

Amendment 97
to the Fishery Management Plan for Groundfish of the
Bering Sea and Aleutian Islands Management Area

Deletions are stricken and additions are in bold.

1. In the Executive Summary, the following table entries is revised to read as follows:

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<p><u>Aleutian Islands Pacific ocean perch, Atka mackerel, flathead sole, rocksole, Pacific cod, and yellowfin sole (Amendment 80 species)</u></p>	<p><u>Access:</u> Limits trawl sector catch by creating allocations between non-AFA trawl catcher/processors (i.e., non-AFA trawl catcher/processors as defined in Section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447), or their replacements (see Section 3.7.5.8.3)), and all other trawl gear sectors.</p> <p><u>Allocation:</u> After adjustment for the community development quota allocation (see below), incidental catch of these species (except Pacific cod) in other fisheries, and the allocation of Atka mackerel to jig gear, the TAC is apportioned between the non-AFA trawl catcher/processors and all other trawl fishery participants.</p> <p><u>Cooperatives:</u> Creates standards and limitations for the creation and operation of cooperatives.</p> <p><u>Sideboards:</u> Establishes harvesting and processing restrictions for non-AFA trawl catcher/processors in the GOA to protect other fisheries.</p> <p><u>Catch monitoring:</u> Increases observer coverage and scale requirements for non-AFA catcher/processors.</p>
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2. In Section 3.3.1.1 Elements of the License Limitation Program is revised to read as follows:

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5. License Designations. Licenses and endorsements will be designated as Catcher Vessel or Catcher Processor and with one of three vessel length classes (less than 60 ft LOA, greater than or equal to 60 ft but less than 125 ft LOA, or equal to or greater than 125 ft LOA). Vessels less than 60 ft LOA with a catcher vessel designation may process up to 1 mt (round weight) of fish

per day.

The maximum length overall of a non-AFA trawl catcher/processor replacement vessel (see Section 3.7.5.8.3) is 295 feet LOA (i.e., 295 feet maximum LOA).

General licenses will also contain a gear designation (trawl gear, non-trawl gear, or both) based on landings activity in any area through June 17, 1995. Vessels that used both trawl and non-trawl gear during the original qualification period would receive both gear designations, while vessels that used only trawl gear or only non-trawl gear during the original qualification period (general or endorsement period) would receive one or the other. For vessels that used only one gear type (trawl or non-trawl) in the original qualification period, and then used the other gear type between June 18, 1995 and February 7, 1998, the license recipient may choose one or the other gear designation, but will not receive both. For vessels that used only one gear type (trawl or non-trawl) in the original qualification period, but made a significant financial investment towards conversion to the other gear type or deployment of such gear on or before February 7, 1998, and made landings on that vessel with the new gear type by December 31, 1998, the license recipient may choose which gear designation to receive, but not both. A significant financial commitment is defined as a minimum purchase of \$100,000 worth of equipment specific to trawling or having acquired groundline, hooks or pots, and hauling equipment for the purpose of prosecuting the non-trawl fisheries on or by February 7, 1998.

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7. Vessel/License Linkages. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than the one to which the license was initially issued. However, the new vessel is still subject to the license designations, vessel upgrade provisions, ~~—20 percent upgrade rule (defined in provision seven)~~, and the no leasing provision. Licenses may be applied to vessels shorter than the maximum LOA allowed by the license regardless of the vessel's length designation. Vessels may also use catcher processor licenses on catcher vessels. However, the reverse is not allowed.

Notwithstanding the above, licenses earned on vessels that did not hold a Federal fisheries permit prior to October 9, 1998, may be transferred only if the vessel originally assigned the license is transferred along with the license, unless a fishing history transfer occurred prior to February 7, 1998, in which case the vessel does not have to accompany the license earned from that fishing history; however, any future transfer of that license would have to include that vessel.

A license that was originally assigned to, or designates, a non-AFA trawl catcher/processor may only be used on a non-AFA trawl catcher/processor, **or its replacement under Section 3.7.5.8.3.**

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9. Vessel Replacements and Upgrades. **Generally,** ~~∇~~vessels may be replaced or upgraded within the bounds of the vessel length designations and the **“20 percent rule”**. This rule was originally defined for the vessel moratorium program. The maximum LOA with respect to a vessel means the greatest LOA of that vessel or its replacement that may qualify it to conduct directed fishing for groundfish covered under the license program, except as provided at § 679.4(d). The

maximum LOA of a vessel with license qualification will be determined by the Regional Administrator as follows:

d. **a.** For a vessel with license qualification that is less than 125 ft LOA, the maximum LOA will be equal to 1.2 times the vessel's original qualifying length or 125 ft, whichever is less; ~~and~~

e. **b.** For a vessel with license qualification that is equal to or greater than 125 ft, the maximum LOA will be equal to the vessel's original qualifying length; **and**

c. For an Amendment 80 replacement vessel that is named on an Amendment 80 LLP license, the maximum LOA is 295 feet (see section 3.7.5.8.3).

If a vessel upgrades under the "20 percent rule" to a length which falls into a larger license length designation after June 17, 1995, then the vessel owner would be initially allocated a license and endorsement(s) based on the vessel's June 17, 1995, length. Those licenses and endorsements could not be used on the qualifying vessel, and the owner would be required to obtain a license for that vessel's designation before it could be fished.

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3. In Section 3.6.2 Prohibited Species Catch Limits, is revised to read as follows:

When a target fishery, as specified in regulations implementing the FMP, attains a prohibited species catch (PSC) limit apportionment or seasonal allocation as described in the FMP (Section 3.6.2) and specified in regulation implementing the FMP, the bycatch zone(s) or management area(s) to which the PSC limit apportionment or seasonal allocation applies (described in Section 3.6.2.2) will be closed to that target fishery (or components thereof) for the remainder of the year or season, whichever is applicable. The procedure for apportioning PSC limits described in Section 3.6.2.3 does not apply to PSC assigned to the CDQ Program (Section 3.7.4), to a non-AFA trawl catcher/processor cooperative (Section 3.7.5), or to the BS Chinook salmon PSC limit (Section 3.6.2.1.6).

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4. In Section 3.7.5.4.2 Allocation Formula, paragraph #10 is revised and a new paragraph #11 is added to read as follows:

The amount of QS that is attributable to a specific non-AFA trawl catcher/processor is calculated as follows:

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10. Each eligible vessel will generate one QS permit. QS permits are not separable or divisible. The catch history credited to an eligible vessel will be the legal landings of that vessel. ~~In the event of the actual total loss or constructive total loss of a vessel, or permanent inability of a vessel to be used either before or after the qualifying period, the vessel owner may transfer the legal landings, or QS permit to the LLP license that was originally issued for that vessel. Once~~

~~the catch history has been assigned to the license, that license must be used on an eligible Non-AFA Trawl/CP vessel.~~

11. Each owner of an eligible vessel can assign a QS permit from an original qualifying Amendment 80 vessel to a replacement vessel or permanently affix the QS permit to the LLP license derived from the originally qualifying vessel. Once the QS permit has been assigned to the LLP license, that license must be used on an eligible non-AFA trawl catcher/processor vessel. A replacement vessel cannot enter an Amendment 80 fishery without a QS permit being assigned to that vessel or an LLP license on which that replacement vessel is named. Persons holding a QS permit associated with a vessel that is permanently ineligible to re-enter U.S. fisheries are eligible to replace the vessel associated with its QS permit.

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5. In Section 3.7.5.7 GOA Sideboard Limits, is revised to read as follows:

Sideboard limits maintain relative amounts of non-allocated species until such time that fisheries for these species are further rationalized in a manner that would supersede a need for these sideboard provisions. Sideboards shall apply to all eligible licenses and associated non-AFA trawl catcher/processors from which the catch history arose, **and their replacements (see Section 3.7.5.8.3). Each non-AFA trawl catcher/processor named on an LLP license endorsed for participation in the Amendment 80 sector, but not assigned QS in an Amendment 80 fishery would have a sideboard limit of zero in all BSAI and GOA groundfish fisheries.**

6. Section 3.7.5.7.1 GOA sideboard provisions, is revised as follows:

GOA pollock, Pacific cod, and directed rockfish species (Pacific ocean perch, northern rockfish and pelagic shelf rockfish) sideboards for the non-AFA trawl catcher/processor sector are established based on retained catch by regulatory areas from 1998 through 2004 as a percentage of total retained catch of all sectors in that regulatory area.

GOA flatfish prohibitions

* ~~A~~ ~~v~~ vessels that has ~~ve~~ GOA weekly participation of greater than 10 weeks in the flatfish fishery during 1998 through 2004, **or its replacement (see Section 3.7.5.8.3)**, will be eligible to participate in the GOA flatfish fisheries.

GOA halibut PSC limits

* GOA-wide halibut sideboard limits for the deep-water and shallow-water complex fisheries are established by season based on the actual usage of the non-AFA trawl sector during 1998 through 2004.

Exemption from GOA halibut sideboard limit

* ~~A~~ ~~N~~non-AFA trawl ~~CP~~ **catcher/processor** vessel(s) that fished 80% of ~~their~~ **its** weeks in the GOA flatfish fisheries from January 1, 2000 through December 31, 2003, **or their replacement (see Section 3.7.5.8.3)**, will be exempt from GOA halibut sideboards in the GOA. ~~VA~~ vessel(s) **that is** exempted from Amendment 80 halibut sideboards in the GOA may participate fully in the GOA open-access flatfish fisheries. ~~An~~ ~~E~~exempt vessel(s), **including their replacement (see Section 3.7.5.8.3)**, will be prohibited from **conducting** directed fishing for all other sideboarded species in the GOA (rockfish, Pacific cod, and pollock). The history of ~~an~~ exempt vessels will not contribute to the non-AFA trawl ~~CP~~ **catcher/processor** sideboards and ~~their~~ **its** catch will not be subtracted from these sideboards.

7. In Section 3.7.5.8 Other Elements of Amendment 80, a new section is added as follows:

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3.7.5.8.3 Vessel Replacement

The owner of an Amendment 80 vessel may replace that vessel with another vessel for any reason. Only one Amendment 80 replacement vessel may be used at any given time, (i.e. up to a one-for-one replacement). The maximum LOA of a replacement vessel is 295 feet. Persons holding a QS permit associated with a vessel that is permanently ineligible to re-enter U.S. fisheries, including persons holding an Amendment 80 LLP/QS licenses, are eligible to replace the vessel associated with its QS permit.

Any vessel replaced under this program may be used to replace other Amendment 80 vessels. All Amendment 80 replacement vessels must be classed and loadlined or meet the requirements of U.S. Coast Guard Alternative Compliance and Safety Agreement to be used to replace other Amendment 80 vessels.

Any Amendment 80 replacement vessel that is greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower is authorized for use in the EEZ under the jurisdiction of the North Pacific Fishery Management Council is eligible to receive a certificate of documentation consistent with 46 U.S.C. 12113(d) and MARAD regulations at 46 C.F.R. 356.47.

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8. In Appendix 1 is amended to add the following text in section A.1 Amendments to the FMP in chronological amendment order as follows:

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Amendment 93, implemented on December 5, 2011:

Modified the criteria for forming and participating in an Amendment 80 harvesting cooperative by—

- **Reducing the minimum number unique persons and licenses required to form a harvesting cooperative from 3 persons and 9 licenses to 2 persons and 7 licenses, and**

- **Requiring that for the 2014 fishing year and thereafter, a person assign all QS permits either to one or more cooperatives or to the limited access fishery, but not to both during the same calendar year (Beginning 2014).**

Amendment 97, implemented on _____:

Established a process for the owners of originally qualifying Amendment 80 vessels to replace each trawl catcher/processor vessels for any purpose, limited the length of Amendment 80 replacement vessels, established up to a one-for-one replacement; restricted replaced vessels from entering an Amendment 80 fishery, and established sideboard limits of zero for all BSAI and GOA groundfish fisheries for Amendment 80 vessels not assigned to the Amendment 80 fishery.

9. Revisions as necessary to the Table of Contents.