycatch avoidance, factors impacting Chinook salmon bycatch rates, and the influence of the IPAs and AFA cooperatives on fishing and Chinook salmon bycatch avoidance behaviors.

Audit Procedure for Chinook Salmon EDR

NMFS would develop measures to verify data accuracy of the Chinook salmon EDR program. These measures would help NMFS to verify data submitted in the CTR, the Vessel Master Survey, and the Vessel Fuel Survey. The principal means to verify data and resolve questions would be through validation of data submitted in these three surveys against supporting records. NMFS staff would contact the EDR submitter and request confirmation of data submissions. The person submitting the EDR would need to respond within 20 days of the NMFS information request. Responses after 20 days would be considered untimely and may result in a violation and enforcement action.

For verification of the CTR form, NMFS could request any person who conducted a monetary compensated transfer of Chinook salmon PSC at § 679.65(b)(1) and (b)(2) to submit additional data to facilitate verification by NMFS and respond to additional questions. This could occur in instances where a random audit occurs or an audit is otherwise justified for the CTR. To carry out these audits, NMFS may retain under contract a designated data collection auditor (DDCA) who would be a professional auditor/accounting specialist, and who would review the data submitted in the EDR. The DDCA also could request financial documents substantiating the data submitted in the EDR. The DDCA would be subject to strict confidentiality requirements.

Uses of Data Collected Under This Proposed Rule

New data required from industry to complete the IPA Annual Report, Trawl Catcher Vessel DFL and ELB, and forms for the CTR, Vessel Fuel Survey, and Vessel Master Survey would increase the amount and type of data that NMFS and the Council use to analyze the effects of Amendment 91. This analysis of effects with new EDR data is intended to focus on the behavioral impacts of Amendment 91 to participants in the Bering Sea pollock fishery and potential changes in Chinook salmon bycatch. Specifically, applying these multiple data sources along with other NMFS data could provide insight into one or more of the following elements:

- The effects and impacts of the Amendment 91 IPAs, the PSC limits, and the performance standard;
- The effectiveness of the IPA incentives in times of high and low levels of Chinook salmon bycatch;
- The effectiveness of the performance standard to reduce Chinook salmon bycatch; and
- How Amendment 91 affects where, when, and how pollock fishing and Chinook salmon bycatch occur.

Additional information collected by this proposed action in the IPA Annual Report would provide quantitative and qualitative data on Chinook salmon and pollock sub-allocations and transfers. If the quantitative transfer and allocation data are submitted in a uniform and comparable manner for each IPA, analysis in conjunction with IPA Annual Report data could include descriptive statistics on the pollock and Chinook salmon bycatch, allocations, and transfers between participants in each of the above groups. This information could be displayed by season or annually, and if useful, data could be pooled over multiple years.

The additional Chinook salmon PSC transfer data in IPA reports may provide information about changes in fishing practices or the effectiveness of IPAs to reduce bycatch. For example, if IPA Report data provide a record of many pollock transfers to vessels with low Chinook salmon bycatch rates, this record of transfers may suggest that vessels with poor bycatch performance have an incentive to reduce their participation in the fishery in years of high bycatch. In addition, observations of the number of transfers to vessels that are approaching their individual share of the Chinook salmon PSC cap could help verify if PSC transferability contributes to a higher yield of pollock. Finally, if a portion of the vessels that are party to an IPA are prohibited by the agreement from fishing in valuable pollock areas of the Bering Sea, Chinook salmon PSC may be transferred to or away from vessels that continue to have access to those fishing areas. Some of these behavioral responses may be correlated with a particular incentive in a manner that could aid in the assessment of the effectiveness of Amendment 91.

NMFS would not require that new data in each IPA Annual Report be submitted in a structured format. For example, the proposed allocation and transfer data would be provided by each vessel, but could be displayed in a table or narrative format, or in a manner that is difficult to compare quantities of an allocation or transfer between parties in more than one IPA. Therefore, for each IPA Annual Report, IPA performance information may not be uniformly comparable, which could create consistency issues when comparing information between IPAs and could limit any statistical analysis with IPA Annual Report data. Thus, there may be analytical limits to the potential usefulness of this data for statistical analysis.

NMFS would use the proposed Bering Sea vessel movement information (denoting when a Bering Sea pollock vessel moved to avoid Chinook salmon bycatch prior to a haul) to compare Chinook salmon bycatch avoidance by vessel, and by vessel characteristics. Chinook salmon bycatch rates by vessel could be merged with the movement data by vessel to assess how bycatch rates change for each vessel prior to and following a change in fishing location. Vessel movement data combined with other management data, such as NMFS seasonal opening and closing dates or IPA-directed openings and closings of selected pollock fishing areas may assist in differentiating a vessel's voluntary movements to leave a groundfish statistical area to avoid Chinook salmon bycatch or movements that are required by IPA agreements. That information could contribute to evaluating how Amendment 91 affects where, when, and how pollock fishing and Chinook salmon bycatch occur. The industry-reported vessel movement data may be helpful for evaluating assumptions in statistical models that combine catch by location, VMS, and other data to explain the reasons or tradeoffs for a specific set of moves and fishing choices. That information could also assist with assessing conclusions drawn by industry in the IPA Annual Reports.

Differences in the willingness of individual vessels to move from areas with high Chinook salmon bycatch and to search for areas with lower bycatch

rates may reflect differences in the incentives created by an IPA. Alternatively, upon examination, these data and other information provided by cooperatives may reflect the amount of central coordination of fishing by area and time a cooperative applies to each member of the cooperative. While movement data are subjective, the data is intended to provide a better understanding of each vessel operator's perception of factors that impacted fishing decisions and are likely to provide information for NMFS and the Council to evaluate the effectiveness of IPAs and Amendment 91.

With new data from the CTRs and proposed revisions to the IPA Annual Reports, it would be possible to enumerate the number of potential trades of Chinook salmon by date and season as well as by vessel owner, leaseholder, or another party that did or did not participate in compensated Chinook salmon PSC transfers. The timing and patterns of the transfer data in comparison with the specific IPAs in effect by date, sector, and AFA cooperative, will potentially help to assess the value of Chinook salmon PSC in each year and how the IPAs may have impacted the value of PSC. Thus, if a large number of accurate monetary transfers are observed, NMFS may develop some insights on the two elements of the effects of certain incentives included in the IPAs, and the performance standard. Potential sources of bias in monetary transfers are explained below.

The proposed CTR data may help to verify some of the industry-reported information in the contracts and agreements for allocating Chinook salmon PSC within and among AFA sectors and cooperatives included in IPA Annual Reports and AFA Cooperative Reports. This will assist in understanding the overall effects and impacts of Amendment 91, by permitting transactions reported in other industry-reported sources to be compared to and reconciled with the transactions reported in the CTR.

If a sufficient number of Chinook salmon PSC transfers are reported in the CTR and if they are considered to be representative of actual transfer practices, this data should assist in determining the distribution of Chinook salmon PSC allocations and transfers in-season and over multiple years. When combined with additional data on entity affiliations the CTR could assist in determining if prices exchanged represent independent and arms-length transactions or if the prices are merely accounting measures within affiliated entities.

Where quantitative EDR program data is collected at the level of an individual vessel, merging data by vessel from multiple data sources may assist in estimating the costs associated with bycatch incentives. For example, data on the intra-sector or intra-cooperative allocations of PSC may be combined with data on Chinook salmon PSC and pollock transfers, to show the distribution and amounts of pollock and Chinook salmon PSC exchanged among vessels in a season. Travel costs of those vessels (see analysis of fuel data below) to avoid Chinook salmon bycatch, along with the prices reported for PSC transactions may be compared with the specific incentives in place for each vessel to gauge some of the costs of specific incentives.

Because a completed CTR is not expected to include all sources of compensation for Chinook salmon PSC transfers (prices are restricted to monetary compensated transfers) that is likely to limit the application of this data for analysis. For example, it is possible that operators of vessels or the representatives submitting the CTR will not use unpaired or independent monetary transactions to exchange Chinook salmon PSC. If the CTR respondents find it to be more efficient to bundle all or nearly all Chinook salmon transactions with pollock or other items of value, they may submit very few transactions or prices of Chinook salmon PSC. Also, if each independent Chinook salmon PSC transfer consists of both a monetary transfer component and a non-monetary transfer component, these observations may be less useful. Further, persons reporting data on Chinook salmon PSC transactions could intentionally bundle monetary and non-monetary transfers to obscure an observation of a compensated transfer. The possibility exists that these reporting constraints and potential reasons for biasing data submitted in the CTR would result in a sufficiently low number of reported transactions to significantly reduce the value of these data for examining Chinook salmon PSC prices. Non-monetary compensation is not included in the CTR or elsewhere in the EDR program, as the cost of collecting this data with sufficient accuracy and detail to allow for estimating an equivalent monetary value would be cost prohibitive [see CLASSIFICATION for more information].

Analyses of data from the Vessel Fuel Survey may range from basic comparisons of estimated fuel costs of fishing and transiting by vessel operation type or other vessel characteristic, to quantitative or statistical estimates of the fuel costs for Chinook salmon bycatch avoidance from specific salmon bycatch incentives. The data would allow for estimates of fuel used by a vessel when moving to areas with higher or lower areas of bycatch. NMFS has no other data on fuel consumption or average fuel price on a vessel-by-vessel basis for this fishery to address this question. Especially during periods of high Chinook salmon bycatch, these data may be used to estimate transit costs when vessels move to avoid areas where high Chinook salmon bycatch has been reported. The estimation could be accomplished by merging data from the Vessel Fuel Survey with other available data, including observer reports, VMS data, catch accounting, movement data, and IPA and AFA Cooperative Annual Reports to assess changes in fuel consumption when vessels move from areas of high or low Chinook salmon bycatch. Thus, these data would be useful for understanding the variation in fuel usage for some activities, which can aid in assessing fuel costs more generally in the fishery.

Variation in vessel fuel costs among vessels could affect the response of certain vessels to incentives or disincentives for avoiding Chinook salmon. For example, if it is less expensive for vessels with lower travel costs to travel farther to reach clean fishing grounds, those vessels may be more likely to engage in increased transiting activity between fishing locations. NMFS may examine vessel response to Chinook salmon encounter rates to determine whether these operational differences are affected by variations in fuel-based travel costs between vessels, which in turn may have implications for the effectiveness of some incentives developed in an IPA. NMFS could use these findings to assess the effects of Chinook salmon bycatch incentives and other questions listed in the purpose and need for this action, such as how Amendment 91 affects where, when, and how pollock fishing and Chinook salmon bycatch occur.

The proposed new Vessel Master Survey is designed to solicit subjective responses to questions on the decision-making process applied for avoiding Chinook salmon bycatch when fishing for pollock under Amendment 91. Part of the utility of these questions would be to allow for comparison of the subjective information in each response with other observed changes in fishing behavior and Chinook salmon bycatch. Where possible, NMFS will examine the effect of the behavioral influences reported in this survey in greater detail and corroborate the responses with

other data sources, such as observer data, VMS data, and catch accounting data.

The response to questions on bycatch avoidance may provide insight as to how IPAs affect fishing behavior, when catch accounting and other data are limited. For example, because Chinook salmon bycatch data cannot be attributed to each trawl catcher vessel's haul, which limits the usefulness of bycatch data to assess specific incentives, the qualitative responses in the Vessel Master Survey may provide vessel master assessments as to how IPA incentives impacted trawl catcher vessel avoidance of Chinook salmon bycatch.

The Chinook salmon EDR program is also intended to assess the accuracy of conclusions drawn by industry in the IPA Annual Report. Analysis of Vessel Master Survey data may contribute to some qualitative comparisons of a vessel master's response to these questions and information provided in industry IPA Annual Reports. Utilizing a vessel master's self-reported experiences and comparing that with current catch and VMS data available to NMFS should improve the opportunities for analysts to consider fishermen's experiences in formulating assessments of the Amendment 91 program.

Proposed Regulatory Amendments

Definitions

Section 679.2 would be revised by adding a definition of designated data collection auditor (DDCA) to apply to the use of a DDCA under § 679.65(e).

Vessel Movement Data

NMFS proposes to modify existing regulations to collect data indicating a change of fishing location primarily to avoid Chinook salmon bycatch.

Section 679.5(c)(4)(vi) describes catch-by-haul information required in the trawl gear catcher vessel DFL and the catcher/processor trawl Daily Cumulative Production Logbook (DCPL). A new paragraph (c)(4)(vi)(I) would be added to request the operator of a trawl gear catcher vessel to indicate each time the vessel moved to avoid Chinook salmon in the trawl gear catcher vessel DFL.

Section 679.5(e)(6) describes requirements for a mothership landing report. The eLandings mothership landing report would be revised to require the operator of a mothership to record vessel movement data provided by the trawl catcher vessel directed fishing for pollock in the Bering Sea and delivering to the mothership. Section 679.5(e)(6)(i)(A)(*12*) would be added to require the operator of a mothership to indicate whether prior to a haul, the operator of the catcher vessel using trawl gear moved its fishing location primarily to avoid Chinook salmon bycatch.

NMFS created a catcher/processor ELB that interfaces with eLandings. The catcher/processor trawl gear ELB will allow NMFS to determine any differences between movement related to avoidance of Chinook salmon and other vessel movement by identifying any tow prior to a move that is due primarily to Chinook salmon avoidance. Section 679.5(f)(1)(vii) would be revised to require that data on vessel movement to avoid Chinook salmon be entered into the catcher/processor ELB.

Section 679.5(f)(2)(ii), which describes the use of a DFL or DCPL as backup for the ELB in the event of a computer or ELB failure, would be replaced with text that provides general instructions to contact NMFS Inseason Management, when the Internet fails. This general instruction is necessary to assure a reasonable response to delays in transmission of commercial fishery information, including the movement of vessels to avoid Chinook salmon bycatch in the ELB.

Section 679.5(f)(7) describes the transmission of data in the ELB. There are two distinct methods and time limits for data transmission for the catcher vessel and the catcher/processor using an ELB. This introductory text would be removed to avoid duplicating text that follows in the distinct paragraphs.

Paragraph (f)(7)(i) would be corrected by revising the heading to read ''Catcher/processors'' because it pertains only to catcher/processors, not motherships. In addition, the transmission method would be corrected to read ''online,'' not ''email attachment.''

Paragraph (f)(7)(ii) would be corrected by adding a heading to read ''Catcher vessels'' to maintain format for parallel headings with paragraph (f)(7)(i) and replace the word ''export'' with ''transfer'' to provide a more exact term.

Prohibited Species Bycatch Management

Paragraph (f)(12)(vii) in § 679.21 would be redesignated as paragraphs (f)(13)(i) through (f)(13)(ii)(F) to reduce the number of paragraph-levels used under (f)(12). Paragraph (f)(13)(ii)(E) would describe requirements for data submittal on sub-allocations, transfers, and catch of pollock and Chinook salmon PSC in the IPA Annual Report.

Section 679.61(f)(2)(ii) would be revised to remove pollock from information required as this requirement is redundant with the reporting requirement in paragraph (f)(13)(ii)(E).

Section 679.61(f)(2)(vii) would be added to provide that AFA cooperatives report pollock and Chinook salmon PSC allocation and catch in the AFA annual cooperative report or in the IPA Annual Report, as also provided in § 679.21(f)(13)(ii)(E).

Chinook Salmon EDR

Section 679.65 would be added to describe the Chinook salmon EDR and the forms used to collect economic data for the Chinook salmon bycatch management program. In addition, an audit procedure for the Chinook salmon EDR would be added, including the use of a DDCA as defined under § 679.2.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, the reasons why it is being considered, and a statement of the objectives of and the legal basis for this action are included at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the remainder of the IRFA follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The directly regulated entities for this proposed action are those members of the commercial fishing industry that participate in the directed pollock trawl fishery in the Bering Sea. These entities include the AFA-affiliated pollock fleet and the six CDQ groups that receive allocations of Bering Sea pollock. Under a conservative application of the Small Business Administration criteria and the best available data, six small entities out of an estimated 122 respondents are eligible to submit the transfer report (Table 1). To provide these estimates of the number of non-CDQ AFA-affiliated pollock entities that were not small, earnings from all Alaskan fisheries for 2010 were matched with the vessels that participated in the AFA-affiliated pollock fleet for that year.

TABLE 1—SUMMARY OF SMALL AND LARGE ENTITIES FOR REGULATORY FLEXIBILITY ACT PURPOSES AND NUMBER OF VESSELS, INSHORE PROCESSORS, AND CDQ GROUPS

Entity class	Units	Directly regulated by action	Small	Non-small	Total directly regulated
Catcher/processors	Vessels	Yes	0	16	
Motherships	Vessels	Yes	0	3	
Catcher vessels	Vessels	Yes	0	90	
Inshore processors	Plants (including fixed floating platforms)	Yes	0	7	
CDQ groups	Non-profit organizations	Yes	6	0	
Total small and non small entities.			6	116	122

All of the non-CDQ AFA-affiliated pollock entities directly regulated by the proposed action were members of AFA cooperatives in 2010 and, therefore, NMFS considers them ''affiliated'' large (non-small) entities for RFA purposes.

Due to their status as non-profit corporations, the six CDQ groups are identified as ''small'' entities. This proposed action directly regulates the six CDQ groups, and NMFS considers the CDQ groups to be small entities for RFA purposes. As described in regulations implementing the RFA (13 CFR 121.103) the CDQ groups' affiliations with other large entities do not define them as large entities. Complete descriptions of the CDQ groups, and the impacts of this action, are located in sections 2.5 and 6.10.3 of the Final Environmental Impact Statement/Regulatory Impact Review/ Final Regulatory Flexibility Analysis for Amendment 91, which may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Four alternatives were considered in the RIR/IRFA for this proposed rule (See **ADDRESSES**). Alternative 1, the no action alternative, would not expand data collection for evaluating Amendment 91. Current data collected by NMFS would still allow for assessment of basic information such as the changes in the catch of Chinook salmon. IPA plans and IPA annual reports may also provide some industry impressions of the effects of Amendment 91 on Chinook salmon bycatch or effectiveness of the IPAs. Alternatives 2 and 3 included options for expanded data collection by implementing the use of ledger forms for recording Chinook salmon PSC or pollock allocations and transfers, the price for each transfer of Chinook salmon PSC or pollock, detailed fuel price and use data, vessel movement data, and a Vessel Master Survey. Alternative 4 (the preferred alternative) included flexible reporting of Chinook salmon and pollock allocations and transfers in the annual IPA report or AFA cooperative report, Chinook salmon bycatch quantities and prices of compensated Chinook salmon transfers in the CTR, average fuel use and prices in the Vessel Fuel Survey, vessel movement data in current recordkeeping and reporting collections, and vessel master impressions of the effects of Chinook salmon bycatch incentives in the Vessel Master Survey. The Council also considered and removed alternatives to collect more detailed revenue and cost data (including roe production, expanded Chinook transfer data, revenue data, and daily operating cost data).

Collection of the data in Alternatives 2 and 3 and in alternatives not advanced for analysis would expand the data available to study the effectiveness of salmon bycatch measures (including IPAs) across various segments of the fleets and would improve understanding of the effects of those measures on participants in the fisheries. Specifically, these detailed roe production, expanded Chinook salmon transfer data, revenue data, and daily operating cost data, as well as data from Alternatives 2 and 3 could be used to conduct more in-depth examination of revenue and cost tradeoffs of vessels when avoiding Chinook salmon bycatch.

Alternative 1 was not selected because it would not address the objectives of the Chinook EDR program to increase the quality and quantity of data for assessing the effects of Amendment 91 IPAs, the PSC limits, and the performance standard on when, where, and how pollock fishing and Chinook salmon bycatch occur.

While acknowledging that data in Alternatives 2 and 3, along with the additional detailed roe production expanded Chinook transfer data, revenue data, and daily operating cost data could increase the amount of information concerning the fishery and Chinook salmon bycatch avoidance, the Council elected to not select these data intensive alternatives. The Council did not advance these alternatives as well as additional alternatives for analysis. The Council determined that Amendment 91 incentives should be in operation for a period of time before NMFS could analyze how industry recordkeeping could be used to develop data collection instruments. The data forms required to collect information in Alternatives 2 and 3 and the additional roe, transfer and daily cost data would require additional development. Also, the Council determined the cost and burden of collecting the additional data would be substantial.

Alternative 4 was chosen because the limited scope of the data collected is feasible to implement in a timely manner, would likely increase the quality and quantity of data for assessing the effects of Amendment 91 IPAs, the PSC limits, and the performance standard on when, where, and how pollock fishing and Chinook salmon bycatch occur, and would permit a more expansive data collection in the future. Alternative 4 would have the least impact of the four alternatives on small entities while continuing to meet the objectives of the action.

Additional industry outreach and Council review of the EDR program was carried out to ensure that the Chinook salmon EDR program was compatible with industry recordkeeping procedures and consistent with the intent of the Council recommendations. In June 2010, the three EDR forms were reviewed and revised by members of the Bering Sea pollock industry in an industry workshop sponsored by NMFS. In October 2010, the Council reviewed the three revised data forms developed for this action, draft regulations, and the draft Paperwork Reduction Act submission. The Council voted unanimously that NMFS go forward with this proposed rule with minor,

clarifying revisions to the data collection forms.

The analysis did not identify any Federal rules that would duplicate, overlap, or conflict with the proposed rule.

In the CTR, NMFS expects the representative for each of the four sectors to actively track transfers throughout the year and report these in the fillable on-line CTR form once per year. For each individual Chinook transfer that consisted of a monetary exchange, each entity involved in a compensated transfer is required to submit an entry in the CTR to record transfer information. NMFS estimates that each entity will require 15 minutes to track each transfer and enter that data in either an internal tracking system provided to the representative for the sector, or in a separate CTR.

The CTR is estimated to be 90 percent electronic because most of these reports will be submitted as attachments to e-mails or via the Internet. Some reports may be submitted by fax.

The proposed new Vessel Master and Vessel Fuel Surveys would be completed at the end of the year and would be electronically submitted in a fillable on-line web form. The certification page would be submitted by mail, fax, or as an attachment to an e-mail. NMFS expects that many vessel masters (for the Vessel Master Survey), and vessel owners and leaseholders (for the Vessel Fuel Survey) may compile notes in season to respond to the specific survey questions at years end. The burden associated with tracking activity will vary depending on the circumstances encountered during the year.

OMB Collection of Information

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. Burden estimates were developed for each of the four Office of Management and Budget collections that are revised or created for the proposed Chinook salmon EDR program. The proposed revised and new collections and reporting burdens are listed below by OMB control number.

OMB Control Number 0648–AKRL

Public reporting burden per response is estimated to average 23 minutes for a catcher vessel trawl gear DFL; and 35 minutes for an AFA catcher/processor trawl gear ELB—

OMB Control Number 0648–0401

Public reporting burden per response is estimated to average 40 hours for an IPA; 40 hours for an IPA Annual Report; and 8 hours for an AFA Annual Cooperative Report—

OMB Control Number 0648–0515

Public reporting burden per response is estimated to average 35 minutes for a mothership eLandings landing report—OMB Control Number 0648–NEW [EDR]

Public reporting burden per response is estimated to annually average 40 hours for a CTR; 8 hours for a Vessel Fuel Survey; and 3 hours for a Vessel Master Survey.

Reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NMFS seeks public comment regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**), e-mail to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 11, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.,* Pub. L. 108–447.

2. In § 679.2 add a definition for ''Designated data collection auditor'' in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Designated data collection auditor (DDCA) means the NMFS-designated contractor to perform the functions of a data collection auditor for the Chinook PSC Compensated Transfer Report.

* * * * *

3. In § 679.5,

A. Revise paragraphs (c)(4)(vi) introductory text, (f)(1)(vii), (f)(2)(ii), and (f)(7).

B. Add paragraph (c)(4)(vi)(I) and paragraph (e)(6)(i)(A)(*12*).

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(c) * * *

(4) * * *

(vi) *Catch-by-haul information.* The operator must record the following information (see paragraphs (c)(4)(vi)(A) through (I) of this section) for each haul (see § 679.2). If no catch occurred for a given day, write ''no catch.''

* * * * *

(I) *Movement to Avoid Salmon.* If a catcher vessel is directed fishing for pollock in the Bering Sea, indicate with a check mark (X) whether, prior to the haul, the operator moved fishing location primarily to avoid salmon bycatch.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(A) * * *

(*12*) For deliveries from catcher vessels directed fishing for pollock in the Bering Sea, indicate whether, prior to the haul, the operator of the catcher vessel moved fishing location primarily to avoid Chinook salmon bycatch.

* * * * *

(f) * * *

(1) * * *

(vii) *AFA and CDQ trawl catcher/processors.* The operator of an AFA catcher/processor or any catcher/processor harvesting pollock CDQ must use a combination of NMFS-approved catcher/processor trawl gear ELB and eLandings to record and report groundfish and PSC information. In the ELB, the operator must enter processor identification information; catch-by-haul information; prohibited species discard or disposition data for all salmon species in each haul; and indicate whether, prior to the haul, the

operator moved fishing location primarily to avoid Chinook salmon bycatch. In eLandings, the operator must enter processor identification, groundfish production data, and groundfish and prohibited species discard or disposition data for all prohibited species except salmon.

(2) * * *

(ii) *Reporting groundfish by ELB.* If the User is unable to submit commercial fishery information due to hardware, software, or Internet failure for a period longer than the required reporting time, contact NMFS Inseason Management at 907–586–7228 for instructions. When the hardware, software, or Internet is restored, the User must enter this same information into the electronic logbook (ELB) or other NMFS-approved software.

* * * * *

(7) *ELB data submission*—(i) *Catcher/processors.* The operator of a catcher/processor must transmit ELB data directly to NMFS online through eLandings or other NMFS-approved data transmission mechanism, by 2400 hours, A.l.t., each day to record the previous day's hauls.

(ii) *Catcher vessels.* The operator of a catcher vessel must transmit ELB data directly to NMFS as an e-mail attachment or to NMFS through a shoreside processor, SFP, or mothership who received his/her groundfish catch. Through a prior agreement with the catcher vessel, the operator of a mothership or the manager of a shoreside processor or SFP will forward the ELB data transfer to NMFS as an e-mail attachment within 24 hours of completing receipt of the catcher vessel's catch.

* * * * *

4. In § 679.21, paragraph (f)(12)(vii) is redesignated as paragraph (f)(13) and revised to read as follows:

§ 679.21 Prohibited Species Bycatch Management.

* * * * *

(f) * * *

(13) *IPA Annual Report.* The representative of each approved IPA must submit a written annual report to the Council at the address specified in § 679.61(f). The Council will make the annual report available to the public.

(i) *Submission deadline.* The IPA Annual Report must be postmarked or received by the Council no later than April 1 of each year following the year in which the IPA is first effective.

(ii) *Information requirements.* The IPA Annual Report must contain the following information:

(A) A comprehensive description of the incentive measures in effect in the previous year;

(B) A description of how these incentive measures affected individual vessels;

(C) An evaluation of whether incentive measures were effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures;

(D) 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;

(E) 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, unless reported under § 679.61(f)(2); and

(F) *In-season transfers.*

(*1*) *Transfers among entities.* For in-season transfer of Chinook salmon PSC or pollock among AFA cooperatives, entities eligible to receive Chinook salmon PSC allocations, or CDQ groups, provide the following information:

(*i*) Date of transfer;

(*ii*) Name of transferor;

(*iii*) Name of transferee;

(*iv*) Number of Chinook salmon transferred; and

(*v*) Amount of pollock (mt) transferred.

(*2*) *Transfers among IPA vessels.* Transfers among vessels participating in the IPA provide the following information:

(*i*) Date of transfer;

(*ii*) Name of transferor;

(*iii*) Name of transferee;

(*iv*) Number of Chinook salmon transferred; and

(v) Amount pollock (mt) transferred.

* * * * *

5. In § 679.61,

A. Revise the heading of paragraph (f), and paragraph (f)(2)(ii); and

B. Add paragraph (f)(2)(vii).

§ 679.61 Formation and operation of fishery cooperatives.

* * * * *

(f) *Annual reporting requirements.*

* * *

(2) * * *

(ii) The cooperative's actual retained and discarded catch of sideboard species and PSC, except for Chinook salmon PSC, on an area-by-area and vessel-by-vessel basis;

* * * * *

(vii) 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) retained and discarded at the end of each season, unless that data is reported in the IPA report at § 679.21 (f)(13)(ii)(E).

* * * * *

6. Section 679.65 is added to read as follows:

§ 679.65 Bering Sea Chinook Salmon Bycatch Management Program Economic Data Report (Chinook salmon EDR program).

(a) *Requirements.* NMFS developed the regulations under this § 679.65 to implement the Chinook salmon EDR program. Additional regulations that implement specific portions of the Chinook salmon EDR program are set out under paragraphs (a)(1) through (a)(4) of this section:

(1) *Daily fishing logbook (DFL), catcher vessel trawl gear.* See § 679.5(c)(4).

(2) *Electronic logbook (ELB), AFA and CDQ trawl catcher/processors.* See § 679.5(f) in combination with eLandings pursuant to § 679.5(e).

(3) *IPA Annual Report.* See § 679.21(f)(13).

(4) *AFA cooperative annual reporting requirement.* See § 679.61(f)(2).

(b) *Chinook salmon PSC Compensated Transfer Report (CTR).* (1) An owner or leaseholder of an AFA-permitted vessel and the representative of any entity that received an allocation of Chinook salmon PSC from NMFS must submit a CTR, Part 1, each calendar year, for the previous calendar year.

(2) Any person who transferred Chinook salmon PSC allocation after January 20, and paid or received money for the transfer, must submit a completed CTR (Part 1 and Part 2) for the previous calendar year.

(3) The CTR is available through the Internet on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov,* or by contacting NMFS at 206–526–6414.

(4) Each year, the completed CTR must be submitted electronically on or before 1700, A.l.t., on June 1, following the instructions on the form.

(c) *Vessel Fuel Survey.* (1) An owner or leaseholder of an AFA-permitted vessel must submit all completed Vessel Fuel Surveys for each vessel used to harvest pollock in the Bering Sea in a given year.

(2) The Vessel Fuel Survey is available through the Internet on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov,* or by contacting NMFS at 206–526–6414.

(3) The owner or leaseholder annually must submit a completed Vessel Fuel Survey, electronically on or before 1700, A.l.t., on June 1, following the instructions on the form.

(d) *Vessel Master Survey.* (1) For any AFA-permitted vessel used to harvest pollock in the Bering Sea in the previous year:

(i) The vessel master must complete the Vessel Master Survey, Part 1A.

(ii) An owner or leaseholder must complete the Vessel Master Survey, Part 1B.

(iii) An owner or leaseholder must submit all Vessel Master Surveys, Parts 1A and 1B completed by the owner and all of the masters electronically on or before 1700, A.l.t., on June 1, following the instructions on the form.

(2) The Vessel Master Survey is available through the Internet on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov,* or by contacting NMFS at 206–526–6414.

(e) *Chinook salmon EDR verification and audit procedures.* NMFS or the designated data collection agent (DDCA) will conduct verification of Chinook salmon EDR information with the persons identified at § 679.65(b)(1), (b)(2), (c)(1), (d)(1)(i), and (d)(1)(ii).

(1) The persons identified at § 679.65(b)(1), (b)(2), (c)(1), (d)(1)(i), and (d)(1)(ii) must respond to inquiries by NMFS and its DDCA for purposes of the CTR, within 20 days of the date of issuance of the inquiry.

(2) The persons identified at § 679.65(b)(1) and (b)(2) must provide copies of additional data to facilitate verification by NMFS and its DDCA for purposes of the CTR. These paper or electronic copies may include, but are not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted.

[FR Doc. 2011–17894 Filed 7–15–11; 8:45 am]

BILLING CODE 3510–22–P