

**NPFMC ADVISORY PANEL
Motions and Rationale
April 2025 - Teleconference**

C3 – Maximum Retainable Amounts (MRAs)

The AP recommends the Council move the MRA Adjustments Initial Review analysis forward for final action with the following revisions to the Alternatives (deletions are in strikethrough, and additions are underlined). There are no suggested changes to the Purpose and Need Statement. The Preliminary Preferred Alternative (PPA) is shown in bold.

Alternatives

Alternative 1: Status Quo. Federal Regulations at 50 CFR 679.20(e) establish MRAs as a percent of a basis species in Table 10 of part 679 for the Gulf of Alaska (GOA), Table 11 for the Bering Sea/Aleutian Islands (BSAI), and Table 30 for the Central GOA Rockfish Program. The percentage of a species closed to directed fishing that is retained in relation to a basis species must not be exceeded. In most cases, any additional catch amounts must be discarded at sea.

Alternatives 2, 3, 4, 5 and ~~56~~ are not mutually exclusive.

Alternative 2: Revise MRA regulations to clarify (1) the definition of a fishing trip, (2) calculations for MRAs, and (3) applications of MRAs. These changes ~~would not change~~ provide clarification and make minor modifications in how the MRA regulations are currently implemented.

Option 1 – Modify the definition of a fishing trip to make it clear that motherships are responsible for the overall MRA of any catcher vessel delivering unsorted codends.

Option 2 – Clarify that MRAs are calculated by fishery management program due to different fishing prohibitions in place for each fishery management program.

Option 3 – Correct regulation citations for American Fisheries Act (AFA) vessels and AFA replacement vessels.

Option 4 – Clarify that when Community Development Quota (CDQ) uses an AFA vessel to harvest Amendment 80 species BSAI pollock and Bering Sea (BS) Atka mackerel MRAs are calculated at the time of the offload and ~~clarify the species used as basis species for CDQ~~ any species open to directed fishing may be used as a basis species for compliance with MRAs.

Option 5 – Clarify that MRAs take precedence over improved retention/improved utilization (IR/IU) regulations for catcher vessels delivering catch to a shoreside processor or stationary floating processor when catcher vessels fish in areas with different fishing prohibitions.

Option 6 – Update IR/IU regulations for Amendment 80 vessels to reflect past Council actions.

Option 7 – Revise the definition of directed fishing at 50 CFR 679.2 for vessels participating in the pelagic trawl EM program such that vessels deploying pelagic trawl gear are directed fishing for pollock if the amount of pollock is

Suboptions: 51-90 percent or greater of total catch.

Alternative 3: Revise the triggers that end a fishing trip from five to two triggers in the definition of a fishing trip for catcher/processers and motherships (not including current

offload-to-offload species: BSAI pollock, BS Atka mackerel, and weekly reporting period species in the Central GOA Rockfish Program). Two triggers would remain: (1) when all fish or fish product is offloaded and (2) if the vessel changes authorized gear type. Three triggers would be removed: (1) the effective date of a different fishing prohibition in the area the vessel is fishing, (2) when a vessel enters or leaves an area with a different fishing prohibition, and (3) the end of a weekly reporting period.

Alternative 4: Add additional species to an offload-to-offload MRA application in the BSAI and GOA for all vessel sectors. ~~Continue to exclude AFA vessels for BSAI pollock and BS Atka mackerel from the offload calculation.~~

Option 1 – Add BSAI Pacific cod, GOA Pacific cod, GOA pollock, BSAI skates, Central GOA Rockfish Program, and GOA shallow-water flatfish.

Option 2 – Include all groundfish species. ~~except as noted above.~~

Note: For catcher/processors and motherships, moving to an offload-to-offload fishing trip definition or MRA application will require regulations at 679.20(e)(3)(ii) be removed.

Alternative 5: Apply Bering Sea pollock MRA provisions to any Amendment 80 cooperative on an annual basis. Establish similar measures for CDQ groups harvesting Amendment 80 species to ensure consistency with regulation of harvest statutory requirements.

Alternative 5~~6~~: Provide exemptions in regulation from MRA requirements in cases when of medical emergencies, mechanical emergencies, or poor weather ~~that ends a fishing trip.~~

Main Motion passed unanimously

Rationale in Support of Main Motion

- *This action addresses National Standard 9 by minimizing bycatch in four ways which are laid out clearly in the purpose and need statement: it clarifies how MRA regulations apply; it makes MRA calculations easier; it reduces regulatory discards by simplifying overly complicated and outdated regulations; and it addresses medical, mechanical, or weather issues that can impact MRA calculations and compliance.*
- *This action addresses long-standing concerns identified by both NMFS and the affected groundfish fleets. There is broad support from multiple different fishing sectors in both the Bering Sea and Gulf of Alaska for moving this action forward and the document is clear on the overarching positive benefits this action will have for multiple fleets. The Council's Enforcement Committee specifically identified a goal of simplifying complex regulations and MRA provisions in their 2015 Enforcement Precepts document, and the current action was initiated by the NMFS Alaska Region and the regulated fishing fleets starting in 2023.*
- *The motion maker noted that any of the action alternatives can be selected together and the PPA supports that.*
- *The AP noted this Motion is a significant step in cleaning up identified problems and providing clarification in many of the MRA regulations.*
- *While not included in the main body of the motion, based on public testimony and discussion at the AP table, the Motion Maker requested that the next iteration of the analysis clearly:*

- *Describe how this action does or does not significantly change total catch. The analysis has several statements that indicate catch is unlikely to change, and other statements that are unclear. However, the AP noted that there are numerous control measures in place to prevent that, in addition to practical considerations that indicate the action will not result in an increase in the amount of incidental species catch, nor will it change the location of where fish is being caught. This action will simply allow vessels the ability to retain fish they are already catching and currently forced to discard.*
- *Articulate that even though the amounts of groundfish retained in the fishery would increase, total removals of each species would continue to be within the TAC levels for since discards under status quo are already incorporated into the TAC and will continue to be accounted for in the TAC under all alternatives.*
- *Highlight that nothing in this action changes the ability for NMFS to close fisheries or prohibit retention of catch as a TAC or allocation is reached. The AP noted that this action maintains all the tools NMFS has currently available to conservatively manage the fisheries within limits.*
- *Describe that this action does not modify Steller Sea Lion protection areas. Catch in protection areas occurs under status quo regulations and this will not change under the action alternatives being considered in this analysis. The existing protection measures in the Aleutian Islands (for example MRA retainable percentages; open/closed areas; seasonal allowances; etc.) will also remain in place and unchanged under this action.*
- *Include a more thorough discussion of the numerous controls on the catch of key Steller sea lion prey species (pollock, cod, and Atka mackerel). An AP member noted that the analysis should note that the 2014 Biological Opinion contemplated and considered full harvests of pollock, Pacific cod, and Atka mackerel. Current fishery harvests are well below levels previously considered and analyzed in previous ESA consultations.*
- *Present the available data related to the potential for increased catch for key Stellar Sea Lion prey species, pollock, cod, and Atka mackerel and discuss the practical considerations of the fisheries and the risk of this occurring given this information.*
- *Enhance how existing intra and inter sector agreements limit incidental and directed catch, specifically for species like Greenland Turbot noted in the Table 5-22 of the analysis. The AP noted that public comment suggests that none of these agreements will change under the proposed action.*
- *Include a discussion of the unresolved tension between the IR/IU regulations and the MRA regulations, which require vessels in all fleets to “hit the nail on the head” by retaining as much fish as possible under the IR/IU provisions but not going over the MRA. An AP member noted that the weight of a single cod can be the difference whether you are within compliance for either regulation.*

Rationale Specific to Alternative 2

- *Under the description of Alternative 2, the language notes that the motion clarifies MRAs and makes a minor modification under Option 7, but generally the MRA regulations will function as they do currently.*

- *Under Option 4, the clarification preserves the current method for determining basis species. Currently, when a CDQ group uses an AFA vessel to harvest Amendment 80 species, the BSAI pollock and BS Atka Mackerel MRA are calculated at the time of offload and the basis species for MRA calculations are any species open to directed fishing, not just CDQ species as currently stated in the regulations. This clarification codifies the status quo practice.*
- *Under Option 5, the motion incorporates input from NMFS to read as originally intended and apply to CVs delivering catch to a shoreside processor or stationary floating processor only. The nature of a CV fishing operation delivering catch shoreside or a tender makes it extremely difficult to distinguish catch that occurred in an open area versus catch that occurred in a closed area since each haul is not sampled. For this reason, it makes sense for the CV delivering shoreside or to a tender to be held to the lowest MRA encountered within the trip rather than the IR/IU regulations.*
- *Option 7 is included, as recommended by the CV fleet, to specifically address the complicated interface between EM and MRA compliance. The Analysis explains the need for a change in the directed fishing definition of pollock for Trawl EM (TEM) since the program's maximum retention requirement can put vessels in direct conflict with the current directed fishing definition. The staff presentation noted that NOAA OLE could take enforcement actions due to the conflict in these regulations, so a regulatory correction was necessary. As discussed at previous AP meetings, the AP noted again:*
 - *The biomass of Pacific ocean perch (POP) has dramatically increased since directed fishing definitions and MRAs were put into place public testimony from vessel operators indicates that pollock and POP are impossible to distinguish on a net sounder.*
 - *The document specifies a threshold of 80% pollock or greater. Based on public testimony from the regulated catcher vessel sector, a range of 51% to 90% should be included in the Analysis prior to Final Action since there wasn't additional discussion of the number selection in the Analysis. An AP member noted that prior to this version of the analysis, the trawl EM CV stakeholder group had not considered the implications of a change in only the directed fishing calculation, without a change in the corresponding MRA percentage, leading to the request to see the range.*
 - *51% was chosen as the low end because it is the lowest percentage that you can select while maintaining pollock as the predominant species. 90% is the high end of the range because it is just under the current percentage of 95 which would be considered status quo.*
 - *An AP member noted that although changing the directed fishing definition percentage for pollock Trawl EM participants should cover most situations with unavoidable catch of POP, vessels may still occasionally have what the analysis refers to as a "red bag" which would result in a directed fishing calculation for both pollock and POP. However, the AP has heard in staff presentations, deliberations, and stakeholder public testimony that there are no incentives to target POP during the pollock fishery with Trawl EM. Since the TEM maximum retention requirement requires vessels to keep all catch, potential enforcement action against a vessel for directed fishing for POP under TEM,*

in these rare scenarios where even a modified directed fishing calculation is exceeded, will only prevent vessels from opting into TEM in future years.

- *All of the provisions in Alternative 2, as modified, are selected as part of the PPA.*

Rationale Specific to Alternative 3

- *Alternative 3 is unchanged and is selected as part of the PPA.*

Rationale Specific to Alternative 4

- *Alternative 4 is included in the PPA with a small clarification. The strikeout clarifies that the offload-to-offload calculation would apply consistently for all vessels for all groundfish species rather than creating a more complicated regulatory environment by having a separate “instantaneous” calculation method for BSAI pollock and BS Atka Mackerel for the very limited number of AFA vessels that fish for CDQ non-pollock groundfish. This is also consistent with the clarifications NMFS recommends in Alternative 2, Option 4 and holds all vessels to the same standard. This makes the regulations as simple as possible.*
- *The note underneath Alternative 4 responds to a request from NMFS and the staff presentation highlighting that this specific regulatory change would be necessary in order to meet the intent of Alternative 3 and 4. CPs have both VMS and sampling of each haul, which means that the vessel can monitor the catch and the status of every species on a haul by haul basis. This granularity of data should allow these operations to ‘turn on and off’ what is considered a basis species as the vessel moves in and out of closed areas, and vessels shouldn’t be held to the lowest MRA encountered within a trip. If CPs are held to the lowest MRA encountered within a fishing trip, this will mandate more regulatory discards than status quo, which is counter to the purpose and need.*
- *Other minor modifications to the regulations as necessary and appropriate should be made by NMFS to meet the intent of these Alternatives.*
- *The proposed PPA is aligned with Path B, which is the path that the analysis assumed, and the AP’s intent is for this to be the preferred path.*
- *The motion as written would also allow for Path C, however, this is not the AP’s preferred path since path C1 fails to recognize that the open and closed areas for cod and Atka mackerel are not the same, so while this would provide some relief from status quo, it still retains the reality of triggering numerous offload-to-offload trips within each management program which this action strives to eliminate. Path C2 would provide slightly less regulatory complexity, but would still result in multiple trips to keep track of.*
- *The AP noted that Path A regulatory discards would increase, and the Council purpose and Need statement would not be met.*

Rationale Specific to Alternative 5

- *A new Alternative 5, as recommended in public comment, is included to consider applying Bering Sea pollock MRA provisions to any Amendment 80 cooperative or CDQ group on an annual basis.*
 - *This approach was noted in Section 4.4 of the analysis as a possible tool to further minimize bycatch of pollock in the Amendment 80 sector. Public comment that*

suggests this alternative could provide an ability to further reduce regulatory discards of pollock without increasing the overall incidental catch of pollock. This fits within the purpose and need of this action.

- *The document notes that more analysis is needed to assess potential impacts on vessel behavior, specifically if this change would increase harvest beyond intended limits or cause a shift in spatial distribution of catch. Since the document does not yet have a robust analysis of this Alternative, it's not currently included as part of the PPA.*

Rationale Specific to Alternative 6

- *Alternative 6 was Alternative 5 in the previous iteration, but otherwise remains unchanged and is selected as part of the PPA.*