

# Workplan for the 2024 American Fisheries Act Program Review

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## Introduction

This document is a workplan for developing the American Fisheries Act (AFA) Program review. Limited Access Privilege Program (i.e., types of catch share programs) reviews are required to be conducted five years after implementation and every seven years thereafter by the Magnuson-Stevens Fishery Management and Conservation Act of 2006 (MSA). The AFA program review is scheduled to be completed in 2024. The last AFA Program review was completed in July 2017.

Workplans are intended to identify the proposed scope of the program review and serve as a starting point for dialogue between members of the public, policy makers, and the analysts preparing the program review. Workplans are typically presented to the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and North Pacific Fishery Management Council (Council). After the Council receives input from its advisory bodies, the staff presentation, and public comment, the Council may choose to modify the workplan prior to work beginning on the program review. The intent of this approach is for input to be provided at a single Council meeting, so work on the program review can be conducted in an efficient manner to meet the MSA's timeline.

The workplan proceeds as follows. **Section 1** briefly describes the sources that were considered when developing the scope of the proposed program review, including the July 2017 AFA Program review, program review guidance developed by National Marine Fisheries Service (NMFS), and a general understanding of major changes that have occurred in the Bering Sea (BS) pollock fishery (i.e., the fishery affected by the AFA). **Section 2** briefly reviews the proposed methods and data for developing the review. **Section 3** provides a broad annotated table of contents.

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For definition of acronyms and abbreviations, see online list: <https://www.npfmc.org/library/acronyms>

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## 1 Sources for Defining the Scope of the AFA Program Review

The AFA was signed into law in October of 1998. The purpose of the AFA was to 1) tighten U.S. ownership standards for fishing vessels that had been exploited under the Anti-reflagging Act, 2) significantly decapitalize the Bering Sea and Aleutian Islands<sup>2</sup> (BSAI) pollock fishery, and 3) provide the BSAI pollock fleet the opportunity to conduct their fishery in a more rational manner while protecting non-AFA participants in other fisheries.

During passage of AFA, Congress anticipated that the Act would result in substantial changes to the businesses and communities that rely on fishing, as well as the natural resources that support those fisheries. To provide a better understanding of the impacts resulting from the Act, Congress requested that the Council develop a report focusing on specific changes brought about by the AFA. The Council prepared a report for Congress in 2002. That report was required to describe the AFA's impacts on fishery conservation and management, bycatch levels, fishing communities, business and employment practices of participants in any fishery cooperatives, the western Alaska Community Development Quota (CDQ) Program, any fisheries outside of the authority of the Council, and other matters the Council deemed appropriate.

Since completion of that 2002 report to Congress, the reauthorization of MSA in 2006 included Section 303A(c)(1)(G) which requires a formal and detailed program review every seven years after the initial five-year review. The first Limited Access Privilege Program review for the AFA Program was completed in 2017. Topic areas identified in the 2017 program review included the volume and value of the BS pollock fishery, AFA entity participation levels, prohibited species catch (PSC), excessive harvesting and process shares, CDQ Program groups and fishing communities, retention and utilization, product markets and prices, sideboard protections, fishing vessel safety, and management costs and cost recovery. These topics will provide the basis for the 2024 program review.

In April 2017, NMFS produced a Catch Share Policy document that provides policy recommendations for guiding principles when conducting reviews of Limited Access Privilege Programs. NMFS Catch Share Policy guidance document provides a comprehensive approach to conducting regular reviews of Limited Access Privilege Programs. NMFS guidance was developed to ensure that the reviews meet statutory requirements, are coordinated with stakeholders, efficient, effective, and conducted using consistent standards across all management regions. NMFS guidance states that the review should compare and analyze the fishery before (baseline period) and after the program's implementation and should use the best available scientific information. Comparisons to the baseline have been made in the 2017 program review and will be included by reference when appropriate in this review.

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<sup>2</sup> The National Marine Fisheries Service issues separate allocations for Bering Sea and Aleutian Island pollock. The AFA was amended by the Consolidated Appropriates Act of 2004, which reallocated the directed fishing allowance for the Aleutian Islands region to the Aleut Corporation. Amendment 82 to the BSAI Groundfish FMP became effective in February 2005 and it established a management framework for the directed pollock fishery in the Aleutian Islands subarea consistent with the newly amended AFA (see 50 CFR 679.20(a)(5)(iii)(B)(2)(iii). If the Regional Administrator determines the directed fishing allowance or the CDQ pollock allocation in the Aleutian Islands will be unused, NMFS will reallocate projected unused amounts of the pollock to the Bering Sea subarea (see 50 CFR 679.20(a)(5)(iii)(B)(4). This has been common practice in recent years.

## 2 Proposed Methods and Data for Developing the 2024 Program Review

NMFS has utilized experts within the agency<sup>3</sup> to develop an initial set of standard performance indicators that measure the performance of Limited Access Privilege Program, regardless of their design (Brinson & Thunberg, 2013). The standard performance measures identified in that report include information on catch and landings, effort, revenue, accumulation limits, and cost recovery. Other Limited Access Privilege Program reviews conducted by the NPFMC<sup>4</sup> also provide examples of issues that should be covered in a review. This review will use available data sources from Alaska Fishery Information Network (AKFIN) staff to provide information specific to the standard performance measures identified by NMFS as well as those that are specific to the AFA Program. Qualitative and quantitative information will be presented based on cooperative reports and information reported for other issues<sup>5</sup>. Readily available information will be supplemented, when necessary, by discussions with key informants.

**A consideration for the Council at this stage is the set of years to be analyzed in the 2024 AFA program review.** The analysts are proposing to summarize the main trends and impacts identified in the 2017 AFA program review (based on data from 2002-2015), and to conduct more in-depth analysis of each performance measure using annual data from 2015 through 2023. This approach is intended to provide the Council, NMFS, industry, and other members of the public with a more detailed look at recent years' trends without losing the broader context.

The analysts are proposing this two-part approach for three primary reasons. First, much of the information and trends based on earlier years' information has been fully evaluated in the report to Congress (based on data from 1998-2002) and the prior program review (based on data from 2002-2015). Second, this fishery has undergone changes in recent years that would make it appropriate to provide a more detailed analysis of recent years' data (e.g., changes in fishery participation under the cooperatives, implementation of lower Chinook bycatch hard caps in years of low Chinook abundance, and changes to the seasonal apportionment of Bering Sea pollock TAC). Finally, incorporating information from 2002-2023 would result in tables and figures with over 20 years of information which could pose some formatting challenges. More broadly, if the Council would like the analysts to incorporate the full scope of information in this program review (i.e., 2002-2023), it may also want to consider how to deal with program reviews in the future when even greater amounts of annual data would be required.

The data anticipated to be used in this review includes:

- 1) Annual AFA Cooperative reports (2015-2023) which provide information on:
  - a) Percent and amount of cooperative allocation
  - b) Transfers of fishery allocations including some PSC allocations such as Chinook
  - c) Percent of allocation harvest
  - d) Sideboard harvest
  
- 2) RAM data from (2015-2023) which provides information on:
  - a) LLP licenses (license number, ownership information, endorsements)
  - b) Permits (quota allocations assigned to LLP licenses)
  - c) Cooperative Quota Transfers (information on the quantity of an allocation transferred is available but not the wholesale or ex-vessel value)

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<sup>3</sup> Fishery economists, anthropologists, policy analysts, and resource managers.

<sup>4</sup> Rockfish Pilot Program Review, Amendment 80 Program Review, American Fisheries Act Review, Central GOA of Rockfish Program Review, BSAI Crab Rationalization, and Halibut and Sablefish IFQ Program Review.

<sup>5</sup> Community impact papers funded by BSAI communities and community impact studies of Limited Access Privilege Programs by NOAA staff as well as academic and private sector researchers.

- 3) Catch Accounting System (CAS) data collected by NMFS certified observers or electronic monitoring systems on catcher/processors (CP), catcher vessels (CV), and motherships. This data would be aggregated to meet confidentiality standards. CAS information will be incorporated from the previous program review in summary form and combined with annual data from 2015-2023.
  - a) Catch (location, time-period, species, and amount)
  - b) Discards (amount and rate)
  - c) Prohibited species catch (PSC) and rates.
  - d) Production (amounts, products produced, and utilization rates)
- 4) AKFIN summary of Commercial Operator’s Annual Reports (COAR) and fish ticket data
  - a) Exvessel and First Wholesale price and value (incorporating previous program review data in summary form combined with annual 2015-2023 data)
- 5) NMFS data on recoverable fees, cost recovery fee amounts, and cost recovery fee compliance.
- 6) Safety data will be provided and summarized by the National Institute for Occupational Safety and Health (NIOSH). NIOSH staff have been instrumental in generating the safety sections of other program reviews conducted by the Council.

### **3 Proposed Table of Contents**

#### ***Executive Summary***

The executive summary will include key findings of the AFA Program as well as a series of dashboards to illustrate these findings.

#### ***1.0 Introduction***

As envisioned the introduction would have three primary components. First, it would summarize the requirements to prepare the program review. Second, the introduction would discuss the goals and objectives of the AFA Program and the MSA to justify the scope of issues that are included in the review. Finally, the introduction would also include a roadmap showing the organization of the remainder of the program review.

#### ***2.0 Description of Management for the Bering Sea Pollock Fishery***

The 2017 AFA Program review included a description of the management measures implemented at the creation of the program as well as changes to the program that had been implemented up to when that review was completed. That information will be updated, summarized, and/or referenced in this program review.

#### ***3.0 Overview of AFA Cooperatives***

This section provides a brief overview of the development of AFA cooperatives, a description of their contractual structure and annual reporting requirement.

#### ***4.0 Allocation and Harvest***

In this section, the program review will summarize the distribution of the annual BS pollock allocation among the cooperatives in each AFA sector, the amount of BS pollock harvested by each cooperative, as well as exvessel and wholesale revenue estimates.

#### ***5.0 Participation and Consolidation***

This section describes participation trends within the three AFA sectors and summarizes information from AFA cooperative reports and industry news sources regarding major changes in asset ownership since the

previous program review. The program review will also include a description of employment practices of participants in AFA cooperatives. This description will examine how changes in the level of participation of the AFA sectors in the BS pollock fishery affected employment by sector.

### **6.0 Excessive Harvesting and Processing Limits**

This section will examine the question of excessive harvest limits and processing limits. These provisions are intended to limit participants to prevent the excessive consolidation of participants and privileges in the AFA Program. Excessive harvest limit is in Section 210(e)(1) of the AFA which restricts an individual, corporation, or other entity from harvesting more than 17.5 percent of the pollock available to be harvested in the BS directed pollock fishery. Section 210(e)(2) of the AFA directed the Council to create management measures to prevent any individual or entity from processing an excessive share of pollock available in the directed BS fishery. The Council and NMFS established the limit at 30 percent of the sum of the BS pollock directed fishing allowance.

### **7.0 Prohibited Species Catch**

This section will summarize the regulations managing PSC<sup>6</sup> in the BS pollock fishery and provide an overview of PSC performance for each AFA sector. In particular, the review will provide a summary of the recent actions taken by the Council, NMFS, and industry to reduce Chinook and chum salmon PSC in the BS pollock fishery (e.g., Chinook hard caps, the Rolling Hot Spot systems for Chinook and chum salmon avoidance, and other incentives and penalties encompassed within industry Incentive Plan Agreements). This program review will also provide a summary of the recent and ongoing Council action to reduce impacts to red king crab. The Council conducted an initial review of proposed alternatives to close the Red King Crab Savings Area to certain groundfish sectors and gear types, pelagic trawl gear which is used by AFA sectors to harvest BS pollock.

### **8.0 Fishing Communities**

A wide range of coastal communities are engaged in or dependent on the BS pollock fishery managed under the AFA Program. Quantitative information on community engagement in and dependence on the BS pollock fishery and a description of related social impacts of the AFA program were presented in the last AFA Program review. This program review will update the quantitative information and the description of social impacts through 2023. In addition, this section will be based on recently updated community profiles, the Annual Community Engagement and Participation Overview (ACEPO) report, and potentially other information contained in the chum salmon bycatch analysis that is currently under consideration by the Council.

### **9.0 Retention and Utilization of Harvest Resources**

This section of the program review will summarize total, retained, and discarded catch in the BS pollock target fishery by year and sector. The review will also summarize the production by product type and first wholesale values as a means of measuring the utilization of harvested resources. The overall value generated per ton of BS pollock harvest will provide measures of the “efficient use of fishery resources” relative to National Standard 5. Finally, the section will summarize the certification of the BS pollock fishery by both the Marine Stewardship Council Certification (MSC) and Alaska Responsible Fisheries Management (RFM) Certification Program, together with the product marketing benefits of the two programs.

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<sup>6</sup> Prohibited species in the BSAI Management Area include Pacific salmon (Chinook and non-Chinook), Pacific halibut, Pacific herring, red king crab (Zone 1), golden king crab, blue king crab, *Chionoecetes opilio* (in the *C. opilio* bycatch limitation zone or COBLZ), other *C. opilio*, and *Chionoecetes bairdi* (Zone 1 and 2).

### ***10.0 Sideboard Limits***

By providing AFA vessel owners with fixed allocations of BS pollock and the ability to effectively consolidate or otherwise improve the efficiency of their BS pollock operations, the AFA could potentially have provided opportunities for these vessel owners to expand into other fisheries that would not otherwise have been available. To limit these expansions, the AFA created harvesting limits, known as sideboards, on AFA vessels in non-pollock groundfish, crab, and scallop fisheries in the BSAI and Gulf of Alaska (GOA). Sideboard limits were also developed for prohibited species as were sideboard processing limits for BSAI crab species for all AFA processors. This section describes these sideboard protections and provides a summary of all AFA vessel sideboard limits and catch amounts in the BSAI and GOA groundfish fisheries, PSC sideboard limits, herring PSC limits, and BSAI trawl limited access sector PSC limits.

### ***11.0 Fishing Vessel Safety***

The program review will examine the question of fishing vessel safety. The U.S. Coast Guard maintains the Online Incident Investigation Report that provides information regarding maritime incidents investigated by the U.S. Coast Guard under Part D of Title 46 of the U.S. Code. These published reports are limited to reportable marine casualties, as defined in Section 4.05 of Title 46 of the Code of Federal Regulations, that were closed after October 2002. It is believed that the program review can provide a review of incidents from these data that are related to AFA fisheries.

### ***12.0 Cost Recovery***

Section 303A(e) of the MSA mandates that NMFS collects fees to pay for the costs of management (including data collection and analysis, and enforcement activities) arising from the program. The cost recovery fee is charged as a percentage of the exvessel landings value of each allocated species. This section will update the table on management costs and cost recovery fees to provide information on costs being recovered and their amount. Much of the information included in this section will be derived from the annual cost recovery reports generated by NMFS.