



## Enforcement Committee C3 MRA ADJUSTMENT ANALYSIS REPORT

March 27, 2025; Zoom

*The North Pacific Fishery Management Council's Enforcement Committee met on March 27, 2025, virtually. The Enforcement Committee met to provide feedback on the Committee's Draft Terms of Reference, the Small Sablefish Release Analysis Draft for Final Action, and the Maximum Retainable Amount Adjustment Analysis Draft for Initial Review. **This report details only the Committee's discussion on the MRA Adjustment Analysis;** reports on the other agenda items taken up by the Committee can be found on the eAgenda for the April 2025 Council meeting.*

### Committee Members in attendance:

Steve Williams (co-Chair), Ben Cheeseman (co-Chair), Alex Perry, Josh Keaton, Karla Bush, Andrea Hattan, Brian McTague, Captain Derek DeGraaf AWT, Lieutenant Ivan Davis USCG

### Others in attendance:

Jon McCracken, Taylor Holman, Andrew Olson, Sara Cleaver, Danielle Merculief, Krista Milani, Erik Peterson, Phillip Null, Alex Hildebrand, Alicia Miller, Anne Vanderhoeven, Brian Mason, Chris Woodley, Glenn Merrill, Glenn Charles, Gretchen Harrington, Heather Mann, Joel Kraski, Julie Bonney, M. Rickett, Mary Beth Tooley, Mike Vechter, Nicole Kimball, Rachel Baker, Ruth Christiansen, Scott Miller, Todd Loomis, Marlon Concepcion, Chelsae Radell

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## C3 MRA Adjustments

Taylor Holman, Council staff, presented the Maximum Retainable Amount (MRA) Adjustment Analysis EA/RIR. The analysis will be presented to the Council for initial review at the April 2025 meeting. Ms. Holman provided background information on MRAs, the alternatives selected for analysis, and the management and enforcement considerations of the action. In her presentation, she summarized two issues identified by NMFS for implementation of Alternatives 3 or 4:

- 1) Current regulations restrict a C/P to the lowest MRA fished for the fishing trip. This may lead to increased regulatory discards in certain scenarios, including discards of IR/IU species. Described in Section 4.2.
- 2) The analysis identified the potential for increased harvest of Steller sea lion (SSL) prey species inside protection areas under Alternatives 3 or 4. Described in Section 4.3.

To help remedy or minimize the identified issues, NMFS identified a series of paths that the Council could consider to modify the C/P and mothership regulations in conjunction with Alternatives 3 or 4. NMFS staff noted that these paths were not identified within the analysis, and the Council will be seeing these paths for the first time at the April Council meeting.

Ms. Holman provided the following summary of these regulatory paths, and requested recommendations from the committee on which path would work best from an enforcement standpoint:

- **Path A:** Alternative 3 or 4 is adopted without further regulatory changes. Current regulations (50 CFR 679.20(e)(3)(ii)), which require a C/P to be restricted to the lowest MRA for the duration of fishing trip, would remain in place.

- **Path B:** Alternative 3 or 4 is adopted, and regulation restricting a C/P to the lowest MRA for the entire trip is removed. The C/P would be restricted to the MRA of the area they are currently fishing, and would be able to use basis species caught from outside that area in their MRA calculations.
- **Path C:** MRAs for C/Ps and motherhips are calculated offload-to-offload each time a different directed fishing prohibition is in effect. If a C/P or mothership retains a species when directed fishing is open and when directed fishing is closed during the same trip, then separate MRA calculations would be required at the time of offload.
  - Path C1: Require separate MRA calculations for each circumstance for every species.
  - Path C2: Require separate MRA calculation for each circumstance but only for species with a different directed fishing prohibition.
- **Path D:** Develop other ideas to mitigate harvest from protection areas.

Ms. Holman also provided information on Section 4.4 of the analysis, which briefly discusses an agency-identified framework for an annual or seasonal MRA. This could further improve retention and utilization while simplifying compliance, and eliminating the need for Alternative 5 by accommodating uncontrollable trip disruptions. Finally, the presentation highlighted that analysts were looking for recommendations specific to Alternative 5, which would provide exemptions from MRA requirements in cases of medical, mechanical, or weather emergencies.

### ***Committee discussion and recommendations***

The Committee expressed appreciation to the authors for all the work that went into the document. The Committee noted that the review and/or removal of MRAs (if not necessary for management) was a specific recommendation in the most current enforcement precepts document from December of 2015. The document also recommends that the Council consider simplifying regulations by restricting MRAs at delivery and not at-sea.

The Committee had comments or recommendations on the following specific issues:

- **Alternative 2, Option 7:** The Committee noted that the description of the need for this amendment within the analysis focused solely on POP, but the option would modify the regulations for species other than POP which could result in unintended consequences. The Committee noted that, by having a broader application than solely addressing POP MRA overages, the option could prevent future enforcement action for other species groups by delimiting other MRA-controlled species harvests.
- **Alternative 3:**
  - The Committee noted that, under the current regulatory language for offload trip triggers, a fishing trip only ends when all fish or fish product have been offloaded from the vessel. At times, vessels may offload a portion of their catch to a tramper, or go to shore and offload a portion of their catch. This issue of partial offloads could impact the enforceability of this Alternative. The Committee recommended that the Council consider modifying the language of the offload trigger so that a new fishing trip would be triggered upon the offload of any or all fish or fish product.
  - The Committee noted that Alternative 3 would prevent real-time at-sea enforcement. Enforcement officers would need to wait until offload to assess whether vessels exceeded an MRA, as an MRA overage would not be proved or determined until offload under this Alternative.

- The Committee noted that the Alternative would eliminate the enforceability of area or time closures in real time. Enforcement of protection areas and time-based closures hinges on those triggers. GCES noted that any benefits of additional efficiency and simplicity should be carefully weighed against any potential considerations to SSL food sources, given the concerns surrounding the enforceability of protection areas under this action.
- **Alternatives 3 and 4, Regulatory Paths to Address NMFS-Identified Issues:**
  - The Committee expressed the desire to obtain better, and simpler MRA enforcement compliance for vessels.
  - Path A: The Committee noted that real-time enforcement, specifically in relation to SSL protection areas, would no longer be achievable under Path A.
  - Path B: The Committee did not specifically address Path B.
  - Path C1: The Committee noted that Path C1 would be similar to the current regulatory environment, but would remove the week-ending trip trigger, and move additional species to an offload-to-offload MRA application. Under C1, real-time enforcement would no longer be achievable.
  - Path C2: The Committee noted that C2 may make it more complicated to track the division of catch, versus the status quo or under Path C1. Similar to Path C1, real-time enforcement would no longer be achievable under Path C2.
  - Path D: The Committee noted that many of the examples under Path D, other ideas to mitigate harvest from protection areas, appeared to be enforceable. The Committee discussed that individual TACs set by each protected area would slow or limit harvests in those protected areas. But a single TAC applicable to all protected areas may actually accelerate harvest in those protected areas that have more productive fishing. They also noted that these tools were outside the focus of the MRA action, but such alternative tools may be more effective and enforceable than MRAs if the Council is concerned about overall removal from protected areas.
- **Alternative 5:**
  - The Committee recommended the continued exercise of case-by-case discretion by law enforcement officers when vessels report medical and mechanical emergencies. The Committee agreed that vessels could use USCG Form CG-2692, Report of Marine Casualty, to report that a medical or mechanical emergency has occurred, without the need to codify the use of the form. This form is already required to be submitted in prescribed instances of medical or mechanical emergencies on a vessel, and vessels could provide a copy of this form to NOAA OLE to support requests for relief from MRA enforcement. The Committee noted that a law enforcement officer could consider any type of contemporaneous, or near-in-time report from the vessel, not just the Report of Marine Casualty.
  - The Committee also recommended that law enforcement officers continue to exercise their discretion on a case-by-case basis when receiving reports of poor weather from vessel operators. Codifying the threshold for a weather emergency to be used for this purpose was not recommended by the Committee. Vessels make their own subjective decisions in the case of inclement weather based on the sea state, operator experience, and vessel size, among many other factors.
  - The Committee further noted that medical, mechanical, and weather emergency exemptions are not codified or utilized as to any other fleet or in any other fisheries in Alaska.

- **Annual/Seasonal MRAs, Section 4.4**

- The Committee noted that any enforcement recommendations or consideration on annual or seasonal MRAs would require more discussion from the Council and additional analyses.