

ADVISORY PANEL
Motions and Rationale
April 2-6, 2024 - Anchorage, AK

Motion 1

D2 Maximum Retainable Amount Adjustments

The AP recommends the Council move the Maximum Retainable Amounts (MRA) Discussion Paper forward as an Initial Review Analysis. For the analysis, the Council should consider a Purpose and Need Statement that incorporates the following points:

- MRA regulations have been developed ad hoc over multiple decades.
- Current MRA regulations need to be updated for improved clarity and reduced complexity.
- Modifying existing MRA trip triggers and accounting will lead to a reduction of unnecessary and wasteful regulatory discards.

The Council should consider the following alternatives for analysis. Alternatives 2, 3, and 4 are not mutually exclusive. Under any of the alternatives, the intention for catcher/processors and motherships is that when and where a species is open to directed fishing that vessels be able to retain all catch and when and where a species is closed to directed fishing they be bound by the MRA. The intention is not for the lowest MRA encountered to apply for the duration of the trip.

Alternative 1: No action (status quo).

Alternative 2: Revise the triggers that end a fishing trip from five to two triggers in the definition of a fishing trip for catcher/processors and motherships. Two triggers would remain: (1) when all fish or fish product is offloaded and (2) if the vessel changes authorized gear type.

Alternative 3: Add additional species to an offload-to-offload MRA application in the BSAI and GOA for all vessel sectors.

Option 1: add BSAI Pacific cod, GOA Pacific cod, GOA pollock, GOA shallow-water flatfish (Increased Retention/Increased Utilization (IR/IU) species), BSAI skates, GOA skates and CGOA Rockfish Program.

Option 2: include all groundfish species.

Alternative 4: Provide exemptions in regulation from MRA requirements in cases of medical emergencies, mechanical emergencies, or poor weather that ends a fishing trip. Triggers that should be considered for an MRA regulatory exception include USCG Form #2692, the Bridge Logbook, or Catcher Vessel Daily Fishing Log (DFL).

The AP recommends that the analysis include all suggested regulatory language revisions identified by NMFS.

Motion passed: 20/0

Rationale in Favor of Motion

- *MRA regulations are important as they allow for retention of unavoidable incidental catch in other target fisheries, thereby allowing for increased utilization where a directed fishery is not possible. However, these regulations have developed and evolved over multiple decades creating a patchwork of rules and requirements that lead to confusion and unnecessary waste. Updating the MRA regulations is needed to improve clarity, reduce complexity, and reduce regulatory discards.*
- *The AP is in agreement that the NMFS recommendations are important to move forward and the intent of the last part of the motion is to have all of NMFS' proposed clarifications contained and analyzed.*
- *There is broad support from multiple different fishing sectors in both the Bering Sea and Gulf of Alaska for moving this to initial review, which is indicative of the overarching positive benefits this action will have.*
- *The positive changes anticipated from this action fit under one of the goals of NOAA's National Seafood Strategy to "Maintain or increase sustainable U.S. wild capture production". They also align with the Alaska Bycatch Taskforce's recommendation where "The State of Alaska should support taking incremental measures through the regulatory process to improve bycatch utilization with a particular focus on species that are otherwise marketable but are caught with non-targeted gear, or discards in a directed fishery that are required by regulation."*
- *There is potential for this action to change fishing behavior that further maximizes MRA utilization and the AP hopes the analysis will include potential changes to fishing behavior.*
- *While changes to MRAs are intended to improve IR/IU and reduce discards, the third bullet for use in the purpose and need could use the word "should" to replace "will" as that is the goal but hasn't been determined in all cases.*
- *Specific to Alternative 2:*
 - *Alternative 2 revises the fishing trip definition for CPs and motherships, changing it from a definition with 5 separate triggers, to a definition with 2 triggers. This would simplify an extremely complex regulatory definition of "fishing trip" into a current common English language understanding of a "fishing trip" – that is, a fishing trip begins when the vessel begins harvesting or receiving groundfish and ends when the product is offloaded.*
 - *Revising the trip trigger definition is expected to make tracking and calculating MRAs easier and less confusing for the fishing fleet. It would also decrease regulatory discards that occur when vessels are forced into complex matrices of MRA accounting for multiple concurrent regulatory fishing trips as described in the discussion paper.*
 - *There is no apparent conservation benefit to multiple concurrent regulatory fishing trips at this stage in which many fisheries are rationalized. In addition, management and enforcement of MRA's will likely be easier if there were less fishing trips to unwind accounting streams for.*

- *Note that in this alternative, separate management programs (for example A80, CDQ, OA TLAS) would continue to be separate fishing trips, with separate MRA data streams.*
- *Specific to Alternative 3:*
 - *Alternative 3 contemplates changes to MRA accounting by moving an additional group of species from the category of “instantaneous” MRA calculations into the category of “offload to offload” MRA calculations. There is a precedent for this type of management - currently BSAI pollock and BS Atka Mackerel MRA’s are calculated offload to offload.*
 - *Alternative 3 Option 1 suggests adding a discrete list of species to offload to offload calculations including the remaining IR/IU species to the list. The intent of IR/IU regulations is to minimize discarding of these species and this change will result in exactly that- less discarding of these species. The addition of BSAI and GOA skates are responsive to public comment on this issue. Option 2 suggests analyzing a change to the MRA accounting for all groundfish species in the BSAI and GOA.*
 - *Overall, the rationale for analyzing Alternative 3 is to move away from a system of daily regulatory discards that occur as a result of a vessel needing to comply with instantaneous MRAs throughout the fishing trip. Vessels constantly monitor the total catch of basis species for the fishing trip and discard incidental species to ensure they are never over the MRA at any point in time. It is anticipated that moving away from this system will reduce regulatory discards without changing vessel behavior and increasing levels of incidental catch- basically a fish will not have to be thrown overboard just because it was caught at the “wrong” time or on the “wrong” day. However, the AP expects that an analysis will examine any potential changes in behavior from either of the options in Alternative 3.*
- *Specific to Alternative 4:*
 - *Alternative 4 is responsive to public comment and suggests exemptions from MRA requirements in the case of circumstances that are out of the vessel’s control including medical emergencies, mechanical emergencies and poor weather conditions. USCG form #2692 must be completed if there is a serious medical issue or a marine casualty. The Bridge logbook or the Catcher Vessel Daily Fishing Log (DFL) are used to record an issue that causes a vessel to return to port early that isn’t captured in a 2692. Examples of this would be a deck hydraulic failure, VMS failure, broken flow scale, or weather conditions that threaten safety at sea. Using these formal documents, it would then be up to NMFS’ OLE’s discretion whether to grant the exemption. There may be other ways for the mechanics of these exemptions to work and I would expect that this could be fleshed out in the analysis.*

Motion 2

The AP recommends that the Council initiate a discussion paper to explore the potential of increasing the the following existing MRA percentage:

1. The MRA percentage for GOA Aggregated Rockfish, specifically Pacific Ocean Perch (POP), as the incidental catch species and pollock as the basis species in Table 10 to Part 679.
2. **'The MRA for BSAI Skates (Other species) as the incidental catch species and Pacific cod as the basis species in Table 11 to Part 679.**

The discussion paper should include, but is not limited to, the following:

- A history of the implementation of the MRA percentages, including POP stock status at the time of implementation of the **two MRAs.**
- Information on the current GOA POP stock assessment in the GOA **and the Skate stock in the BSAI.**
- Considerations for whether POP should have a separate MRA from the Aggregated Rockfish MRA in the GOA pollock target.
- **Consideration of likely effects of an increase in the MRA percentages on harvest of the stocks and regulatory discards.**

Amendment¹ (Add #2 in the first paragraph - **in bold**)

Amendment 1 passed: 19/0

Amendment² (add the following language **in bold** to three of the 4 bullet points)

Amendment 2 passed: 19/0

Main Motion as Amended: passed 19/0

Rationale in Favor of Amended Main Motion

- *As noted in D2 Motion 1, MRA regulations are important as they allow for retention of unavoidable incidental catch in other target fisheries. In some instances, the MRA percentages applied to particular fisheries have created difficulties in prosecuting the fishery or lost market opportunities. This motion is responsive to specific difficulties with MRA percentages in two fisheries that were raised through public testimony. The AP expects other fleets or fisheries may have MRA % changes that would further minimize regulatory discards, which could be looked at in the context of an MRA % discussion paper.*
- *Encountering POP when directed pollock fishing is becoming a problem that is nearly impossible to avoid in early A season and most of the Fall B season. Conversely, when the fleet is targeting POP, it's becoming equally impossible to avoid pollock. However, the 20% pollock MRA when checked into the Rockfish Program provides more of a buffer from financial penalty, it's still operationally difficult since POP is what the vessels and processors want at that time.*
- *The GOA pollock fleet is seeing and feeling the pressure of a drastic increase in biomass of POP on the fishing grounds. Complicating the issue is also the abundance of pollock and the way they are now moving and schooling together. The two species are also virtually identical on a netsounder, making it more difficult to avoid; two vessels can set gear right next to each other on the same sign and one can catch a bag of pollock and one can catch a bag of POP.*
- *The AP heard in public testimony a request that POP be separated from the rest of the Aggregated Rockfish MRA species, rather than raising the entire Aggregated MRA above 5%. Including bullet 3 in the motion is responsive to that testimony.*
- *The Aggregated Rockfish MRA has remained 5% in the pollock target since 1995 while retention requirements have changed for other sectors. In April 2019, the Council took Final Action to require full retention of all rockfish species for fixed gear catcher vessels (CVs) in the BSAI and GOA. The Council's purpose and need stated, "Fixed gear CVs in the BSAI and GOA discard a proportion of their incidental catch of rockfish. The greatest amount of discarded rockfish occurs in the GOA hook and line fisheries. Requiring the full retention of rockfish would improve identification of species catch composition when CVs are subject to electronic monitoring, improve data collection by providing more accurate estimates of total catch, reduce incentives to discard rockfish, may reduce waste, reduce overall enforcement burden, and provide more consistency in regulations." Despite this regulatory change for the fixed gear sector, trawl gear remains subject to the 5% MRA, regardless if they are required to keep it all under Electronic Monitoring regulations.*
- *When the MRA tables were put into place for the GOA in 1995, the POP stock was overfished and under a rebuilding plan. A September 1993 Council Memorandum reviewing the Rebuilding Plan for POP in the GOA stated, "The current spawning biomass was 70,800 mt, or less than half of the desired target level of 150,000 mt." We are now far beyond that successful rebuilding plan for POP. Page 2 of 2023 the GOA POP SAFE document states, "For the 2024 fishery, we recommend the maximum allowable ABC of 39,719 tons. This ABC is a 9.7% increase from the ABC recommended by last year's model for 2024 of 36,196 tons. The increase is attributed to the fact that the model has observed six consecutive survey biomass estimates larger than 1 million tons, as well as an increase in survey biomass in 2023 compared to 2021." It's also important to note that the ABC is set well below the Overfishing Level (OFL) of 43,117 tons.*
- *The motion maker did not want to be too prescriptive by specifying a particular POP MRA to be examined, but would prefer a 20% MRA to keep it more in line with existing MRAs.*
- *This discussion paper, if pursued, would only help provide better data since all catch would be weighed at the dock instead of being a discard estimate, allow more POP to at least be utilized as*

fish meal, and offer a wider buffer of release from MRA fines since the ecosystem and POP biomass has changed so significantly.

- *Concerns were expressed in AP discussion that increasing the rockfish MRA may lead GOA trawl CVs to utilize an increased MRA to target rockfish. There are multiple reasons why targeting is not likely:*
 - *POP MRAs apply during directed fishing for pollock (an unrationalized fishery), and accrue to the POP Incidental Catch Allowance, which is annually specified each year;*
 - *POP MRAs primarily affect the Kodiak trawl CV fleet and Kodiak's processors do not have the capacity to process large volumes of POP while prosecuting the GOA pollock fishery - there is low value to POP during pollock fishing periods and therefore a disincentive to target POP; and*
 - *Pollock trips mixed with POP affect pollock quality, take up space in the fish hold, and affect product value and lost fishing time due to extended offload duration.*
- *The AP also noted at the table and heard in public testimony that this would meet the Alaska Bycatch Task Force's recommendation: "The State of Alaska should support taking incremental measures through the regulatory process to improve bycatch utilization with a particular focus on species that are otherwise marketable, but are caught with non-targeted gear or discards in a directed fishery that are required by regulation."*

Rationale in Favor of Amendment 1

- *The intent of considering an increase to the MRA % is to further minimize regulatory discards of skate by the freezer longline (FLC) fleet and, in the process, improve utilization of the resource.*
- *Recently, as noted in public testimony, FLC members have been experiencing increased market demand for smaller skates, in addition to the traditional market for larger skates. This creates the opportunity for FLC vessels to generate additional revenue from our targeted BS Pacific cod trips through increased retention of encountered skates.*
- *Public testimony indicated an increase in the skate MRA is not anticipated to affect fleet behavior on the harvest of skates, or an increase in overall skate catch. Rather, a change, coupled with the revisions to the application of the MRA, would facilitate greater retention of the skates FLC vessels encounter.*

Rationale in Favor of Amendment 2

- *The changes to bullet one and two are necessary to make language consistent with the addition of skates from Amendment 1.*
- *The intent of the new bullet four is to give prescriptive direction to staff to ensure effects of a potential increase in the MRA percentages on harvest of the stocks and regulatory discards are appropriately addressed in analysis.*