

## Executive Summary

This document is a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) for a proposed modification to the maximum length overall (MLOA) of the License Limitation Program (LLP) license assigned to the freezer longline vessels to accommodate larger replacement vessels.<sup>1</sup> Implemented on January 1, 2000, the LLP provided separate area endorsements, catcher vessel/catcher processor endorsements, and specified MLOA for licensed vessels. The MLOA for the license was based on the length of the vessel initially receiving the license.

The proposed action would also allow freezer longline replacement vessels that (1) exceed 165 feet in length, or (2) more than 750 gross tons, or (3) with engines capable of producing more than 3,000 shaft horsepower to enter the groundfish fishery. Coast Guard regulation 46 U.S.C. 12106(c)(6) limit vessels greater than 165 feet in length, or more than 750 gross registered tons, or with engines capable of producing more than 3,000 shaft horsepower from entering fisheries unless the vessel carried a fisheries endorsement prior to September 25, 1997 or the Council has recommended and the Secretary of Commerce has approved a conservation and management measure to allow the vessel to be used in fisheries under its authority.

### *Problem Statement*

Recognizing the benefits of vessel replacement program for BSAI freezer longline fleet, which could include vessel safety, improved fuel efficiency, improved resource utilization, and increased economic efficiency, the Council tasked staff to prepare an analysis of alternatives to allow owners of freezer longline vessels to replace their vessels with larger vessels. Provided below is a draft proposed purpose and need that was presented at the February 2011 meeting.

*Allowing for Pacific cod hook and line catcher/processor vessel owners to rebuild or replace their vessels would allow for improved vessel safety, meet international class and loadline requirements that would allow a broader range of onboard processing options, or otherwise improve the economic efficiency of their vessels.*

### *Description of the Alternatives*

Three alternatives, including no action, are provided. Under Alternative 1, the no action alternative, freezer longline vessel length restrictions would continue to apply. Vessel owners could replace their vessels so long as the vessel length did not exceed the MLOA of the LLP license that the vessel is named on. In addition, freezer longline vessels that are (1) greater than 165 feet in length or (2) exceed 750 tons or (3) 3,000 horsepower or greater that do not already have a federal fisheries endorsement will not receive a federal fisheries endorsement and therefore cannot be used to replace an existing freezer longline vessel.

---

<sup>11</sup> The proposed action would modify the criteria to allow freezer longline vessels to be replaced with larger vessels. The proposed change has no effect individually or cumulatively on the human environment (as defined in NAO 216-6). The only effects of the action are improved vessel safety, improved production efficiency, and potential economic redistributive arising from vessel replacement of large freezer longliner vessels. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

Alternative 2 would limit a replacement vessel to a length 20% greater than the original qualifying vessel the replacement or rebuilt vessel is replacing, not to exceed 150' LOA. However, since the MLOA of the LLP license restricts vessel length of assigned vessels and many of the freezer longliners are already at or near the MLOA of the LLP license they are named on, the language in the alternative will need to be modified to accommodate larger replacement vessels that exceed the current MLOA of the LLP license. Possible language for the alternative is provided below:

**For those LLP licenses with catcher processor and hook-and-line Pacific cod endorsements for the BS or AI with an MLOA of less than 150', increase the MLOA of the LLP license 20 percent not to exceed a MLOA of 150'.**

Under Alternative 3, the MLOA of BSAI LLP license with Pacific cod longline endorsements would not apply. This alternative would also allow vessels that are (1) greater than 165 feet in length or (2) exceed 750 tons or (3) 3,000 horsepower or greater that do not already have a federal fisheries endorsement to be eligible to receive a certificate of documentation consistent with 46 U.S.C. 12102(c).

Also include in the proposed action are two options. Suboption 1 would allow any vessel replaced under this proposed action to continue participating in federal fisheries, including those fisheries requiring an LLP license. Suboption 2, would allow replaced freezer longline vessels to be used to replace other freezer longline vessels. The Council could choose both suboptions when selecting Alternatives 2 or 3, but if the Council wanted to remove replaced freezer longline vessels from the federal fisheries, a third suboption would need to be added that states replaced vessels would be ineligible to be designated on an FFP or an LLP.

#### *Potential Effects of the Alternative*

Under the status quo alternative, vessel owners wanting to replace their vessels, to take advantage of vessel improvements, are limited by the MLOA of the LLP license the vessel is assigned to. In addition, freezer longline vessels that are (1) greater than 165 feet in length or (2) exceed 750 tons or (3) 3,000 horsepower or greater that do not already have a federal fisheries endorsement will not receive a federal fisheries endorsement and therefore cannot be used to replace an existing freezer longline vessel. In general, this alternative relative to the action alternatives would likely impede vessel replacement for the freezer longline fleet and thus would likely result in limited improvements in vessel safety, processing efficiency, hold design, and engine efficiency for the fleet. This alternative could also jeopardize the safety of the fleet. While the U.S. Coast Guard and freezer longline vessel owners have seen significant improvements in vessel safety as a result of the ACSA program, there are limitations to its long-term effectiveness and this alternative would impede improvements in vessel safety beyond the ACSA program.

Alternative 2 relative to status quo provides an opportunity for owners of freezer longline vessels to replace their vessels with larger vessels. However, relative to Alternative 3, this alternative would be limited to owners with vessels less than 150'. Under the alternative, a total of 17 LLP licenses would be eligible for larger MLOAs. Of these 17 LLP licenses, 9 licenses would have a MLOA of 150', while the other eight licenses would have a MLOA of 149'.

The benefits of this alternative relative to the other alternatives is that it provides some flexibility for vessel owners to replace their vessels with larger vessels in order to improve safety, processing operation, and engine efficiency while also limiting increases in effort due to significantly larger replacement vessels. Since the average age of the freezer longline vessels less than 150' is approximately 31 years, and since all replacement vessels will either be classed and loadlined or meet the requirements of ACSA, it is likely this alternative will result in the improved safety of the 150' and under vessels. If aging freezer

longline vessels were replaced with newly constructed fish processing vessels, those replacement vessels would be required to meet the full suite of safety standards as indicated in Table 2-12, resulting in an inherently safer vessel.

Another benefit of this alternative is that it limits expansion of effort for the freezer longline fleet. In the past, the Council has relied on vessel length restrictions as method for limiting the potential for expanding fishing effort. However, vessel length restrictions can result in replacement vessels with inefficient hull designs and other compromises in vessel designs. One drawback of vessel length restrictions is the potential for compromise in vessel safety. Vessel length restrictions also indirectly limit the level of processing a replacement vessel can incorporate thereby jeopardizing efficiency. Under a rationalized fishery, it can be argued that companies are better able to determine their long-term input stream. With this financial insight, companies are better able to design vessels to meet their harvesting and processing strategies.

An issue the Council might want to clarify concerning the alternative is its limitation to only include BSAI freezer longline vessels. Limiting MLOA modification to only BSAI freezer longline LLP licenses could disadvantage two freezer longline LLP licenses with GOA only endorsements. Expanding this alternative to include these GOA only LLP licenses in the proposed action could reduce the potential for BSAI participants to disadvantage these GOA vessels. If the Council does modify the alternative to include these LLP licenses endorsed only for the GOA, the Council will need to clarify whether the MLOA modification applies only to hook-and-line endorsements or whether the action also applies to pot endorsements since one of the two GOA only LLP licenses has pot cod endorsement in the GOA.

Under Alternative 3, the MLOA of LLP licenses with catcher processor and Pacific cod longline endorsements would no longer apply. This alternative would offer vessel owners, particularly operators of smaller vessels, the greatest flexibility to replace their vessels to incorporate necessary improvements in processing and safety. This alternative would also allow new vessels greater than 165 feet in length or more than 750 gross tons, or that has an engine or engines capable of producing more than 3,000 shaft horsepower to receive a fishery endorsement thereby allowing these vessels to fish in any fishery in the EEZ under the jurisdiction of the Council. Coast Guard regulation 46 U.S.C. 12106(c)(6) limit vessels greater than 165 feet in length, or more than 750 gross registered tons, or with engines capable of producing more than 3,000 shaft horsepower from entering fisheries unless the vessel carried a fisheries endorsement prior to September 25, 1997 or the Council has recommended and the Secretary of Commerce has approved a conservation and management measure to allow the vessel to be used in fisheries under its authority.

Alternative 3 relative to the other alternatives provides the greatest opportunity for owners of freezer longline vessels to replace their vessels with larger vessels. The absence of vessel length restrictions allows vessel owners to design safer and more efficient replacement freezer longline vessels. Given the average age of the fleet (40 years), improving the safety of the fleet is a significant benefit for the vessel replacement action. There does appear to be efficiency limitations that would likely provide operational incentives for limiting vessel lengths in replacement vessels. Also contributing to the operational limitations for replacement vessels are the Pacific cod sector allocations and cooperative fishing amongst all of the BSAI freezer longline owners. All combined, these factors will likely limit vessel lengths for replacement vessels to 180' or less. One potential issue associated with unrestricted vessel length is owners could try to leverage their increased fishing and processing capacity to negotiate greater portions of the cooperative catch share. Ultimately, this issue will be limited by strength of the cooperative agreement and the provisions within the cooperative agreement that discourage cooperative members from leaving the cooperative.

Similar to Alternative 2, the Council might want to clarify two issues. The first issue is whether the alternative is meant to apply only to BSAI freezer longline vessels. The other issue concerns whether these LLP licenses affected by this action could be used in other fisheries once the MLOA no longer applies.

Included with each of the action alternatives are two suboptions. The first suboption would allow any vessel replaced under Alternatives 2 or 3 to continue to be used in North Pacific fishery by being named on FFP or an LLP. The second suboption would allow replaced freezer longline vessels to be used as replacement vessels for Alternatives 2 or 3.

The benefit of these suboptions is that would provide greater flexibility for vessel owners who want to use existing freezer longline vessels to replace other freezer longline vessels currently in use. Although many of these freezer longline vessels were built in 1940s, eight of the vessels were built in the 1980s and eight were built in 1990s. A potential advantage for vessel owners is that the existing freezer longline vessels are fitted for the appropriate fisheries, and may be easier, and cheaper to obtain than newly constructed vessels. It is understood that existing vessels must be classes and loadlined or meet the requirements of ACSA to be used to replace other freezer longline vessels.

One drawback of these suboptions is it could discourage vessel owners from replacing freezer longline vessels with newly constructed vessels if an existing vessel in the freezer longline sector would otherwise meet the needs of a replacement vessel. USCG personnel have indicated a preference for retiring existing freezer longline vessels to encourage newer and safer vessels. Arguably, if a vessel owner replaces one or more freezer longline vessels with an existing freezer longline vessel, that replacement vessel could have improved handling and safety features than the vessel that is being replaced. It is also conceivable that a vessel owner could replace a small vessel that is in good condition with a larger, more efficient vessel that is in poorer material condition. Furthermore, this replacement vessel, if unable to meet ACSA standards, could dis-enroll from ACSA, resulting in a decline in overall safety. Although the existing freezer longline vessels are not subject to the stringent safety requirements that would apply to new construction, vessel owners may be able to retrofit their vessels to incorporate improved safety and design features.