



Enforcement Committee REPORT & MEETING MINUTES

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.

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 Mercurief, 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

Draft Terms of Reference

Taylor Holman, Council staff, presented the Committee's Draft Terms of Reference (TOR). The Council is requesting that every Committee adopt a TOR to provide clarity and transparency to Committee operations. Committee discussion focused on minor edits for clarity and consistency throughout the draft TOR. Additionally, the Committee amended Section 3b, Meetings, to accept oral comments from the public on Enforcement Committee agenda items if agreed upon by the Co-Chairs and if time allows. Written comments from the public would be allowed. The Committee also amended Section 3d, Meeting Record and Distribution, to clarify that a Committee report will be provided to the Council for each relevant agenda item, if requested. Alternatively, it may be presented to the Council as a single report. Finally, the Committee membership was revisited to reflect current members.

After being seen by the Committee, minor revisions were incorporated into the draft TOR document before the document was brought to the Council for final review and approval. The document was updated for consistency with the TOR for other committees where appropriate, and for consistency with the Council's Statement of Organization, Practices, and Procedures (SOPP). A copy of the Enforcement Committee Terms of Reference, as adopted by the Council on April 7th, is included at the end of this document.

C2 Small Sablefish Release Analysis

Sara Cleaver, Council staff, and Andrew Olson, NMFS SF, presented the Small Sablefish Release Analysis EA/RIR. The analysis will be presented to the Council for final action at the April 2025 meeting. This action under consideration by the Council was last seen by the Enforcement Committee in January

2021. A description of the Committee’s discussion and recommendations on this item are included in the EA/RIR analysis on pages 90 & 91. The Council has made changes to the measures under consideration since the Enforcement Committee last saw this item, and the Enforcement Committee reviewed and discussed these changes at this meeting.

Ms. Cleaver and Mr. Olson provided background on the action, the alternatives selected for analysis, the enforcement considerations of the action, and discussed the key Council decision points. In their presentation, they emphasized Element 5 of Alternative 2, summarized in Section 2 of the analysis (page 25). Element 5 details the Council recommendation to develop, in conjunction with industry, careful release requirements for all fixed gear sablefish fisheries. In this recommendation, the Council requested that the analysis describe gear modification options (voluntary and regulatory) used to improve size-selectivity for pot and hook-and-line gear fisheries. Within the discussion of Element 5, Mr. Olson provided a summary of the careful release provisions described in Table 2-1 of the analysis, the enforcement limitations of having careful release requirements for all fixed gear sablefish fisheries (Section 4.5 of the analysis), and specific gear modifications, including escape rings.

Mr. Olson provided the following summary of NMFS recommendations:

- **Alternatives 1 & 2: A)** align sablefish retention requirements for fixed gear CPs fishing in the IFQ and CDQ fisheries to comply with section 305(i)(1)(B)(iv) of the MSA, **and B)** implement technical revisions to the BSAI and GOA Groundfish FMPs to align with Federal regulations by:
 - Changing FMP reference to “freezer longliners” to “catcher/processors (CPs)”
 - Matching FMP language to regulations on sablefish retention requirements.
- **Alternative 2, Element 2 & 3: A)** Establish inseason management authority to prohibit discarding in the sablefish IFQ/CDQ fisheries when an area-wide SDA is reached to prevent exceeding a TAC or ABC, **and B)** Establish new terminology “sablefish discard allowance (SDA)” rather than “ICA”.
- **Alternative 2, Element 5: A)** Careful release requirements to include language similar to existing regulations for halibut and sablefish such that sablefish are released immediately and with a minimum of injury while ensuring observers are able to collect necessary biological information.

Mr. Olson also provided a summary of the following NMFS recommendation with respect to Alternative 2, Element 5, noting that discarding of any size is not in the current motion, but has been analyzed in the past as a path forward due to the prevalence of pot gear.

- **Alternative 2, Element 5, if discarding of any size sablefish for CPs and CVs is allowed: A)** Careful release requirements to include language similar to existing regulations for halibut and sablefish such that sablefish are released immediately and with a minimum of injury while ensuring observers are able to collect necessary biological information, **and B)** escape ring requirement for pot gear in the sablefish IFQ/CDQ fisheries to reduce capture of small sablefish.

Committee discussion and recommendations

The Committee expressed appreciation to the authors for all the work that went into the document. The Committee had comments or recommendations on the following specific issues:

- The Committee noted that the Enforcement Committee met on this topic in January of 2021, and at that time put forward a recommendation that, if the Council opted to allow for release of sablefish, allowing release of any size sablefish would be the most enforceable option, requiring no enforcement for discards apart from noncompliance with careful release requirements. At this meeting, the Committee reiterated that, from an enforcement perspective, this would be the simplest and most enforceable option. The Committee noted that if only small sablefish were allowed to be released, enforcing illegal discard of ≥ 22 ” sablefish would likely require changes

and training of observers and EM data reviewers to allow them to evaluate potential discard violations.

- The Committee discussed different options for regulatory language regarding retention or discard requirements.
 - State of Alaska regulations at 5AAC 28.170(f) mandate a vessel retain any visibly injured or dead sablefish. Based on their experience Alaska Wildlife Troopers provided input that this is essentially unenforceable unless an observer is aboard a vessel at the time of harvest. Furthermore, the language “visibly injured” is problematic to enforce due to the requirement of physical examination of fish, examiner subjectivity, and the lack of a scientifically and methodically developed injury or viability key. Due to these enforceability concerns with 5AAC 28.170(f), mirroring that State regulation is not something that the Committee would recommend.
 - The Committee recommended that the regulatory language for this action closely align with the language in halibut regulations, which mandates that discards be released immediately and with minimum of injury.
- The Committee noted that mandating escape rings, or other gear modifications or restrictions, would be enforceable. Gear restrictions can easily be inspected and measured both at-sea and dockside.

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 motherships 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.

NPFMC Enforcement Committee
TERMS OF REFERENCE

April 2025

1. **Establishment and Statement of Purpose:** The North Pacific Fishery Management Council (Council) may establish and maintain an Enforcement Committee (committee) to advise it on matters related to enforceability of fishery plans and regulations. The committee's primary function is to review proposed plans, regulations, or other management actions and provide their assessment of enforcement issues as early as possible in the development process. The committee would not be limited to purely enforcement aspects but would also consider part of its role to be discussion and development of monitoring and compliance approaches that facilitate implementation of, and compliance with, management program regulations and consideration of measures that could affect safety at sea.
2. **Membership:** Committee members will be appointed by the Council chair from governmental agencies and organizations having expertise relating to the enforcement and monitoring of North Pacific groundfish and crab fisheries of the BS/AI and GOA. At a minimum these agencies would include NOAA Fisheries Enforcement, NOAA Office of Sustainable Fisheries, U.S. Coast Guard, Alaska Wildlife Troopers, Alaska Department of Fish and Game, NOAA Fisheries Observer Program, and NOAA Office of General Counsel. All appointments will be subject to approval by the Council chair and should reflect the committee's responsibility to provide advice in the areas of enforcement and monitoring. Council staff for the committee will be designated by the Council Executive Director.
3. **Operations:**
 - a. **Chair:** The committee co-chairs will be appointed by the Council chair; one will be a sitting member of the Council and the other will be selected from among the committee members.
 - b. **Rules of order:** In general, rules of order will be informal. Committee advice will be reached by consensus, whenever possible. Committee reports will reflect the recommendations of the committee as well as the range of perspectives of all members.
 - c. **Agenda:** A draft agenda will be prepared in advance of each meeting by the Council staff in consultation with the committee co-chairs and Executive Director. The committee would be assigned issues for consideration on its agenda by (1) identification of future agenda items at the current committee meeting, subject to approval by the Council; (2) identification and assignment of issues by the Council as identified during the course of a Council meeting; (3) identification of critical, time-sensitive issues between committee/Council meetings from Council staff, agency staff, or committee members and vetted through the Executive Director. In these instances, the Executive Director will confer with the Council chair and committee co-chairs as necessary, and determine whether the additional issue warrants inclusion on the agenda.
 - d. **Meeting format:** Meetings will be facilitated in a hybrid or online format to allow for remote participation when possible. Compensation and travel expenses for non-Council participants on the committee will not be provided by the Council.
 - e. **Meeting Record and Distribution:** A report of each committee meeting will be prepared by Council staff, distributed to committee members for review, and revised as necessary before the committee report to the Council. The committee co-chairs will maintain final approval of the minutes. The committee report will be provided to the Council on an issue-by-issue basis, similar to the AP and SSC reports, as the relevant issue is addressed on the Council agenda. Alternatively, it may be presented to the Council as a single report.

4. **Role and responsibility of members:**
 - a. Committee members are highly encouraged to attend all committee meetings and to communicate with staff regarding availability.
 - b. Committee members are expected to read and review all meeting materials prior to the committee meeting.
 - c. Members are expected to be collaborative and respectful of each other during committee discussions.
 - d. If a committee member cannot attend a meeting, substitute or proxy participation may be allowed with the approval of the committee co-chairs.
5. **Public comment:** Written public comment to the meeting agenda prior to the meeting is preferred. Opportunity for oral public comment during the meeting will be provided as time allows. The committee co-chairs will announce, oversee, and maintain control over oral public comment opportunities.
6. **Additional Function:** While the primary function of the committee is to provide advice directly to the Council on relevant issues, it is also recognized that the committee, or its subgroups, may provide information directly to Council staff or other agency staff for inclusion in analytical documents ultimately destined for Council review. Such activities will be coordinated between the committee co-chairs and Council Executive Director.