


MEMORANDUM

TO: Council, SSC and AP Members  
FROM: Chris Oliver   
Executive Director  
DATE: September 24, 2012  
SUBJECT: AFA Vessel Replacement

ESTIMATED TIME 6 HOURS (All C-5 items)
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**ACTION REQUIRED**

Initial review on AFA vessel replacement

**BACKGROUND**

On October 12, 2010, the Coast Guard Authorization Act of 2010 was signed into law. Section 602 of the Coast Guard Act addresses the replacement and removal of vessels eligible to participate in the Bering Sea pollock fishery under the American Fisheries Act (AFA). To assist in understanding the implications of the Act, the Council requested staff prepare a discussion paper on the Act and its potential impacts on the GOA groundfish fisheries. That discussion paper was provided to the Council at its February 2012 meeting. After review the discussion paper, the Council developed a purpose and need statement and alternatives intended to prevent increased participation in the GOA groundfish fisheries by vessels replaced under the Coast Guard Act. Based on the purpose and need statement and alternatives provided by the Council, an initial review draft RIR/IRFA analysis was prepared for review by the Council at this meeting. The draft analysis was mailed to you on September 19<sup>th</sup>. The executive summary of the RIR, which includes the full suite of alternative and options, is attached as Item C-5(b)(1).

## EXECUTIVE SUMMARY

This document is a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIF/IRFA) is to clarify American Fisheries Act (AFA) vessel replacement provisions of the Coast Guard Authorization Act of 2010 (Coast Guard Act) and to prevent participating AFA vessels that are replaced from increasing fishing effort beyond historical catch in the Gulf of Alaska (GOA). Specifically, the Coast Guard Act addresses the replacement and removal of vessels eligible to participate in the Bering Sea pollock fishery under the AFA (see Appendix A for Section 602 of the Coast Guard Act and Appendix B for NMFS review of the Act). The Coast Guard Act expressly authorizes the Council to recommend for approval by the Secretary of Commerce conservation and management measures, including size limits and measures to control fishing capacity to ensure that the Coast Guard Act does not diminish the effectiveness of the fishery management of the Bering Sea (BS) and Aleutian Islands (AI), and the GOA. To that end, the Council developed proposed alternatives to prevent increased capacity in the GOA groundfish fisheries by replacement or rebuilt AFA vessels and to extinguish GOA sideboard exemptions for AFA catcher vessels removed from the BS pollock fishery.

### Problem Statement

Passage of the Coast Guard Act necessitates updating the BSAI Groundfish Fishery Management Plan and groundfish regulations to bring them into compliance with the Coast Guard Authorization Act. Currently, the language in both the BSAI Groundfish FMP and groundfish regulations are not consistent with prevailing management rules established by the Coast Guard Act. To correct this inconsistency, NMFS has proposed a housekeeping action to bring the BSAI Groundfish FMP and groundfish regulations into compliance with existing current practices.

In addition, *Section 2* of the Coast Guard Act expressly authorizes the Council to recommend for approval by the Secretary of Commerce measures to control fishing capacity so as not to diminish the effectiveness GOA groundfish management. In addition, *Section 6* of the Coast Guard Act created two ambiguities concerning GOA eligibility. Using this authority of *Section 2*, while also addressing the ambiguity of *Section 6*, the Council has included a range of options for clarifying the GOA eligibility for replacement and rebuilt AFA catcher vessels operating in GOA and limiting the potential for increased fishing capacity of replacement and rebuilt vessels while operating in the GOA. The Council at its February 2012 meeting provided the following problem statement:

*Groundfish sideboard protections are included in the AFA to prevent participating AFA vessels from increasing fishing effort beyond historical catch in the GOA. Ambiguities exist pertaining to groundfish sideboards in the AFA vessel replacement provisions of the Coast Guard Authorization Act of 2010 (Coast Guard Act). For vessels with multiple licenses, it is unclear whether the MLOA on the Bering Sea LLP or the GOA LLP applies to a replacement vessel when fishing in the GOA. Additionally, if an AFA vessel exempt from the GOA sideboards is removed from the fishery and assigns its pollock quota to another vessel, the Coast Guard Act is unclear whether the GOA exemption is transferable in addition to the pollock quota. Action is needed to clarify vessel replacement provisions of the Coast Guard Act and prevent increased capacity in the GOA groundfish fisheries by AFA vessels.*

### Description of Alternatives

**Alternative 1 (no action)** – AFA vessel owners may not rebuild or replace their vessels, except in the case of total or constructive loss—NOT COMPLIANT WITH THE COAST GUARD ACT.

**Alternative 2 (status quo)** – AFA vessel owners are allowed to rebuild or replace their vessels, as provided in the Coast Guard Act.

***For AFA non-exempt vessels to fish in the GOA, a replacement/rebuilt vessel***

**Option 2.1:** May not exceed the most restrictive MLOA specified on any GOA LLP assigned to the vessel at the time the vessel owner applies to NMFS for replacement or rebuilding. (The MLOA of any BSAI LLP assigned to the vessel to be replaced does not apply.)

**Option 2.2:** May not exceed the most restrictive MLOA specified on any GOA LLP assigned to the vessel at the time the Coast Guard Act was approved (October 15, 2010). (The MLOA of any BSAI LLP assigned to the vessel to be replaced does not apply).

**Option 2.3:** Must abide by current 10% limit on increasing the existing length, horsepower, and tonnage, at the time the Coast Guard Act was approved (October 15, 2010).

***For AFA exempt vessels to fish in the GOA, a replacement/rebuilt vessel***

**Option 2.4:** May not exceed the LOA specified on the FFP for the vessel to be replaced or rebuilt at the time the Coast Guard Act was approved (October 15, 2010).

***Vessel removal provisions***

Upon removal of an exempt vessel, the sideboard exemption is extinguished and cannot be transferred to another vessel.

## **Potential Effects of the Alternatives and Options**

### **Alternative 1 (no action)**

Under Alternative 1 (no action), AFA vessels replacement would be based on the original AFA provisions only (prior to the signing of the Coast Guard Act). At that time, an AFA vessel could only be replaced in the event of a total or constructive loss of such vessel, and the replacement vessel was subject to limitations on vessel length, gross tons, and shaft horsepower. Replacement vessels under the no action alternative are also limited by the MLOA of the LLP license that is named on the vessel. In addition, the size of rebuilt or replaced AFA vessel under this alternative is also limited by the “large vessel” restrictions of the AFA. If a replaced AFA vessel is less than 165 feet in registered length and fewer than 750 gross registered tons, and has engines incapable of producing more than 3,000 shaft horsepower, the replacement vessel cannot exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the original vessel. If the eligible AFA replaced vessel exceeds 165 feet registered length or 750 gross registered tons, or produces more than 3,000 shaft horsepower, the replacement vessel must be the same or lesser registered length, gross registered tons, and shaft horsepower. Also vessels greater than these limitations are prohibited from obtaining a fishery endorsement, 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. Since the Council has not adopted such a measure for the AFA vessels under the no action alternative, any AFA vessel that does not already have a fishery endorsement, and is greater than 165 feet in length or that exceeds 750 tons, or 3,000 horsepower, could not receive a fishery endorsement under the no action alternative.<sup>1</sup>

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<sup>1</sup> The vessel size restriction contained in the original AFA applies to all U.S. fisheries. The AFA does provide authority, however, to regional fishery management councils, to allow for vessels larger than the stated size limits to operate in fisheries under their authority. Size restrictions appear to have been included in the original AFA as a tool to address overcapacity in fisheries. In Alaska, the Council has already removed vessel size restrictions for trawl

Both the LLP and the AFA restrictions were designed to stabilize capacity in fisheries. The MLOA was originally instituted in 1995, under the Council's groundfish vessel moratorium program. It was an initial step to contain the growth in capacity in the groundfish fisheries<sup>2</sup>, while the Council developed long-term, comprehensive management programs.

In general, the LLP and AFA restrictions prior to AFA revisions included in the Coast Guard Authorization Act of 2010 impeded AFA vessel owners in rebuilding or replacing their AFA vessels for the purposes of operational efficiency thereby limiting the opportunity for AFA vessel owners to improve efficiency of their AFA vessels. One of the primary advantages of replacing a fishing vessel is to incorporate improved hull design, engine efficiency, hold design, processing plant efficiency, and other advancements in marine design that improve a vessel's overall efficiency. Many of the existing AFA vessels were not original constructed as fishing vessels but were converted to such use. Inherently, these vessels are less well designed for fishing than a newly constructed fishing vessel would be. Replacing or rebuilding vessels for efficiency reasons allows owners the potential to reduce costs of production. In addition, liberalized vessel replacement rules for vessel owners may also provide opportunities to increase revenue through better use of catch.

### **Alternative 2 (status quo)**

Under Alternative 2 (status quo), owners of an AFA catcher processors and catcher vessels are allowed to rebuild or replace their vessel for improved vessel safety and operational efficiencies. The replacement or rebuilt vessel will be eligible in the same manner as the replaced vessel, and subject to the same restrictions as the replaced vessel. There are no size or horsepower limitations for rebuilt or replacement vessels.

The only limitation for AFA replacement and rebuilt vessels relate to their participation in the GOA. Under the status quo alternative, an AFA vessel that is rebuilt or replaced may participate in the BS regardless of whether the vessel length exceeds the MLOA. To participate in the GOA, however, the vessel must have a GOA endorsed LLP license with an MLOA that does not exceed the length of the replacement or rebuilt vessel. Replacement or rebuilt AFA vessels that exceed the MLOA any license assigned to the vessel at the time of replacement or rebuilding, may assign another GOA endorsed LLP license with an MLOA that does not exceed the vessel length to participate in the GOA.

The replacement (or rebuilt) vessel is eligible in the same manner as the replaced (or original) vessel, and subject to the same restrictions as the replaced vessel. Certain limitations applied to transferring of LLP licenses would no longer apply to transfers to an AFA replacement vessel. For example, the limitation on transferring a groundfish LLP once per year would not apply, if the second transfer is to a replacement vessel. In addition, transfers of a LLP from a replaced vessel to a replacement vessel, at the time of the replacement, is permitted, regardless of whether the replacement vessel exceeds the MLOA of the LLP license.

Fishing permits and licenses held by the owner of the original or replaced AFA catcher processors and catcher vessels shall be transferred to the rebuilt vessel or replacement vessel. Replacement AFA catcher vessels are prohibited from harvesting fish in any federal fishery outside of the North Pacific, except in the case of the Pacific whiting fishery. Replaced vessels are prohibited from fishing in any fishery (unless that vessel is used to replace another AFA vessel).

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catcher processors in the Amendment 80 sector and is considering liberalizing the restriction for the BSAI freezer longline sector.

<sup>2</sup> The Council analysis noted that restricting vessel length is not necessarily a guaranteed way to restrict vessel capacity, but that it was the best regulatory proxy at the time.

Owners of AFA catcher vessels that participate in an inshore cooperative may also remove a vessel from the BS pollock fishery and assign its directed pollock fishing allowance to one or more vessels in its cooperative as selected by the owner. Those vessels selected to receive the directed pollock allowance must remain in the cooperative for a least one year after the catcher vessel is removed from the fishery. The removed vessel is prohibited from fishing in any fishery except as a replacement AFA vessel. For inshore eligible AFA sideboard exempt catcher vessels, the Coast Guard Act makes no provision for the transfer of a sideboard exemption status to another inshore cooperative vessel. Recognizing the absence of direction in the Coast Guard Act on this issue, the Council clarified at the February 2012 meeting that the sideboard exempt status of removed inshore eligible AFA catcher vessels will be extinguished.

In addition to the no action and status quo alternatives, the Council at the February 2012 meeting adopted several options concerning AFA vessels participating in the GOA groundfish fisheries. These options address whether and how replaced or rebuilt AFA vessels may be used in the GOA.

### Catcher Processors

Under the status quo, AFA catcher processors owners are able to replace or rebuild their vessels without limits to the length, horsepower, or weight restrictions. Given the age of some of these catcher processors, there is the potential for improvement in operational efficiency amongst these vessels. AFA catcher processor fleet can take advantage of new hull designs and improved technology to increase operational efficiency of the vessel. However, given the current level of efficiency of most AFA catcher processors and the high cost of replacing AFA catcher processors, most owners of large AFA catcher processors would likely not replace their vessels in the immediate future. Owners of smaller and older AFA catcher processors, lacking a fish meal plant, are potentially more inclined to replace their vessels in the immediate future. Lacking the ability to produce fish meal and fish oil leaves these smaller vessels at a competitive disadvantage relative to larger AFA catcher processors.

There is likely limited opportunity for adverse effects in other BSAI fisheries from liberalizing vessel replacement provisions for AFA catcher processors, as most other available target fisheries for this fleet are already constrained by sector allocations and sideboards. Other than pollock and Pacific cod, which are allocated via sector allocations, the remaining groundfish fisheries in the BSAI are restricted by sideboard limits and are generally closed to directed fishing because the sideboard is insufficient to support a directed fishery.

One AFA catcher processor is eligible to fish in the GOA and has a Western GOA endorsement on its LLP license. This vessel would be limited to the MLOA on the GOA LLP license named on the vessel. The current length overall is 199 feet. The MLOA on its LLP license is 219 feet. Although this vessel is not limited by AFA GOA groundfish sideboards, the vessel is limited by Amendment 80 and Rockfish Program GOA sideboards.

Although nearly all of the AFA catcher processors meet the highest safety standard for fish processing in the United States, the average age of the AFA catcher processor fleet is approximately 38 years. As these vessels continue to age, replacement of some of the older and smaller vessels in this fleet may be desirable. Since all replacement vessels will be classed and loadlined, the ability to replace vessels for the purposes of improving safety will likely continue to result in improved safety for the sector.

### Catcher Vessels

Under the status quo, AFA catcher vessel owners are able to replace or rebuild their vessels without limits to the length, horsepower, or weight restrictions. Many of these vessels are older and were first used as oil field supply vessels that were later converted to pollock vessels. These vessels, relative to fishery specific vessels, are inefficient AFA catcher vessels. In addition, many of these vessels were built in era of open access fisheries. However, the implementation of AFA in 1999 introduced sector allocations for BSAI pollock and cooperative formation, which reduced significantly the race for fish in this fishery.

Liberalized vessel replacement and rebuilding provisions in the status quo alternative provides a greater opportunity for improved production efficiency relative to the no action alternative. Replacement or rebuilt AFA catcher vessels could use new molded hull designs that are more fuel efficient than old chine hulls.

The limitation on vessel length for participation in the GOA could limit the gains in operational efficiency for AFA catcher vessels. Under the status quo alternative, AFA catcher vessels that are rebuilt or replaced that exceed the MLOA specified on the most restrictive LLP license are prohibited from participating in the GOA groundfish fisheries. AFA vessels with little or no GOA groundfish history would likely discount the potential benefits of future GOA groundfish activity relative to the potential benefits gained from a more efficient operation in the BSAI from using a larger vessel.

There are 15 active AFA catcher vessels that are exempt from the GOA groundfish sideboards and additional 20 active AFA catcher vessels that have GOA endorsed LLP license that are restricted by GOA groundfish sideboards. The remaining 55 active AFA catcher vessels have a BS only endorsed LLP license. There are five AFA catcher vessels with multiple LLP licenses. Only two of these vessels have GOA endorsements. Each has only one license that has GOA endorsements; one with a Central GOA endorsement and one with both Central and Western GOA endorsement.

Given that all of the AFA catcher vessel owners with a LLP license can now replace or rebuild their vessels and even lengthen their vessels to some degree while still maintaining their ability to fish in the GOA, there is the potential these vessels could impact other GOA groundfish participants, particularly trawlers. There are number of trawl vessels that are active in the pollock, Pacific cod, flatfish, and rockfish fisheries in the Central GOA and slightly fewer vessels in the Western GOA. AFA sideboards for the GOA groundfish fisheries were designed to limit the impacts of AFA vessels on other GOA groundfish participants, but there is still the potential for replaced or rebuilt AFA catcher vessels to impact non-AFA trawl vessels. The primary reason GOA sideboards are limited in protecting non-AFA vessels is because much of the sideboard limits were unharvested. In absence of AFA sideboard activity, the non-AFA trawlers have increased their dependency on these GOA groundfish fisheries.

As for impacts to the non-AFA vessels that operate in the BSAI, the impacts will likely be restricted to the Pacific cod fishery, particularly the winter cod fishery. The remaining groundfish fisheries are sideboarded and are typically closed to the AFA catcher vessels, as the available sideboard amounts are inadequate to support directed fishing. The vessel replacement provisions in status quo could increase the potential for adverse impacts to non-AFA trawl catcher vessels through shortened season from increased harvest capacity on the winter cod grounds.

Potential implications to GOA groundfish fisheries also exist when an AFA catcher vessel owner wants to build a replacement or rebuilt vessel that is longer than vessel's MLOA. Under this option, the vessel owner could purchase an LLP license with a MLOA that can accommodate the new vessel length prior to entering the GOA groundfish fisheries. From the perspective of the GOA groundfish fisheries, allowing non-exempt AFA catcher vessels owners to purchase LLP licenses with a longer MLOA could impact other GOA trawl groundfish participants. The impact on other GOA groundfish participants from non-exempt AFA catcher vessels that entry the GOA fisheries using an LLP license that accommodates the vessel's expanded length are ultimately limited by GOA sideboard restrictions and the limited quantity of GOA endorsed LLPs that can accommodate these vessels. Nearly all of the trawl catcher vessel LLP licenses with Central GOA and Western GOA endorsements have a MLOA less than 125 feet LOA. Since there is an absence of trawl catcher vessel LLP licenses with GOA endorsements that have an MLOA greater than 125 feet LOA, AFA exempt and non-exempt catcher vessels would likely expand vessel lengths using the MLOA of the LLP license current named on the vessel thereby limiting the impact to non-AFA trawl GOA groundfish participants from a significant influx of new vessel capacity.

The ability to remove inshore eligible AFA catcher vessels would likely improve operational efficiency of the fleet by eliminating unnecessary storage of inactive, obsolete vessels. Since AFA prevented owners from permanently transferring pollock quota, these inefficient inshore eligible AFA catcher vessels were then either placed into storage or where utilized in other maritime activities. However, since enactment of the Coast Guard Authorization Act of 2010, vessel owners of inshore eligible AFA catcher vessels can now permanently retire inshore eligible AFA catcher vessels from the fishery by transferring the vessel's pollock quota to other AFA catcher vessels in the inshore cooperative. This approach allows inshore eligible AFA catcher vessels to take advantage of the efficiency gains from stacking pollock quota from removed vessels on more efficient AFA catcher vessels. In addition, the ability to replace or rebuild vessels without limitations (except GOA vessels) may complement the efficiency gains from removing vessels by allowing the larger replacement vessels to be designed to accommodate the additional pollock quota.

As for safety, only four AFA catcher vessels are classed and loadlined certified. The remainder of the fleet is only required to meet the basic fishing vessel safety regulations found in 46 CFR Part 28. Any newly-built AFA catcher vessels would have to meet the requirements for classification and loadline. Existing AFA catcher vessels (built before 1995) which are modified in a way that changes their dimensions (lengthening, sponsoning, changes in fish hold size) after July 1, 2012 would have to meet yet to be developed Alternate Safety Compliance program standards required by the Coast Guard Authorization Act of 2010 (46 USC 4503(d)(2)). An Alternate Safety Compliance program has not been developed at this time. When such a program is developed, it will be developed in cooperation with the commercial fishing industry and may be developed for a specific region and fishery (such as the AFA catcher vessel fleet). Since all replacement AFA catcher vessels will be classed and loadlined, and extensively modified AFA catcher vessels must meet the ACSA standards, the replacement and rebuilt AFA catcher vessels will likely improve the safety of the fleet.

### **Options for Non-Exempt AFA Catcher Vessels**

**Option 2.1:** May not exceed the most restrictive MLOA specified on any GOA LLP assigned to the vessel at the time the vessel owner applies to NMFS for replacement or rebuilding. (The MLOA of any BSAI LLP assigned to the vessel to be replaced does not apply.)

Option 2.1 would prohibit a replaced or rebuilt non-exempt AFA vessel that exceeds the most restrictive MLOA on a GOA LLP license assigned to the vessel at the time the owner applies to NMFS for replacement or rebuilding from participating in the GOA groundfish fisheries. This alternative would allow AFA vessels with a BSAI endorsed LLP license to purchase a GOA endorsed LLP license prior to applying to NMFS for replacement or rebuilding in order to participate in the GOA groundfish fisheries with a replacement or rebuilt vessel. The GOA limitation in this option is the same GOA limitation in the status quo alternative.

In assessing this option, the Council should consider an aspect of the provision that could be inequitable to some vessels, particularly those with current activity in the GOA fisheries. A vessel that has historically fished with a license endorsed for both the GOA and BS might later acquire a larger second GOA license to assign to the vessel to allow for replacement or rebuilding to a length greater than its BS/GOA license MLOA. This vessel would be precluded from fishing in the GOA under this option, despite its second GOA license because it is limited by the most restrictive MLOA of the GOA licenses. Compare this to a vessel that is replaced or rebuilt that has a BS only license with the same MLOA as the other vessel's original license. This vessel could acquire the same larger MLOA GOA license prior to replacement or rebuilding and would be allowed to fish in the GOA fisheries because it did not have a GOA endorsement on its original BS license. A cleaner option would allow a vessel to participate in any GOA management area (CGOA or WGOA) provided the replacement or rebuilt vessel does not exceed the MLOA on the least restrictive license for that area at the time of replacement or rebuilding. This

provision would allow vessel to continue any GOA fishing provided they meet the requirements of their LLPs for the respective areas at the time of vessel replacement or rebuilding. Any other option would create an environment in which vessels have an incentive to move licenses on and off vessels prior to replacement or rebuilding to maximize fishing opportunities in the GOA fisheries. Alternatively, the Council could choose a different option that more directly and clearly defines fishing opportunities.

This option, similar to the status quo alternative, provides the opportunity for an owner of a non-exempt AFA catcher vessel to enter GOA fisheries after replacement or rebuilding the vessel. However, this option could reduce efficiency gains slightly from the status quo by limiting replacement and rebuilt non-exempt AFA catcher vessels to the most restrictive MLOA of the GOA endorsed LLP licenses, at the time of replacement. The ability to use a vessel in the GOA is curtailed to a large degree by the number of LLP licenses endorsed for the GOA that have an MLOA greater than 124 feet. Nevertheless, the ability to enter non-exempt AFA catcher vessels in the GOA could allow for greater gains in efficiency of replacement and rebuilt vessels less than 124 feet.

Similar to the status quo alternative, under this option, owners of AFA catcher vessels will likely take into consideration the costs and benefits of participating in both the BSAI and GOA groundfish fisheries while including the potential for lower efficiency gains from a limitation in vessel length. In general, non-exempt AFA catcher vessels with extensive GOA groundfish history would likely be deterred from building beyond any constraining GOA license MLOA. Non-exempt AFA catcher vessels with little or no GOA groundfish history would likely discount the potential benefits of future GOA groundfish active relative to the potential benefits gained from a more efficient operation in the BSAI potentially brought about by a larger vessel. However, it is possible that some vessels may coordinate their choices with other vessels. By defining GOA eligibility on the license assigned to a vessel at the time of rebuilding or replacement, this option allows for greater coordination across AFA vessels, which could result in changes in participation patterns of AFA vessels in GOA fisheries. These changes in participation should maintain similar opportunities for efficiency improvements in the AFA catcher vessel fleet, as a whole, under this option, in comparison to the status quo.

Given that non-exempt AFA catcher vessels could be replaced or rebuilt under this option, while maintaining their eligibility to fish in the GOA, there is some potential these replacement or rebuilt vessels could impact other GOA groundfish vessels, particularly trawl vessels. Although GOA groundfish sideboards provide an upper limit for non-exempt AFA catcher vessels, there still exists the potential for replacement or rebuilt non-exempt AFA catcher vessels to impact non-AFA trawl vessels.

The most prevalent effect likely arises from the entry of vessels from the AFA that are not increased in size, which are freed up by other vessels in the AFA increasing their harvest capacity in the Bering Sea. For example, if a few vessels in a cooperative are replaced by vessels with substantially greater harvest capacity, it is possible that other vessels in that cooperative that have not been replaced or rebuilt may enter the GOA fisheries (with either their own GOA endorsed license or possibly with a transferred license from either another AFA vessel or a non-AFA vessel. The effects of this type of entry will be limited by sideboards, natural constraints on efficiency gains that might deter this practice, and by the availability of licenses needed to qualify the various vessels for the BS and GOA fisheries.

**Option 2.2:** May not exceed the most restrictive MLOA specified on any GOA LLP assigned to the vessel at the time the Coast Guard Act was approved (October 15, 2010). (The MLOA of any BSAI LLP assigned to the vessel to be replaced does not apply).

Option 2.2 is the most restrictive option applicable to non-exempt AFA catcher vessels and the most directly interpretable and predictable. Under it, a replaced or rebuilt non-exempt AFA catcher vessel is prohibited from operating in the GOA if the vessel's LOA exceeds the most restrictive MLOA specified on any GOA LLP license assigned to the AFA vessel at the time the Coast Guard Act was approved



(October 15, 2010). LLP licenses endorsed only for the BS are not considered in determining the constraining MLOA. By applying the license on a particular date, this option clearly defines vessels that are and are not eligible to continue in the GOA, if those vessels are replaced. Yet, in considering the effects of the action, it must be noted that vessels that are not replaced or rebuilt are free to enter the GOA fisheries, provided they carry the requisite LLP.

On October 15, 2010, there were a total of 20 non-exempt AFA catcher vessels that were active in the GOA groundfish fisheries (see Table 1-33 and Table 1-39). Of the 20 AFA non-exempt catcher vessels with GOA endorsed LLP licenses, 12 vessels are within 10 feet of their MLOA, 5 vessels are within 10 feet and 20 feet of their MLOA, and 4 vessels are within 20 feet and 50 feet of their MLOA. 15 of the non-exempt AFA catcher vessels have a Central GOA endorsement and 9 vessels have Western GOA endorsements.

This option, unlike status quo and Option 2.1, specifies the non-exempt AFA catcher vessels that, as of October 15, 2010, can be replaced or rebuilt and are thereafter participate in the GOA groundfish fisheries. In addition, this option specifies constraints on the vessel length for the rebuilt or replacement vessel.

This option reduces production efficiency gains slightly from the preceding option. Similar to the other options, owners of non-exempt AFA catcher vessels may replace or rebuild their vessels in order improved production efficiency through more efficient hull forms or more efficient propulsion systems. However, this option may deter some vessel replacement and rebuilding and consequent efficiency gains by prohibiting the replacement and rebuilt vessel from participating in the GOA if its length exceeds the most restrictive MLOA on a GOA endorsed LLP license assigned to the vessel on October 15, 2010. Relative to both of the preceding options, this alternative provides less flexibility since the owner of the non-exempt AFA catcher vessel is constrained by the MLOA of GOA endorsed LLP licenses assigned to the vessel on October 15, 2010. In other words, reassignment of licenses that have a larger MLOA at the time of rebuilding or replacing the vessel will not allow the vessel to be extended beyond the MLOA of the most restrictive GOA endorsed LLP license on the vessel on the date specified in the Coast Guard Act. This limitation could deter some vessel owners from rebuilding or replacing a vessel (or limiting the size increase from the rebuilding or replacing), if that vessel historically participated in the GOA fisheries.

Option 2.2 is more protective of non AFA GOA groundfish participants than the status quo or Option 2.1. Given that all 20 non-exempt AFA catcher vessels with GOA endorsed LLP licenses can now be replaced or rebuilt to a larger length, to some degree, there is the potential for these replacement or rebuilt vessels to impact other GOA groundfish vessels, particularly trawl vessels. As seen in Table 1-34 and Table 1-35, there are number of trawl vessels that are active in the GOA pollock, Pacific cod, flatfish, and rockfish fisheries in the GOA. Although GOA groundfish sideboards provide an upper limit for non-exempt AFA catcher vessels, there still exists the potential for replaced or rebuilt AFA catcher vessels to impact non-AFA trawl vessels. However, unlike the status quo alternative and Option 2.1, this alternative specifies 20 GOA eligible non-exempt AFA catcher vessels that can be replaced or rebuilt and participate in the GOA. As shown in Table 1-37 and Table 1-38 these 20 non-exempt AFA catcher vessels that participated in the GOA retained significantly less GOA groundfish relative to the non-AFA catcher vessels. In considering the effects of the option, it should be noted that any vessel that is not replaced or rebuilt could still be entered into a GOA fishery, provided that vessel carries an LLP license that qualifies it for the fishery. As a result, vessel replacements and rebuilds could still impact GOA fisheries, by new participants entering with licenses from current participants who choose to exit after replacement or rebuilding. If AFA participants choose to take advantage of these opportunities to enter vessels that have not be rebuilt or replaced, the differences between this option and the other options for non-exempt vessels is limited.

**Option 2.3:** Must abide by current 10% limit on increasing the existing length, horsepower, and tonnage, at the time the Coast Guard Act was approved (October 15, 2010).

Option 2.3, in contrast to the previous two options and status quo alternative, takes a different approach to limiting AFA replacement or rebuilt vessels operating in the GOA. Under this option, a replacement or rebuilt AFA vessel cannot exceed by more than 10 percent the original registered length (LOA), gross registered tons, or shaft horsepower of the replaced AFA catcher vessel active on October 15, 2010. Unlike the status quo and Options 2.1 and 2.2, which are based on the MLOA of the LLP, this alternative is a vessel replacement limitation based on the registered length, tons, and horsepower of the existing AFA catcher vessel. The replacement or rebuilt vessel would still require a LLP license with the appropriate GOA endorsement and MLOA.

The restriction to not exceed 10 percent of the original vessel's registered length, gross registered tons, and shaft horsepower will limit the scope of efficiency gains for replaced or rebuilt non-exempt AFA catcher vessels. However, unlike status quo and Options 2.1 and 2.2 under which the limit on vessel applies only to vessel length, this option limits the increase of vessel's horsepower and gross tons. Restricting a replacement or rebuilt non-exempt AFA catcher vessel by its lengths, tons, and horsepower limits could limit the available choices on hull designs and propulsion systems thereby potentially reducing operational efficiency of replacement or rebuilt vessels.

The production efficiency gains under this alternative are similar to those under the status quo and other options applicable to non-exempt AFA vessels. Although this alternative is more restrictive on entry to the GOA fisheries by rebuilt or replacement vessels, the ability of AFA vessels to move permits among vessels to facilitate entry to the GOA fisheries by vessels that have not been replaced or rebuilt should limit the effect of this option on efficiency, in comparison to the other options. As a consequence of this mobility of licenses, it is likely that vessels will continue to participate in the GOA fisheries through the strategic movement of licenses among vessels.

When rebuilding or replacing their non-exempt AFA catcher vessel, an owner with a GOA endorsed LLP license would likely take into consideration the costs and benefits of participating in both the BSAI and GOA groundfish fisheries while abiding by the vessel length limitation relative to the cost and benefits of participating in only the BSAI groundfish fisheries with no limitation on vessel length. In general, the GOA groundfish history of these GOA active non-exempt AFA catcher vessels will deter owners from rebuilding or replacing their non-exempt AFA catcher vessels that exceed the 10 percent limitation on length, tons, and horsepower.

Similar to status quo alternative and Options 2.1 and 2.2, Option 2.3 has the potential to impact other GOA groundfish participants. Given that all 20 non-exempt AFA catcher vessels with GOA endorsed LLP licenses can now be replaced or rebuilt while still maintaining their ability to fish in the GOA, there is the potential these replacement or rebuilt vessels, through expanded harvest capacity, could impact other GOA groundfish vessels, particularly trawl vessels. Although non-exempt AFA catcher vessels are limited by GOA groundfish sideboards, there still exist the potential for replacement or rebuilt AFA catcher vessels to impact non-AFA trawl vessels. In addition, if other AFA vessels increase their harvest capacity and catch portions of the quota available to GOA eligible non-exempt vessels, those non-exempt vessels may be able to increase their fishing effort in the GOA (even without being replaced).

In addition, it is possible for other vessels that have not been replaced or rebuilt to enter the GOA fisheries, if those vessels are assigned GOA licenses with adequate MLOAs. However, this alternative is likely to have less potential effect relative to status quo alternative and Option 2.1 since this option specifies only 20 non-exempt AFA catcher vessels that can be replaced or rebuilt and participate in the GOA. In addition, these 20 non-exempt AFA catcher vessels that participated in the GOA retained significantly less GOA groundfish relative to the non-AFA catcher vessels.

## **Option for Sideboard Exempt Vessels**

**Option 2.4:** May not exceed the LOA specified on the FFP for the vessel to be replaced or rebuilt at the time the Coast Guard Act was approved (October 15, 2010).

This option applies specifically to GOA sideboard exempt AFA catcher vessels. Under Option 2.4, an AFA sideboard exempt catcher vessel may not exceed its length overall (LOA) specified on its Federal Fishing Permit (FFP) on the date the Coast Guard Act was approved (i.e., October 15, 2010) and continue to participate in the GOA fisheries.<sup>3</sup> Although this option allows an AFA sideboard exempt catcher vessels participating in the GOA groundfish fisheries to be replaced or rebuilt and continue to participate in the GOA fisheries, it is substantially more restrictive than the status quo. In any case, vessels subject to this provision would be permitted to replace or rebuild the vessel beyond the LOA on the FFP, but would then be prohibited from participating in GOA fisheries.

As noted in Table 1-33, there were 15 active AFA catcher vessels that are exempt from the GOA groundfish sideboards. Each of the 15 exempt vessels has a Central GOA endorsement and 11 have Western GOA endorsements. Despite the flexibility provided by the LLP MLOAs, these vessels will be constrained by this option from increasing in length beyond their current length.

In general, this option provides the owners of AFA sideboard exempt catcher vessels with the ability to replace or rebuild their vessels, which could provide improved production efficiency relative to the current regulations. Examples of the types of changes that could increase potential operational efficiency might include a more efficient hull form or a more proficient propulsion system. Combined, these two changes alone could increase the fuel efficiency of a vessel.

However, this option would limit the potential greater efficiency gains relative to status quo alternative since the option prohibits replacement or rebuilt AFA sideboard exempt catcher vessels from participating in the GOA if the vessel length exceeds the reported length on the FFP. Vessel owners will weigh the costs and benefits of exceeding the FFP length on rebuilding or replacing the vessel and being prohibited from participating in the GOA groundfish fisheries against not exceeding the FFP length on rebuilding and replacing the vessel and being permitted to continue to operate in the GOA fisheries with the sideboard exemption. In general, given the importance of the GOA groundfish fisheries for these AFA sideboard exempt catcher vessels, these vessels are not likely to replace or rebuild their vessels beyond the FFP vessel length.

Option 2.4 has the potential to impact other GOA groundfish participants, but likely to a much lesser degree than the status quo alternative. This option allows for AFA vessel owners to replace or rebuild their vessels for purposes of improving operational efficiency and safety, which could provide an increased opportunity for gains in harvest capacity that could be used in the GOA groundfish fisheries. There are 15 AFA sideboard exempt catcher vessels with lengths ranging from 77 feet to 107 feet. As noted in Table 1-20 and Table 1-21, AFA sideboard exempt catcher vessels activity in the Central GOA groundfish fisheries is extensive and is nearly equal to the history of the non-AFA trawl catcher vessels, as noted in Table 1-34 and Table 1-35. However, this option, relative to status quo, is not anticipated to have a substantial effect on non-AFA trawl vessels in the GOA groundfish fisheries since the proposed alternative prohibits replacement or rebuilt vessels that exceed the reported FFP from participating in these fisheries. Some efficiency gains could in replaced or rebuilt vessels could allow these vessels to be

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<sup>3</sup> The vessel length reported on the FFP is supplied by the applicant and is not verified, so vessel lengths for the same vessel can vary from year to year as the FFP application is renewed. Other potential sources of vessel length are those reported the U.S. Coast Guard and Commercial Fisheries Entry Commission (CFEC). The vessel length reported by the U.S. Coast Guard is measured at the water line, whereas the of the CFEC vessel length is also provided by the applicant but does not vary from to year since the application does not need renewing.

more competitive in the GOA fisheries, but non AFA vessels in those fisheries can maintain their competitiveness by similarly replacing or rebuilding their vessels (as is permitted by their LLPs). Owners of these non AFA vessels, in some cases, may have fewer resources, as the AFA allocations provide some financial security to their holders.

### **Vessel Removal Provision**

Finally, the Council has clarified that the sideboard exemption status will be extinguished upon removal of an exempt vessel. Specifically, the Coast Guard Act enables an owner of an AFA catcher vessel that delivers to a shoreside processor to remove the vessel from the Bering Sea pollock fishery and assign the vessel's directed pollock fishing allowance to other vessels in the cooperative, but the Coast Guard Act does not address the transfer of GOA sideboard exemption. The Council clarification makes it clear that that GOA sideboard exemption status will be extinguished when an AFA catcher vessel is removed and not replaced. This clarification is included in the status quo alternative, so see status quo for the effects of this clarification.