

ADVISORY PANEL
Motions and Rationale
Sept 29 - Oct 2, 2025 Webinar

The AP recommends the Council take final action on the MRA Adjustments package selecting Alternative 2 (Options 1, 2, 4, 5, 6, and 7); Alternative 3 (Method 1); Alternative 4 (Option 2, Method 1); and Alternative 6 with the following revisions (deletions are in ~~strike through~~, and additions are underlined).

The AP recommends that the Council take no action on Alternative 5 at this time. Further, the AP recommends the Council encourage OLE to focus on compliance assistance during the implementation of this regulatory package.

Purpose and Need

The purpose of this action is to improve the regulations that implement the Maximum Retainable Amount (MRA) of species closed to directed fishing (incidental catch species) while a vessel operator is engaged in fishing for species or species groups that are open to directed fishing. This action is necessary to clarify current MRA regulations, make MRA calculations easier, reduce regulatory discards, and address medical, mechanical, or weather issues that can impact MRA calculations. The Council intends to maintain the original intent of MRAs and is not considering changes that increase MRA percentages or changes in how MRAs assist in limiting harvest of a groundfish species within its annual total allowable catch.

Alternatives

~~Alternative 1, No Action~~

~~Under the No Action alternative, all regulations related to MRA would remain at status quo. The MRA is the percentage of a species closed to directed fishing that is retained in relation to a ‘basis species’ that is open to directed fishing. Regulations prohibit a vessel from exceeding an MRA. In most cases, any additional catch amounts must be discarded at sea. Federal regulations at 50 CFR 679.20(e) establish MRAs as a percent of a basis species in Table 10 to part 679 for the GOA, Table 11 for the BSAI, and Table 30 for the Central GOA (CGOA) Rockfish Program (see Appendix 2 for complete tables). NMFS accounts for all retained and discarded catch and deducts it from the species specific TAC whether the vessel retains or discards that catch. Only retained catch accrues to an MRA.~~

Alternative 2 – Revise MRA Regulations

This alternative would revise MRA regulations to clarify (1) the definition of a fishing trip, (2) calculations for MRAs, and (3) applications of MRAs. These changes would 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 (CV) 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) groups may ~~uses an AFA vessel to harvest Amendment 80 (A80) species, BSAI pollock and BS Atka mackerel MRAs are calculated at the time of the offload and 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 CVs delivering catch to a shoreside processor or stationary floating processor when CVs fish in areas with different fishing prohibitions.

Option 6: Update IR/IU regulations for A80 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 electronic monitoring 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 Triggers that End a Fishing Trip

This alternative would revise the triggers that end a fishing trip from five to ~~two~~ three triggers in the definition of a fishing trip for catcher processors (C/Ps) and motherships (not including current offload-to-offload species - BSAI pollock, BS Atka mackerel, and weekly reporting period species in the CGOA Rockfish Program). ~~Two~~ Three triggers would remain: (1) when ~~all~~ any fish or fish product is offloaded, ~~and~~ (2) if the vessel changes authorized gear type, and (3) when a vessel changes FMP area (i.e., when a vessel transits between the GOA and BSAI). 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.

Method 1: Use all basis species accumulated on the vessel when calculating MRAs for each trip regardless of fishery closures and protection areas. Clarify that for C/Ps and motherships the lowest MRA applicable during a fishing trip does not apply during the entire trip (by deleting regulations at 679.20 (e)(3)(ii) and 679.20 (e)(3)(vi)).

Clarify that fishing trips can be resumed.

Method 2: ~~Only use basis species accumulated after a change in directed fishing has occurred due to an inseason action or entering a protection area for the species that had a change in status for each trip.~~

Alternative 4 – Add Additional Species to an Offload-to-Offload

This alternative would add additional species to an offload-to-offload MRA application in the BSAI and GOA for all vessel sectors. ~~(BSAI pollock and BS Atka mackerel are already under an offload-to-offload calculation for non-AFA vessels, and CGOA Rockfish Program is under a weekly MRA calculation.)~~

~~Option 1: Add BSAI Pacific cod, GOA Pacific cod, GOA pollock, BS skates, CGOA Rockfish Program, and GOA shallow water flatfish.~~

Option 2: Include all groundfish species.

Methods 1 ~~and 2~~ would only apply to C/Ps and motherships.

Method 1: Use all basis species accumulated on the vessel when calculating MRAs for each trip regardless of fishery closures and protection areas. Clarify that for C/Ps and motherships the lowest MRA applicable during a fishing trip does not apply during the entire trip (by deleting regulations at 679.20(e)(3)(ii) and 679.20(e)(3)(vi).

Clarify that MRA regulations take precedence for C/Ps and motherships in instances where vessels are required to meet competing standards of MRA and IR/IU and come in at the MRA.

Method 2: Only use basis species accumulated after a change in directed fishing has occurred due to an inseason action or entering a protection area for the species that had a change in status for each trip.

Alternative 5 – Annual Pollock MRA Calculation for A80:

This alternative would apply BS pollock MRA provisions to A80 vessels on an annual basis with the implementation of an incentive plan or other controls to prevent increases in average pollock catch.

Establish similar measures for CDQ groups harvesting A80 species to ensure consistency with regulation of harvest statutory requirements.

Alternative 6 – Provide Exemptions from MRA Requirements

This alternative would provide exemptions in regulation from MRA requirements in cases of medical emergencies, mechanical emergencies, or poor weather that ends a fishing trip.

Main Motion passed 19-0

Rationale in Support of Motion

- *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. MRA regulations are outdated, highly complex, and challenging for operators and managers to understand and apply consistently. This creates conditions that require vessels to unnecessarily discard fish.*
- *This action addresses National Standard 9 and meets the Council’s mandate under the Magnuson-Stevens Act (MSA) to “minimize bycatch to the extent practicable”. This action is also consistent with National Standards 5, 6, 7, and 10, respectively.*
- *The AP motion is aligned with Executive Order 14276 “Restoring American Seafood Competitiveness”, which specifically states that it is U.S. policy to “unburden our commercial fishermen from costly and inefficient regulation”. This action could “reduce burdens on domestic fishing,” “increase production” and it would “enhance economic profitability, and prevent closures”.*
- *The AP motion is also responsive to “Enforcement Considerations for NOAA Fisheries and North Pacific Fishery Management Council” that were developed collaboratively by NOAA Office of Law Enforcement (OLE), United States Coast Guard (USCG), and State of Alaska in 2014. That document highlighted that “regulations should be as simple as possible” and “where feasible, seek to reduce the number of regulations”. Specific to MRAs, the Enforcement Precept document also recommended that the Council: “Consider reviewing and removing MRA requirements if not necessary for management”; “Consider simplifying regulations by restricting maximum retainable amounts at delivery and not at-sea”; and “Regulations should consider industry best practices and other industry recommendations.”*

- *The AP motion includes clarifications to best meet the Council's purpose and need statement and minimize future challenges with MRA regulations. These do not affect the impacts of the action as analyzed, but instead provide clarity about how these simplified MRA regulations should be applied.*
- *The "Specific Items for Council Attention" section in the document, and encourages OLE to focus on compliance assistance and communication with the affected groundfish fleets during implementation of this package.*
- *CDQ harvest by Amendment 80 and related catcher/processors and motherships is an important revenue source for CDQ groups. This motion may result in a moderate increase in value of non-directed species, which would support the overall mission of CDQ groups in maximizing fisheries revenue to fund important community development programs in the CDQ region.*
- *While there was broad, unanimous support for this action to address overburdensome and unclear regulations, some AP members did note the following concerns:*
 - *This action should be paired with a review of MRA percentages. The purpose and need refers to an MRA as "incidental catch" yet the action of topping off or targeting an MRA is inconsistent with this intention. As these new changes are potentially implemented, fishery behavior changes should be considered. MRA's are intended to provide vessels opportunity to continue to directed fish for their basis species while incidentally harvesting species they are not targeting. If a fishery has a need to top off under these proposed regulation changes then the MRA percentage should be reviewed.*
 - *There is a need for continued monitoring for changes in behaviors that may bring unintended impacts as a result of this action. For example, this could result in preemption of other sector's Pcod TAC late in the year. An AP member noted that a review of the results of this action is appropriate at a future date.*

Rationale Specific to Alternative 2:

- *The AP only provided rationale on options under Alternative 2 that are modified in the motion or require additional clarity.*
- *Option 1: Current practice is for motherships to aggregate CVs delivering fish from the same management program together within a NMFS fishing trip. CV deliveries to motherships are subject to 200% observer coverage, every haul is sampled, and CVs have VMS. The AP does not agree with OLE's recommendation to increase complexity by having each CV delivery to a mothership be a single trip. Public comment noted that doing what OLE suggests would result in lots of single haul trips and will increase regulatory discards, which is counter to the purpose and need of this action.*
- *Option 2: Under status quo some C/Ps and motherships participate in multiple management programs and toggle back and forth between them. These vessels have concurrent trips in two or more management programs happening on a regular basis (e.g., A80 and CDQ). The AP's intent is to clarify that fishing trips in each management program can be resumed as vessels toggle back and forth between them until a trip trigger is reached.*
- *Option 3: Option 3 is not required since the motion selects Alternative 4, Option 2.*

- *Option 4: The first part of Option 4 is not required since the motion selects Alternative 4, Option 2. However, the second part to allow a CDQ group to include any species open to directed fishing as a basis species is still needed under this suite of action alternatives and remains in the motion.*
- *Option 5: The AP heard in public comment, and reiterated during deliberation, that Enforcement should understand that when a vessel is discarding to comply with an MRA regulation, they can make a reasonable estimate of how much they are discarding but will likely over-discard to ensure they remain under the MRA since they don't ability to weigh catch at sea prior and don't know the final amount until delivery. Vessels should not be subject to enforcement action regarding IR/IU when complying with an MRA, as long as the vessel is still retaining the majority of the IR/IU species up to the MRA.*
- *Option 7: The AP motion selects 51% or more of the total catch as the new directed fishing definition for vessels operating on pelagic trawl EM trips, which captures nearly all instances of unavoidable POP incidental catch on TEM trips. The analysis shows that if the sub option of >80% were to be selected, a total of 38 trips from 2022-2024 would have still been unintentionally and unavoidably in violation of the directed fishing definition while complying with the maximum retention requirement.*
 - *Vessels should not be penalized with directed fishing violations when the directed fishing definition is in conflict with the maximum retention requirement. Public comment from the impacted groundfish sector is consistent with this recommendation.*
 - *This Option does not increase the amount of POP that may be accidentally harvested. The AP also noted written comment from a Trawl EM shoreside processor which reiterated that there are only disincentives for vessels to deliver POP during the pollock fishery.*

Rationale Specific to Alternative 3:

- *The AP motion selects Alternative 3, Method 1, with minor clarifications to reflect issues raised in the analysis. It includes NMFS's suggestion that a trigger to establish a new fishing trip would be needed when a vessel transits to a new FMP regulatory area, as it is consistent with current practice.*
- *The AP motion removes three trip triggers, (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 production period. Triggering an excessive number of trips leads to regulatory discards and is inconsistent with the purpose and need for this action. Removing these trip triggers will reduce the regulatory complexity, compliance difficulty, and reduce discards.*
- *The AP motion picks up NMFS's recommendation on p.19 of the analysis to change the wording of the fishing trip trigger for C/Ps and motherships from "the offload or transfer of all fish or fish product" to "the offload or transfer of any fish or fish product."*
- *Under Method 1, if a species is closed in the middle of fishing operations, the impact on MRA calculations is limited to only that one trip for that specific vessel. Given the thousands of trips that vessels of all sectors undertake during a fishing year, the potential impact on overall incidental catch of any species is extremely small at the fishery level. The analysis shows that Method 2 is inconsistent with the purpose and need for this action and would have a direct and*

significant adverse effect on vessels that happen to be fishing during a fishery opening and closures, increases discards for those trips, and imposes an unnecessary compliance challenge.

- *Method 1 does not pose a risk to Steller sea lion prey species (i.e., Atka mackerel, Pacific cod, and pollock). Table 5-20 on page 135 of the Analysis characterized the overall risk to Steller sea lion prey species inside Steller sea lion protection areas as low under Method 1.*
- *There are numerous limitations (protections) already in place for Steller sea lion prey species that are detailed extensively in the analysis and in public comment. These comprehensive protection measures remain in place and will not change under this action. All harvest will continue to occur under authorized Steller sea lion protection measures. For the AI, BS, and GOA, catch is very low relative to TAC for several prey species, and protected area catch has been consistently low for all three Steller sea lion prey species. There is no indication that harvests will increase beyond the ranges of catch already considered, analyzed, and authorized in previous Biological Opinions.*
- *The AP motion clarifies that for CPs and motherships, the lowest MRA applicable during a fishing trip does not apply during the entire trip, by removing the regulations at 679.20 (e)(3)(ii) as suggested by the Analysis. Restricting a C/P or mothership to the lowest MRA encountered for the duration of the fishing trip is inconsistent with the purpose and need. The AP motion also removes regulations at 679.20 (e)(3)(vi) with the same rationale.*
- *The AP motion requests clarification that fishing trips can be resumed, consistent with long standing practice within the fishery. The AP recommends the word 'resumed' when defining the fishing trip period means that:*
 - *a vessel may fish in an area, enter a new area with a different fishing prohibition and fish, and then return to the first area to continue the first trip.*
 - *a vessel may fish in a management program, then enter a second management program and fish, and then return to the first management program to continue the first trip.*
- *The AP notes the new interpretation in the analysis that vessels can only 'resume' fishing trips when fishing operations are paused for inclement weather is inconsistent with long standing practice, would exponentially complicate accounting, increase the number of fishing trips, and increase discards. This new interpretation is outside of notice-and-comment rulemaking and wholly inconsistent with both the guidance received by fishery participants and with current practices in the fisheries. Public comment notes that if fishing trips cannot be resumed, the impacts on paperwork complexity and discards will be immense and are directly counter to the purpose and need of this action.*
- *This alternative should not apply to catcher vessels delivering shoreside.*

Rationale Specific to Alternative 4:

- *The AP motion selects Alternative 4, Option 2, Method 1, which would include all groundfish species in the offload-to-offload MRA application in the BSAI and GOA. Under status quo most species MRAs are calculated instantaneously, and this leads to complicated calculations and regulatory discards nearly every day a vessel operates. Moving to an offload-to-offload MRA application will make trip accounting more straightforward and reduce regulatory discards for C/Ps, motherships, and CVs.*

- *Catcher processors and motherships have multiple observers, all hauls sampled, motion-compensated scales, vessel monitoring systems, and daily reporting. This provides precise and accurate information for calculating MRAs and determining when and where fish are caught.*
- *For CVs, there isn't a mechanism to ensure that a CV is not over the MRA while in the middle of a fishing trip without an at-sea enforcement presence. Total retained catch is not sorted and weighed onboard CVs. Therefore, it is difficult to determine and enforce if a CV is within the allowed MRA at any given moment of the fishing trip if enforcement boards them. Allowing all MRAs on CVs to apply an offload-to-offload MRA application is easier to enforce and more closely matches current practice. It also reduces regulatory discards by allowing vessels to retain incidental catch earlier in the trip, if they know they will be under the MRA by the time more basis species is on board and they make their delivery.*
- *All affected groundfish sectors that provided public comment were in favor of Option 2, as it is easier for the fleet to understand and comply with, and easier for enforcement to enforce.*
- *The AP flagged one outstanding issue. The current regulatory offload applications for BSAI pollock and BS Atka Mackerel use an offload definition of "removal of any fish or fish product." The analyst asks on page p.19 if this is how the language should read for all the other species selected under Option 2 and public comment notes that this application might create unintended consequences for the C/V fleet. The AP recommends careful review of any potential interaction between the action alternative selected here and the C/V status quo fishing trip definition, to mitigate any unintended consequences for the C/V fleet.*
- *For C/Ps and motherships, the AP motion also does the following:*
 - *selects Method 1 for Alternative 4, with the same rationale as presented for Method 1 under Alternative 3.*
 - *recommends clarifying that for C/Ps and motherships that the lowest MRA applicable during the trip does not apply during the entire trip and this regulation should be removed, consistent with Alternative 3 and the analysts assumption.*
 - *recommends clarification of the precedence of MRA over IR/IU for C/Ps and catcher vessels delivering to motherships, consistent with NMFS's suggestion. Currently these vessels do not have regulatory clarity about the simultaneously applicable (and contradictory) regulations where the MRA and IR/IU meet. Coming in exactly at, but not over the MRA is extremely complicated and challenging for vessel operators. The challenge of complying with contradictory regulations was recognized when the IR/IU program was implemented nearly 30 years ago.*

Rationale Specific to Alternative 5:

- *An AP member noted appreciation that Alternative 5 was removed for Final Action, which is responsive to public testimony and stakeholder concerns that an annual pollock MRA calculation did not fit in with the rest of the action.*

Rationale Specific to Alternative 6:

- *The AP motion selects Alternative 6 with broad based support for providing exemptions for medical emergencies, mechanical emergencies, or poor weather that ends a fishing trip. There have been a number of cases where vessels have been forced to return to port in the middle of a trip due to well documented mechanical and medical issues. The AP recommends regulations*

accommodate those issues and not penalize fishermen for elements that can often be out of their control.

- *The AP recommends continuing to include a weather exemption and making this process easy and efficient for the limited number of times this provision is likely to be used.*
- *The AP was purposely not prescriptive on Alternative 6, instead providing a policy direction that can be implemented within the rulemaking process, noting that vessels should not receive enforcement action for prioritizing safety at sea.*