AGENDA B-1(a)
APRIL 2011

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 115526
JUNEAU, AK 9911-5526
PHONE: (907) 465-4100
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March 1, 2011

Mr. Chris Oliver
Executive Director
North Pacific Fisheries Management Council
605 W. 4th, Suite 306
Anchorage, AK 99501-2252

Dear Mr. Oliver:

I would like to nominate Heather Fitch to serve as an Alaska Department of Fish and Game (department) member of the Crab Plan Team (CPT). Heather was recently promoted to our Bering Sea/Aleutian Islands (BSAI) area management biologist position for shellfish and groundfish in Dutch Harbor to fill the position vacated by Forrest Bowers. In her new position, Heather will be involved in establishing harvest strategies and harvest levels in BSAI crab fisheries, along with other management duties. The department believes it is important for our area management biologist to serve on the CPT in order to support the state-federal coordination required under the Fishery Management Plan for BSAI King and Tanner crabs.

As reflected in her enclosed résumé, Heather has management experience with the BSAI crab fisheries. Prior to her current position, she served as assistant area management biologist and as the department's dockside sampling coordinator for these fisheries. Heather will be a valuable asset to the CPT.

Thank you for your consideration of this nomination.

Sincerely,

Cora Campbell

Cora Campbell
Commissioner

Enclosure

Executive Director's Report

Crab Plan Team Nomination

The ADF&G has nominated Heather Fitch to serve on the Council's Crab Plan Team. Heather is now the BS/AI area management biologist in Dutch Harbor, and would replace the Plan Team vacancy left by Forrest Bowers. The nomination letter and Ms. Fitch's resume' are included under Item B-1(a).

National Ocean Council/Coastal and Marine Spatial Planning

As I reported in February, we are closely tracking the evolution of the President's Executive Order to implement the recommendations of the Ocean Policy Task Force, particularly progress on implementation of Coastal and Marine Spatial Planning (CMSP) and development of associated regional planning bodies. Item B-1(b) is a copy of the all-Council letter which was sent to the NOC on February 3, which outlines the experience of the Regional Fishery Management Councils in marine spatial planning activities, and which stresses the need for the Councils to be explicitly represented on any regional planning body established for this purpose. I had recommended a separate letter be sent from the North Pacific Fishery Management Council, with a more specific focus on Alaska perspectives, but I now believe we should hold off on sending any additional correspondence until this initiative gains a bit more focus overall, and more focus relative to the Alaska/Arctic region specifically.

There have been several developments over the past two months relative to this initiative. I have included in recent Council mailings a number of documents, including (1) a February 23, 2011 announcement of the appointments of the NOC Governance Coordinating Committee (which includes Mr. Mark Robbins, from the Governor's Office, for the Alaska/Arctic Region); (2) a report from the NOC titled "Legal Authorities Relating to the Implementation of CMSP"; and, (3) a summary from the March 10, 2011 inaugural meeting of the NOC's Governance Coordinating Committee (including the ppt presentations from that meeting). Item B-1(c) is a planning summary for a national workshop on CMSP being planned by the NOC, which is expected to be followed by regional workshops at some point later this year. We learned last week that the national workshop will be held June 21-23 in Washington, D.C. (as opposed to May 3-5), and that the Regional Fishery Management Councils will be invited to each send a representative to that workshop. I also understand that they intend to provide for a public session during that workshop. Staff from each of the eight Councils, under the direction of David Witherell, are also developing a brochure relative to the efforts of the Councils in the area of CMSP, which will be available in the next week or so for distribution.

Finally, in February I mentioned the Federal Register notice from the NOC which is soliciting general comment on the development of strategic action plans for each of the nine priority actions identified (including CMSP), with comments due April 29. I intend to develop a comment letter on behalf of the North Pacific Council, but I need to coordinate those comments with the State of Alaska which is also developing comments in response to this notice. Therefore I do not have a draft for your review, but propose that I work with the Council Chairman in mid to late April to finalize those comments. If individual Council members have suggestions for our comment letter please get them to me by April 15.

Annual CCC meeting

The annual Council Coordination Committee (Chairs, Vice-Chairs, and Executive Directors) will be hosted May 3-5 by the South Atlantic Fishery Management Council in Charleston, S.C. In addition to the regular agenda items, and discussion of CMSP, we will also receive an update on a NOAA initiative which I mentioned in my last ED report – that is, the intent of NOAA Fisheries to develop a plan and/or a

policy for review and reassessment of allocations under all catch share programs nationally. It is still unclear how far-reaching this initiative will be (i.e., applying to sector style allocations vs. ITQ programs, recognizing the difficulties in a reassessment of allocations in programs like halibut and sablefish IFQs where trading of QS has occurred over many years), and whether it is somehow intended to compel Councils to revisit all allocations or simply provide guidance to Councils should they elect to revisit allocations. NOAA Fisheries has hired a private contractor to begin scoping this initiative and we will receive an update at our CCC meeting in May.

Executive Order 13563

In February I alerted you to the recent Executive Order 13563 titled 'Improving Regulation and Regulatory Review' (Item B-1(d)), and dated January 18, 2011, which calls for each agency, within 120 days, to submit a preliminary plan to periodically review all existing (significant) regulations and determine whether they should be modified, streamlined, expanded, or repealed. Originally I viewed this as likely to be a technical review, designed to minimize redundancy, reduce complexity, and generally promote efficiencies in regulations promulgated by each major agency. However, this Executive Order has now been cited by NOAA Fisheries as potentially related to the initiative mentioned above – that is, it could somehow be implemented in conjunction with the NOAA Fisheries initiative to review and reassess allocations under all catch share programs.

As I read the Executive Order it does not appear to contain any mandate to review and revise regulations in the context of policy intent or (catch share) allocations. However, it appears possible that it could be construed in exactly that manner. Therefore I now think this has the potential to be a significant issue on our radar screen. Even without this specific linkage to revising allocations, it could result in considerable work for NOAA Fisheries and the Councils. A March 14 Federal Register notice (Item B-1(e)) invites comments, by April 4, on how NOAA should design their preliminary plan for compliance with this Executive Order. I recommend a general comment letter relative to the scope of such a review process, particularly emphasizing the need to constrain the scope to that which appears to be the general intent of the Executive Order. I can have such comment letter drafted before the end of this Council meeting, in time to meet the comment deadline.

SOPPs

In February I mentioned the SOPPs revision process, including the rather extensive review process outlined by recent NOAA policy directive, and my intent to have revised SOPPs for your review at this meeting. I am expecting to be able to provide that to the Council, and it may be possible to garner Council approval of those revised SOPPs prior to the end of this Council meeting. Following that they would be submitted to the NOAA review and approval process. The revisions are primarily housekeeping in nature, to gain a consistent format across all Regional Fishery Management Councils, and to make sure the key provisions of the 2006 MSA reauthorization are properly reflected in each Council's SOPPs.

Events this week

On Tuesday evening, March 29, at around 5 pm in the Advisory Panel meeting room, the Marine Conservation Alliance Foundation and the National Marine Mammal Laboratory will host a workshop on northern right whales. They intend to present current stock status, seasonal distribution patterns, and overlap of various fisheries with reported sightings in critical habitat areas. They will also discuss east coast fishery regulations pertaining to right whale interactions.

Heather Fitch

Alaska Department of Fish and Game
2315 Airport Beach Road, Dutch Harbor, AK 99692
(907) 581-1239
heather.fitch@alaska.gov

Education:

B.S. in Biology, The Evergreen State College, 2005

Fishery Experience:

Area Management Biologist – Shellfish and Groundfish
ADF&G Dutch Harbor, January 2011 - present
Supervisor: Wayne Donaldson
Duties: Management of commercial and subsistence shellfish and groundfish fisheries in the Bering Sea and Aleutian Islands, which includes the federal FMP crab fisheries. Scope of duties: establishing harvest strategies and harvest levels, implementing fishery openings and closings, and compiling and assessing harvest and effort reports. Represent the department to industry, and at local advisory and Alaska Board of Fisheries meetings. Author annual management reports, fishery summaries, and staff comments for the Alaska Board of Fisheries.

Assistant Area Management Biologist – Groundfish & Community Development Quota (CDQ)
ADF&G Dutch Harbor, August 2009 – January 2011
Supervisor: Forrest Bowers
Duties: Management of commercial groundfish and CDQ shellfish fisheries in the Bering Sea and Aleutian Islands. Scope of duties: establishing guideline harvest levels based on federal harvest specifications, implementing fishery openings and closings, and compiling and assessing harvest and effort reports for state-managed fisheries. Authored annual management reports and fishery summaries.

Staff Biologist
ADF&G Dutch Harbor, April 2008 – August 2009
Supervisor: Forrest Bowers
Duties: Coordination of dockside sampling of Bering Sea, Bristol Bay, and Aleutian Islands crab fisheries.

References:

Wayne Donaldson
ADF&G, Kodiak
(907) 486-1840

Krista Milani
NMFS, Dutch Harbor
(907) 581-2062

Forrest Bowers
NMFS, Juneau
(907) 586-7240

Regional Fishery Management Council Coordination Committee

February 3, 2011

Ms. Nancy Sutley and Dr. John P. Holdren, Co-Chairs
National Ocean Council
730 Jackson Place, NW
Washington, DC 20503

Dear Ms. Sutley and Dr. Holdren:

The purpose of this letter is to inform the National Ocean Council (NOC) of the Regional Fishery Management Councils' (RFMCs) interest in participating in the Coastal and Marine Spatial Planning (CMSP) process through the regional planning bodies being created by the NOC. Also, because of this interest, the RFMCs would like to be included to participate in the national CMSP workshop scheduled for May, 2011.

The Council Coordination Committee (CCC) recently met with NOAA Fisheries Senior staff and discussed the National Ocean Council and Coastal and Marine Spatial Planning. The CCC is the coordinating body of the RFMCs, established under Section 302(l) of the Magnuson-Stevens Fishery Conservation and Management Act. It consists of the chairs, vice chairs, and executive directors of each of the eight RFMCs.

Specifically, we are requesting that the RFMCs have an integrated role in the CMSP process, including membership in the appropriate regional planning bodies, and through other mechanisms (such as the national workshop) that will facilitate Council input in the development of CMS Plans.

We note that under the NOC priority objective for CMSP - Regional Planning Bodies it states "The members of the regional planning bodies will consist of Federal, State, and tribal authorities relevant to CMSP for that area. In addition, the regional planning bodies will provide a formal mechanism for consultation with their respective Regional Fishery Management Councils (RFMCs) on fishery related issues."

Further, the final recommendations of the Interagency Ocean Policy Task Force state "Some comments suggested adding a Regional Fishery Management Council (RFMC) representative to the regional planning bodies given their unique quasi-regulatory role under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Task Force is interested in finding the most effective opportunity for sustained and meaningful engagement with the RFMCs as it is their statutory responsibility to develop fishery

management plans and management measures for fisheries which NOAA then reviews and, if approves, implements through regulation. While the Task Force acknowledges the relatively unique role that RFMCs play, it did not want to prescribe a particular method for how RFMCs should be included in the CMSP process without more thoughtful consideration and analysis. The recommendations describe that the regional planning bodies would provide a formal mechanism for consultation with the RFMCs across their respective regions on fishery related issues and that the NOC would further assess if representation on the regional planning bodies is the best method for this engagement." The CCC firmly believes that the best method for engagement with the RFMCs in CMSP is for each of the regional Councils to have a dedicated seat on the appropriate regional planning body in their jurisdictions.

The RFMCs have already been engaged with regional planning bodies where they exist. We have made significant efforts to work with the states in the development of the regional governor's ocean partnerships/alliances and other entities addressing CMSP.

The Western Pacific Fishery Management Council (WPFMC) has been engaged as project partners in two funding proposals for NOAA's FY-2011 Regional Ocean Funding Program. One of these proposals was to establish a process in Hawaii to bring together State, Federal, County, and other stakeholder groups to begin to implement CMSP. The other proposal was to establish a Pacific Regional Ocean Partnership that would include government representation from American Samoa, Guam, Northern Mariana Islands, and Hawaii. The WPFMC has also been in discussions with the Pacific Basin Development Council (PBDC) on their potential interest in forming a Pacific Regional Ocean Partnership. The PBDC is a non-profit organization that was established in the early 1980s by the governors of the Northern Mariana Islands, American Samoa, Guam, and Hawaii.

The Mid-Atlantic Fishery Management Council (MAFMC) passed a resolution expressing support for the Mid-Atlantic Regional Council on the Ocean (MARCO), and has requested representation on the MARCO Management Board. In addition to representation on the Management Board, the Council also requested representation on the appropriate MARCO Action Teams through participation of Council technical staff. The Council Chairman briefed MARCO on Council activities at the MARCO August 2010 meeting and the Council has had presentations from MARCO representatives at both their October and December 2010 meetings. However, it is unclear whether or not MARCO will become the regional planning body established by the Executive Order.

The Gulf of Mexico Fishery Management Council has interacted with the Gulf of Mexico Governor's Alliance through their Council Chairman. The Chairman currently serves on the Gulf of Mexico Governor's Alliance grant review board.

The New England Fishery Management Council (NFMC) contacted the Northeast Regional Ocean Council (NROC), requesting a seat on their regional planning body. The NROC has invited the NEFMC to participate in all future NROC meetings and conference calls. The NROC has also verbally assured the NEFMC that they will support NEFMC membership on the regional planning body. However, as is the case with MARCO in the

Mid Atlantic, it is unclear whether or not NROC will become the regional planning body established under the NOC.

Currently no regional planning bodies exist in the Alaska Region; however, the North Pacific Fishery Management Council (NPFMC) has been engaged in numerous activities related to CMSP. Over 673,000 square nautical miles of the EEZ (over half of the area under the Council's jurisdiction) have been closed to various forms of fishing, or in some cases to all fishing, to conserve habitat or to minimize impacts of fishing on vulnerable species. The Council has established fishery management plans for the Arctic region, the Bering Sea and Aleutian Islands, as well as, a Fishery Ecosystem Plan for the Aleutian Islands area, which is an ecologically and historically unique ecosystem area. In 2005, in response to the U.S. Ocean Action Plan, the Council initiated the establishment of the Alaska Marine Ecosystem Forum, comprised of major State and Federal agencies involved in various aspects of resource management. While not designed as a 'Regional Ocean Partnership' at the time, this body currently functions in much the same manner as that envisioned for regional planning bodies under the Executive Order.

The South Atlantic Fishery Management Council has been involved in the development of the Governor's South Atlantic Alliance through participation of its state agency Council members and the Council staff. Council members and staff serve on the Executive Planning Team that developed the South Atlantic Alliance Action Plan. This has been an ongoing endeavour over the pass several years.

At its September 2010 meeting, the Pacific Fishery Management Council (PFMC) formally considered Executive Order 13547 regarding marine spatial planning in United States territorial waters in an open, public meeting. The PFMC received a presentation from the West Coast Governors Agreement on Ocean Health (WCGA) Executive Committee members. They described the current status and activities of the WCGA, and emphasized the many areas of common interest with the Pacific Council. They also requested that the Pacific Council assign a point of contact with regard to participation in the marine spatial planning process, especially as it evolves into regional implementation led by regional planning bodies. As you know, the Pacific Council has also officially requested a dedicated seat on the West Coast regional planning body for a representative of the Pacific Council, something that has drawn broad support in general. Discussions are currently underway between the Pacific Council and the WCGA regarding a proposed organizational structure for a West Coast regional planning body, including the optimal role for the Pacific Council.

Since 1976, the RFMC model has proved to be an excellent operational design for regional governance. We believe the experience gained by the Councils', coupled with our successful science-based process, existing infrastructure and public interface processes will make us effective partners for implementing marine spatial planning in the future.

We look forward to working with the NOC and appreciate your thoughtful consideration of our request.

Sincerely,

Mr. Mark Cedergreen
Pacific Fishery Management
Council Chair

Mr. Manny Duenas
Western Pacific Fishery Management
Council Chair

Mr. David Cupka
South Atlantic Fishery Management
Council Chair

Mr. Eric Olsen
North Pacific Fishery Management
Council Chair

Mr. John Pappalardo
New England Fishery Management
Council Chair

Mr. Eugenio Poleiro-Soler
Caribbean Fishery Management
Council Chair

Mr. Rick Robins
Mid-Atlantic Fishery Management
Council Chair

Mr. Robert Shipp
Gulf of Mexico Fishery Management
Council Chair

Cc: Regional Fishery Management Council Executive Directors
Mr. John Oliver
Mr. Sam Rauch
Mr. Gary Reisner

National Ocean Council

Plan for Coastal and Marine Spatial Planning Workshop Implementation

PLAN FOR NATIONAL AND REGIONAL COASTAL AND MARINE SPATIAL PLANNING WORKSHOPS

The Final Recommendations of the Interagency Ocean Policy Task Force (Final Recommendations) call for a "National Workshop and CMSP Simulation Exercise" to facilitate development of the Strategic Action Plan on Coastal and Marine Spatial Planning (CMSP) due in nine months, and the coastal and marine spatial plans due within five years. The National Workshop and additional regional workshops will aim to educate and learn from participants on the process and the implementation of regionally-based CMSP. An interagency workshop planning group (planning group) developed the initial plan described below for organizing and convening the National Workshop, Simulation Exercise, and regional workshops.

The National Ocean Council will host a three day National CMSP Workshop and Simulation Exercise in Washington D.C.in the Spring of 2011, followed by nine additional one or two day regional workshops.

The purpose of the National Workshop will be to provide an opportunity for managers, at the Federal, State, tribal, and local level, to learn about CMSP, including by participating in an exercise designed to simulate a real-world planning exercise, and to begin to develop a shared understanding of what CMSP is under the National Ocean Policy. Although the workshop will be intended primarily for managers, we have also built in opportunities for public participation. The regional workshops will build upon progress and guidance established at the National workshop and provide a foundation for developing, articulating, and meeting the needs of the individual regions. Regional workshops will be scheduled within twelve months of the National Workshop and staggered to accommodate the different stages of the regions in building their capabilities to implement CMSP. While there will be many commonalities among the regional workshops, we expect the design and the scope of the workshops to be regionally tailored and relevant.

The success of CMSP will hinge on effective engagement of outside groups and experts. Their involvement will lead to a more informative discussion, provide credibility to the process, and generate "buy-in" that will encourage robust results. The National Workshop, which includes a CMSP Simulation Exercise, will be the first major opportunity to showcase the engagement and participation of States, tribes, and regional partnership representatives in the work of the National Ocean Council (NOC), as well as demonstrate the Administration's commitment to open and transparent processes.

The NOC's workshop planning group will solicit input into the design and development of the National and regional workshops through the NOC's Governance Coordinating Committee, Regional Ocean Partnership representatives, States and tribal representatives with experience in coastal and ocean planning, and other Federal representative groups and Federal contacts in the regions. Workshop planners will also draw from existing contacts with academics, scientists, environmentalists, ocean policy, transportation, industry, security experts, and other expert stakeholders to solicit input into the National Workshop and the Simulation Exercise in order to identify the tools and approaches for ensuring success.

In addition, the NOC will develop a dedicated public session during the National Workshop to promote transparency and meaningful stakeholder and public engagement.

NATIONAL WORKSHOP

The workshop will be an opportunity for managers, at the Federal, State, tribal, and local level, to learn about CMSP, and to begin to develop a shared understanding of what CMSP is under the National Ocean Policy. This will be the NOC's "flagship" effort to kick off CMSP implementation and the first step in building momentum towards developing effective and meaningful regional CMS Plans for our Nation's ocean, coasts, and Great Lakes. The National Workshop will provide an overview of the CMSP process, present an opportunity to bring together future CMSP practitioners from across the Nation, and help set-the-stage for the follow-on, locally-tailored regional workshops.

The workshop will have three primary objectives, including

- Building comprehension and support to implement CMSP and create a "community" to carry forward a shared understanding of the principles and objectives of CMSP through execution of the regional workshops and regional planning efforts.
- Developing detailed understanding of the CMSP process and expectations described in the Final Recommendations. The participants will share lessons learned through experience with CMSP implementation, thereby building an understanding of how the U.S. CMSP process can benefit from and/or will differ from other CMSP efforts.
- Identifying challenges, solutions, and collaborative strategies for CMSP, and the next steps necessary for developing the tools, resources, and guidance materials to move forward with regional CMSP.

Participants attending the workshop will include:

- Representatives from the existing regional ocean partnerships.
- Senior-level Federal, State, and tribal agency leaders, including those who might serve as Federal, tribal, and State co-leads of Regional Planning Bodies (RPB). In other words, those who would drive the process, and who have authority to assess capabilities and capacity, as well as assign the assets necessary for successful CMSP development.
- Interagency representatives that would participate on the RPBs or contribute to CMSP development, including Regional Fishery Management Council representatives, local authorities, and indigenous community representatives.
- The general public and stakeholders during a dedicated public session of the Workshop.

NATIONAL SIMULATION EXERCISE

The NOC will invite a group of Federal, State, tribal, and local representatives to participate in a simulation exercise to explore the essential elements of the CMSP process, build national and regional understanding of its value, and help form the curriculum for subsequent exercises in the regions. The exercise will simulate a CMSP planning effort for a real or imagined region in the United States. Participants will be taken through the CMSP process, including:

- Exploring how CMSP actors and constituents would address establishing objectives for planning;
- Examining various coastal and marine issues and demonstrating how a regional dispute resolution mechanism might be utilized to resolve them; and
- Identifying measures to evaluate alternatives and progress towards achieving objectives and CMS Plan goals.

The exercise will utilize small groups and draw from several possible designs:

a) Process Illustration: Provide each breakout group with a specific task illustrating a different part of the CMSP process to demonstrate how CMSP would work as a planning process from start to finish.
b) One Scenario: Provide one single simulation scenario to all of the small working groups to illustrate how different groups can come out with different solutions even when presented with the same hypothetical scenario.
c) Several Scenarios: Provide a different simulation scenario to all of the small working groups to illustrate the variety of solutions possible with CMSP.

Federal agency representatives will develop and instruct the simulation, and, as necessary, will draw upon contractors with expertise in traditional regional planning, CMSP, and academics familiar with role-playing exercises. The planning group will design the exercise and develop associated materials while a professional facilitator will lead the exercise and will participate on the planning group.

REGIONAL WORKSHOPS

The NOC will hold one- to two-day workshops in each of the nine regions. The workshops will build off the National Workshop, and address region-specific issues. These workshops will be co-developed and implemented in partnership with regional, State, tribal, and local partners to foster regional ownership and build momentum for successful implementation of CMSP. The planning group will develop the agendas collaboratively with potential RPB members, partners, and other ocean, coastal and Great Lakes stakeholders to ensure the workshops are regionally-relevant.

The objectives of the regional workshops include:

- Building comprehension and support for implementation of CMSP.
- Creating a "community" that can carry a shared understanding forward.
- Sharing lessons learned from experiences with CMSP implementation, and ensure understanding of how the U.S. CMSP process can benefit from and/or will differ from other CMSP efforts.
- Identifying challenges and solutions for regional CMSP development, and next steps to develop the tools, resources, and guidance materials that will be essential for the regions to move forward with CMSP.
- Delving deeper into issues/questions identified in the National Workshop.

TARGET AUDIENCE AND PARTICIPANTS

The planning group will provide more specific details regarding regional workshop participants and will be working with regional Federal, State and tribal representatives to develop the invitee lists. The following criteria are suggested:

a) Members of existing regional ocean partnerships.
b) Regional, State and tribal representatives, including any potential State and tribal co-leads of the RPB
c) Stakeholders and representative interest groups that have a vested interest in CMSP, specific to each region, including those previously engaged in Task Force round tables and the Task Force's regional public hearings.
d) Interagency representatives that will be implementing regional and National CMSP actions, including potential Federal co-leads of the regional planning body.
e) Regional partners that have a vested interest in CMSP (e.g., representatives from academic institutions, NGO's, scientific organizations, and sector interests).

Federal Register
Vol. 76, No. 14
Friday, January 21, 2011

Presidential Documents

Title 3—

The President

Executive Order 13563 of January 18, 2011

Improving Regulation and Regulatory Review

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve regulation and regulatory review, it is hereby ordered as follows:

Section 1. *General Principles of Regulation.* (a) Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

(b) This order is supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866 of September 30, 1993. As stated in that Executive Order and to the extent permitted by law, each agency must, among other things: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(c) In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. Where appropriate and permitted by law, each agency may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Sec. 2. *Public Participation.* (a) Regulations shall be adopted through a process that involves public participation. To that end, regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

(b) To promote that open exchange, each agency, consistent with Executive Order 12866 and other applicable legal requirements, shall endeavor to provide the public with an opportunity to participate in the regulatory process. To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally

be at least 60 days. To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.

(c) Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.

Sec. 3. *Integration and Innovation.* Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization. Each agency shall also seek to identify, as appropriate, means to achieve regulatory goals that are designed to promote innovation.

Sec. 4. *Flexible Approaches.* Where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, appropriate default rules, and disclosure requirements as well as provision of information to the public in a form that is clear and intelligible.

Sec. 5. *Science.* Consistent with the President's Memorandum for the Heads of Executive Departments and Agencies, "Scientific Integrity" (March 9, 2009), and its implementing guidance, each agency shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions.

Sec. 6. *Retrospective Analyses of Existing Rules.* (a) To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible.

(b) Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

Sec. 7. *General Provisions.* (a) For purposes of this order, "agency" shall have the meaning set forth in section 3(b) of Executive Order 12866.

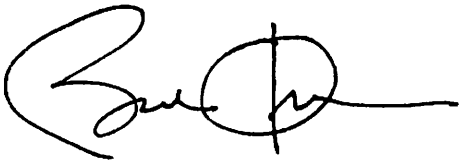
(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
January 18, 2011.

[FR Doc. 2011–1385
Filed 1–20–11; 8:45 am]
Billing code 3195–W1–P

(2) If inspection required by paragraph (h) was done using Option 2, do the inspection required by paragraph (j) of this AD within 3,000 flight cycles after accomplishing the inspection required by paragraph (h) of this AD.

(k) For airplanes on which no cracking is confirmed during the most recent inspection required by paragraph (h) of this AD: Repeat the inspection for loose and missing fasteners required by paragraph (j) of this AD thereafter at intervals not to exceed the applicable time specified in paragraph (k)(1) or (k)(2) of this AD.

(1) If the most recent inspection required by paragraph (h) was done using Option 1, the next inspection required by paragraph (j) of this AD must be done within 4,400 flight cycles after accomplishing the most recent inspection required by paragraph (j) of this AD.

(2) If the most recent inspection required by paragraph (h) was done using Option 2, the next inspection required by paragraph (j) of this AD must be done within 3,000 flight cycles after the most recent inspection required by paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Related Information

(m) For more information about this AD, contact Roger Durbin, Aerospace Engineer, Airframe Branch, ANM–120L, Los Angeles ACO, 3960 Paramount Blvd., Lakewood, CA 90712–4137; *phone:* 562–627–5233; *fax:* 562–627–5210; *e-mail: Roger.Durbin@faa.gov.*

(n) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; *phone:* 206–544–5000, extension 2; *fax:* 206–766–5683; *e-mail: dse.boecom@boeing.com*; Internet: *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, the FAA, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on March 4, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–5726 Filed 3–11–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Chapter IX

50 CFR Chapters II, III, IV, and VI

RIN 0648–XA282

Reducing Regulatory Burden; Retrospective Review Under E.O. 13563

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request for information.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is preparing a preliminary plan to review its existing significant regulations in response to the President's Executive Order 13563 on Improving Regulation and Regulatory Review. The purpose of NOAA's review is to make the agency's regulatory program more effective and less burdensome in achieving its regulatory objectives by identifying those regulations that should be modified, streamlined, expanded or repealed. NOAA is asking for ideas and information from the public in preparing its preliminary plan explaining how it will conduct such a review.

DATES: You must submit any comments on or before April 4, 2011.

ADDRESSES: You may submit comments, identified by RIN 0648–XA282, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* 301–713–0596, Attn: William Chappell.
- *Mail:* 1315 East-West Highway, SSMC3, SF5, Room 13142, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NOAA will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: William Chappell, 301–713–2337, x169.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration is a Federal agency that is part of the U.S. Department of Commerce. NOAA's mission is to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. NOAA administers a broad range of statutes, including, but not limited to the Endangered Species Act, 16 U.S.C. 1531, *et seq.;* Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801, *et seq.;* Marine Mammal Protection Act, 16 U.S.C. 1361, *et seq,* National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.;* Coastal Zone Management Act, 16 U.S.C. 1415, *et seq.;* and Land Remote Sensing Policy Act, 15 U.S.C. 5601, *et seq.*

On January 18, 2011, the President issued Executive Order 13563, "Improving Regulation and Regulatory Review," to ensure that Federal regulations seek more affordable, less intrusive means to achieve policy goals, and that agencies give careful consideration to the benefits and costs of those regulations. Among other things, the Executive Order directed agencies to develop and submit a preliminary plan within 120 days that will explain how they will periodically review existing significant regulations to identify any regulations that can be made more effective or less burdensome in achieving regulatory objectives.

To implement the Executive Order, NOAA is taking several immediate steps to launch its retrospective review of existing regulatory requirements. Consistent with its commitment to public participation, NOAA is soliciting views from the public on how best to conduct its analysis of existing NOAA rules and how best to identify those rules that might be modified, streamlined, expanded or repealed. NOAA promulgates rules in accordance with applicable laws and based on best available scientific information, analyses of different alternatives for

agency action, and public participation and input. However, important information as to the consequences of a rule, including its costs and benefits, comes from practical, real-world experience (both on the part of the public and on the part of the agency) after rules have been implemented. Regulated entities and members of the public affected by or interested in NOAA's regulations are likely to have useful information and perspectives on the benefits and burdens of existing requirements beyond what was available at the time regulations were issued. Interested parties may also be well-positioned to identify those rules that are most in need of review; NOAA would find such input helpful as it considers how to prioritize and properly tailor its retrospective review process for significant regulations. In short, engaging the public in an open, transparent process is a crucial step in NOAA's review of its existing regulations.

NOAA recognizes that the public comment period set forth in this Request for Information (RFI) is shorter than the 30–60 day (or longer) comment periods that may be used for proposed rules. That is because of consideration of the timing requirements under the Executive Order, and because NOAA is not asking for detailed comments on the substance of specific regulation, only comments pertaining to the retrospective review plan which is under development.

Questions for the Public

Comments will be most helpful if they provide examples and a detailed explanation of how the suggestion will support NOAA's mission in a way that is more efficient and less burdensome. In providing comments, please keep these key considerations in mind:

- Retrospective review does not allow NOAA to contravene requirements of its various statutory mandates. In addition, where NOAA's discretion has been limited by law, as is the case with fishery management plans and regulations developed by Regional Fishery Management Councils under the Magnuson-Stevens Act, 16 U.S.C. 304, NOAA's ability to modify, streamline, expand, or repeal regulations is similarly constrained.
- NOAA currently conducts periodic review of existing regulations pursuant to statutory mandates. For instance, NOAA's Office of National Marine Sanctuaries is required by the National Marine Sanctuaries Act, 16 U.S.C. 1434(e), to periodically review sanctuary management plans to ensure that sanctuary management continues to best conserve, protect, and enhance the nationally significant living and cultural resources at each site. Such review provides sanctuary management with an ongoing opportunity to review existing regulations, amend existing regulations (as deemed necessary), and generally outline future regulatory goals in the management plans. Similarly, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, NOAA's National Marine Fisheries Service (as delegated from the Secretary of Commerce) is required to review at routine intervals that may not exceed two years any fishery management plans, plan amendments, or regulations for fisheries that are experiencing overfishing or in need of rebuilding. 16 U.S.C. 1854(e)(7). For many fisheries, revisions to plans and regulations occur with even greater frequency, as National Standard 2 of the Magnuson-Stevens Act requires that conservation and management measures be based on the best scientific information available. *Id.* § 1851(a)(2). We seek your input on developing a review plan that is integrated with those existing requirements.
- Our plan will be tailored to reflect our resources, rulemaking history, and the volume of significant regulations at issue.

NOAA intends the questions below to elicit useful information as the agency develops a preliminary plan for possible review of its significant regulations. These questions are not intended to be exhaustive. You may raise other issues or make suggestions unrelated to these questions that you believe would help the agency develop better regulations.

(1) How can NOAA review its existing significant rules in a way that will identify rules that can and should be changed, streamlined, consolidated, or removed? NOAA encourages those submitting comments to include a proposed process under which such a review could be regularly undertaken.

(2) How can NOAA reduce burdens and maintain flexibility and choice for the public in a way that will promote and achieve its mission?

(3) Does NOAA have rules or guidance that are duplicative or that have conflicting requirements among its components or with other agencies? If so, please specifically identify the rules or guidance and suggest ways NOAA can streamline, consolidate, or make these regulations work better.

(4) Are there better ways to encourage public participation and an open exchange of views when NOAA engages in rulemaking?

(5) Are there rules or guidance that is working well that could be used as models for improving other regulations? If so, please specifically identify the rule or guidance.

(6) Are NOAA regulations and guidance written in language that is clear and easy to understand, consistent with statutory requirements? Please identify specific regulations and guidance that are good candidates for a plain language re-write and also identify regulations that are written clearly that could be used as models.

(7) What are some suggestions that NOAA can use to assure that its regulations promote and achieve its mission in ways that are efficient and less burdensome?

(8) Which significant regulations have proven to be excessively burdensome? What data support this? What suggestions do you have for reducing the burden and maintaining and achieving NOAA's mission?

(9) Which significant regulations could be made more flexible within the existing legal framework? What data support this?

(10) Are there regulations that have become ineffective or been overtaken by technological or other change and, if so, what are they? How can they be modernized to accomplish the statutory or regulatory objective better?

NOAA will consider public input as we develop a plan to periodically review the agency's significant rules.

NOAA notes that this Request for Information is issued solely for information and program-planning purposes. The agency will give careful consideration to the responses, and may use them as appropriate during the retrospective review, but we do not anticipate providing a response to each comment submitted. While responses to this RFI do not bind NOAA to any further actions related to the response, all submissions will be made publically available on *http://www.regulations.gov.*

Dated: March 7, 2011.

Lois J. Schiffer,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 2011–5681 Filed 3–11–11; 8:45 am]

BILLING CODE 3510–12–P

FEDERAL TRADE COMMISSION

16 CFR Part 301

RIN 3084–AB26

Fur Products Labeling Act

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Advance notice of proposed rulemaking; request for comment.

North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director

Telephone (907) 271-2809

605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

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Visit our website: http://www.alaskafisheries.noaa.gov/npfmc

March 29, 2011

Dr. James Balsiger,
Chairman, IPHC
NMFS – AK Region
P.O. Box 21668
Juneau, AK 99802-1668

Dear Dr. Balsiger:

On behalf of myself and Chairman Eric Olson, I am writing with regard to the recent letter from Senator Murkowski and Senator Begich, which requested that Council staff work with staff from the ADF&G and IPHC to provide the IPHC Commissioners with additional analysis relative to a maximum size limit for charter halibut in Area 2C. We have reviewed the recent correspondence from ADF&G Commissioner Campbell, which includes a recent analysis by Scott Meyer relative to the length limit issue. We have also reviewed the previous analyses conducted by Council staff (and contractors) in an attempt to arrive at a better understanding of how the proposed algorithm contained in those previous Council analyses relate to the recent ADF&G analysis, and most importantly to determine the best, most current information we could provide to the IPHC should they elect to reconsider this issue.

When the Council approved the catch sharing plan (CSP), the specific algorithm for determining a maximum length limit was not explicitly part of the Council's motion, nor has it been approved by the Secretary of Commerce. Subsequent to the Council's action, and as part of the development of the rulemaking package for the CSP, the SSC reviewed discussion papers designed to assist in the identification of a specific algorithm for implementation of the proposed CSP. The SSC noted in their February 2009 minutes that the choice of algorithms is essentially a policy decision, which is critically predicated on the average weight of halibut caught, and whether highgrading to the maximum would occur. Further the SSC recommended that the choice of a maximum size limit should be an iterative process for a few years, in order to better predict fishing behavior and the likelihood of highgrading to the maximum size limit. We now have some collective experience, and harvest data, operating under a one-fish bag limit in Area 2C, which we did not have for the CSP analysis, and which could be informative to the maximum length determination. We also expect that NMFS will call attention to the proposed algorithm in order to solicit public comment on this aspect of the proposed rule for the CSP, once it is published.

We understand that the IPHC determined the 37" maximum size limit for 2011 based on the algorithm developed for implementation of the CSP, with the intent of constraining the charter halibut harvest within the Council's established GHL. If the IPHC decides to consider more recent analyses of maximum size limits which would still keep the charter fishery within the GHL, our Council staff are readily available to work with ADF&G and IPHC staff to review previous and recent analyses (such as that

provided by ADF&G on March 23) in order to provide the Commissioners with the most current information available.

Sincerely,

Chris Oliver
Executive Director

CC: Senator Lisa Murkowski
Senator Mark Begich,
ADF&G Commissioner Cora Campbell
Dr. Bruce Leaman

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

March 22, 2011

Dr. James Balsiger, Chairman
International Pacific Halibut Commission
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802-1668

Dear Dr. Balsiger:

In response to a recent request from Senator Murkowski and Senator Begich, I am providing the Alaska Department of Fish and Game's (department) analysis of the effects of various length limits for retained halibut in the International Pacific Halibut Fishery Commission (IPHC) Area 2C charter fishery.

The State of Alaska manages recreational fishing for marine species off Alaska, with the exception of Pacific halibut. While the department has no authority to adopt management measures specific to the recreational halibut fishery, the department has assumed responsibility for the recreational fishery data collection programs and harvest estimates used by the IPHC to develop annual management recommendations, and by the North Pacific Fishery Management Council (Council) and National Marine Fisheries Service (NMFS) to inform federal management actions. Department staff have extensive management experience in recreational fisheries off Alaska and administer the only data collection programs that occur in those fisheries. Department staff typically conduct or offer advice on analyses that utilize data collected under our programs.

The IPHC action to recommend a 37-inch maximum size limit in addition to the 1-fish bag limit in the charter halibut sector in IPHC Area 2C for 2011 triggered several inquiries to the department about the potential effects of this action. Stakeholders requested further analysis of the recommendation as well as alternative management measures to constrain the sector's harvest in 2011 to the level provided under federal regulation, 788,000 pounds (net weight). In response, department staff produced projections based on a set of assumptions described in the attached paper and a range of management measures put forward in public requests for analysis.

Department projections are based on assumed harvest levels (in number of fish) equal to the 2010 level of 46,816 fish, and plus or minus 10 percent, 42,134 and 51,498 fish. The length and geographic distributions for 2010 retained charter halibut harvest were used as a proxy for 2011, but adjusted to convert lengths of retained fish that were in excess of a length limit to equal exactly the limit. This adjustment is conservative given a low probability that anglers will be able to replace any fish that must be released because it exceeds the length limit with a fish exactly equal in length to the limit. Results indicate that at a retention level of 46,816 fish, a 37-inch maximum length limit would result in a harvest level approximately 22 percent below the 788,000 pound guideline harvest level (GHL), and a 42-inch maximum length limit is the highest maximum size limit that would result in charter harvest removals within the GHL.

The IPHC based their recommendation on an assumed harvest level of 46,000 fish. We agree that the expected number of retained fish is likely to be lower than the 2010 level due to a new federal program limiting entry to the charter halibut fishery, and likely negative impact of a new length restriction on demand for guided halibut trips. The IPHC recommendation was also based on the assumption that each fish harvested would be of the maximum size: an improbable outcome since a significant portion of retained harvest is smaller fish in some areas of Southeast Alaska. Additionally, charter logbook data show that anglers in Area 2C catch fewer than 2 fish per day, on average. This suggests the frequency of high-grading under a 1-fish bag limit is not likely to be great enough to expect each angler to catch a fish exactly equal in size to the limit.

The methodology the department used to develop projections was possible for 2011 because there has been a 1-fish bag limit in place without a length limit in recent years; the 2010 length distribution was not distorted by a maximum size limit. This approach is a meaningful contribution to the best available information for analysis of a 2011 management measure and is responsive to comments provided by the Council's Scientific and Statistical Committee on maximum size limit methodology.

The IPHC has stated their recommendation was based on the Council's Catch Sharing Plan (CSP) preferred alternative that has been advanced for Secretarial review and approval. Final analysis and a proposed rule for the CSP have not yet been submitted for Secretarial review or released to the public. While the Council CSP was a sensible starting point for developing 2011 measures, it is also reasonable to expect decision makers to understand and be responsive to the expected effects of a new 2011 management measure. The department's analysis speaks to those expected effects.

In addition, it is important to note that maximum length limits under the CSP are only one element of a complex management plan. Other significant elements, including a program which would allow transfer of commercial halibut quota to charter halibut permit holders, are not in place. The ability to transfer halibut was developed to provide opportunity for charter vessel anglers to harvest halibut in excess of the management measure (up to harvest limits in place for unguided recreational anglers in the area) through compensated reallocation of commercial quota.

We request IPHC Commissioners be responsive to the Senators' call for consideration of additional analysis for amending their charter management measure for 2011. In addition to the enclosed state's analysis, we suggest IPHC Commissioners review a July 2009 discussion paper on CSP maximum size limit methodology, and specifically the Council's Scientific and Statistical Committee minutes on the paper. Both are enclosed. Please contact me or Stefanie Moreland to discuss how we can best proceed to provide the commission with any additional analysis to assist you in making an informed decision on this matter.

Sincerely,

Cora Campbell

Cora Campbell
Commissioner

Enclosures

cc: The Honorable Lisa Murkowski, U.S. Senate
The Honorable Mark Begich, U.S. Senate
Bruce Leaman, Executive Director, IPHC
Eric Olson, Chairman, North Pacific Fishery Management Council

Size Limit Alternatives for Management of Area 2C Charter Fishery in 2011

Scott Meyer
Alaska Department of Fish and Game
Division of Sport Fish, Homer AK
February 23, 2011

Background

The International Pacific Halibut Commission (IPHC) approved a recommendation at their 2011 IPHC annual meeting in Victoria, B.C. to implement a 37-inch maximum size limit for the Area 2C sport charter boat fishery. The purpose of the recommendation was to restrict charter harvest to the guideline harvest level (GHL) of 788,000 lb established by the North Pacific Fishery Management Council (NPFMC) in September, 2003.

Charter harvest in Area 2C has exceeded the GHL every year since it was established. Actions taken by the NPFMC and National Marine Fisheries Service (NMFS) to reduce charter harvest in Area 2C have not been effective at keeping charter harvest below the GHL, partly because the charter GHL was designed to decrease with declines in halibut exploitable biomass. The level of decline in biomass and decreases in the GHL were generally not anticipated when control measures were considered.

In considering management options for the Area 2C charter fishery, the IPHC had the following objectives: meet conservation goals (total removals at the target level specified in the harvest policy), reduce harvest to the GHL, minimize disruption of the sport charter fishing season, assure equity of access and applicability among all charter anglers, craft regulations that were enforceable, and base alternatives on measures that have previously been considered by the NPFMC (IPHC 2011).

The IPHC analysis considered three alternatives. Alternative 1 did not identify any specific action, but instead was a review of measures considered by the NPFMC for the Area 2C/3A Catch Sharing Plan. The NPFMC analyzed the effectiveness of the measures using 2006 harvest data. Many of these measures are no longer applicable to the current Area 2C fishery in which the bag limit is already one fish and charter skippers and crew are prohibited from retaining fish. Alternative 2 considered a maximum size limit combined with the existing one-fish bag limit, as specified in the final Catch Sharing Plan approved by the NPFMC in October 2008. Alternative 3 was to reduce the season length, either through delay of the start of the season or by closing the fishery on selected days of the week.

Under Alternative 2, the maximum size limit was calculated using the algorithm from the Catch Sharing Plan that assumed that all harvested halibut would be of a size equal to the maximum size limit. The IPHC acknowledged that this assumption was conservative, i.e., that 100% highgrading to the maximum size limit might not occur. The IPHC analysis did not project specific harvest levels or recommend a particular maximum size limit, but instead framed the choices using a table showing charter removals under a range of likely harvests and possible maximum size limits.

After receiving the completed IPHC analysis, it became clear to ADF&G staff that a 37-inch maximum size limit would have differential effects among subareas of Area 2C. In some subareas, large halibut are less available to anglers and a substantial portion of the harvest has been below 37 inches for the last two years, despite the incentive to highgrade under a one fish bag limit. ADF&G staff did a preliminary analysis at the annual meeting that suggested that a 37-inch maximum size limit would likely result in an average weight that was substantially lower than the target average weight calculated assuming 100% highgrading.

Following the IPHC meeting, ADF&G was contacted by charter representatives and asked to estimate average weights and charter removals under a wider range of size limits than those examined by the IPHC. In particular, ADF&G was asked to evaluate reverse slot limits, where anglers would be allowed to

retain fish smaller than the lower limit and larger than the upper limit. The charter operators felt that providing the opportunity to harvest a large halibut was crucial to the successful marketing of charter trips.

Methods

The objective of this analysis was to project Area 2C charter harvest under a range of size limit alternatives in addition to those analyzed by the IPHC. Alternatives considered included:

1. Maximum lengths of 37, 40, 42, and 45 inches, and
2. Reverse slot limits with lower limits of 32, 35, and 37 inches, and upper limits of 50, 55, and 60 inches. For example, a reverse slot limit that would allow harvest of fish less than or equal to 32 inches and greater than 50 inches would be designated as U32O50.

Charter removals (in weight units) were estimated as *average net weight* × *number of fish harvested*, where the average net weight was calculated for each of the size limit alternatives. No specific projection was provided for the 2011 harvest in numbers of fish. Instead, charter removals were calculated for the base level projection for 2010 (46,816 fish), 10% lower (42,134) and 10% higher (51,498).

The algorithm for estimating maximum size limits employed in the IPHC analysis assumes that anglers will harvest only fish that are of a size equal to the maximum size limit. This is unlikely because charter anglers in Area 2C typically catch (including release) less than two fish per angler-day. A substantial portion of the Area 2C sport harvest was less than 37 inches in length in 2009 and 2010 even though anglers had the opportunity to highgrade under a one-fish bag limit without a maximum size limit (Figure 1).

This analysis estimated average net weight under each alternative size limit using 2010 length data adjusted for each alternative size limit. For example, under a 37-inch maximum size limit, the lengths of all fish larger than 37 inches were converted to 37 inches, and the original lengths of all fish less than or equal to 37 inches were retained. The adjusted length-frequency distribution in this case would have an accumulation of fish at 37 inches, many of which were larger in the original sample. Under reverse slot limits, lengths of fish between the lower and upper limits were converted to the lower limit, and lengths of fish smaller than the lower limit or larger than the upper limit were unaltered.

Average weights under various alternatives were estimated using length data from the 2010 charter fishery in Area 2C. The implicit assumption in using these data is that the size distribution of charter harvest in 2011, in the absence of a size limit, would be similar to that of 2010. The charter harvest was sampled at Ketchikan, Craig, Klawock, Petersburg, Wrangell, Sitka, Juneau, Elfin Cove, and Gustavus. Each fish in the sample was measured (fork length), and the net weight was estimated using the IPHC length-weight relationship $W = (6.921 \times 10^{-6}) \cdot L^{3.24}$, where W is the net weight in pounds and L is the fork length in cm (Clark 1992). Samples sizes varied by port, ranging from 262 at Petersburg to 785 at Gustavus, except that only 21 charter-caught fish were measured at Wrangell. The total sample size for Area 2C consisted of 3,291 length measurements.

The average net weight of the Area 2C charter harvest ($\hat{w}_C$) was computed as the stratified mean of average weights for the various subareas of Area 2C:

$$\hat{w}_C = \sum_a \hat{w}_a \hat{p}_a$$

where: $\hat{w}_a$ = the estimated average net weight of harvest in Statewide Harvest Survey (SWHS) area a, and

$\hat{p}_a$ = the estimated proportion of Area 2C harvest (in numbers of fish) taken in SWHS area a in 2010, based on 2010 season projections.

Three SWHS areas had data from multiple ports. In the case of Petersburg/Wrangell and Craig/Klawock, the data from both ports were pooled, which is equivalent to weighting the data by the sample sizes. In the case of Gustavus/Elfin Cove, the data were weighted 70:30 based on reported harvest from the 2009 logbook data. This weighting was nearly identical to the sample size weightings for 2010.

Results

Adjustments to the length data under each alternative size limit resulted in length-frequency distributions with an accumulation of fish just below the maximum length (Figure 2). Length distributions corresponding with lower size limits were more truncated. In the case of the U32O60 and U35O60 reverse slot limits, only 6% of the harvest was over 60 inches in length.

Average net weights estimated from adjusted length data ranged from 13.18 lb under a 37-inch maximum size limit to 23.99 lb under the U37O50 reverse slot limit (Table 1). Estimated charter removals, under the full range of alternative size limits and harvest levels ranged from 0.555 to 1.236 million pounds (Table 2). At a projected harvest of 46,816 fish (2010 level), 42 inches is the highest maximum size limit that would result in a charter removal under the 0.788 M lb GHL. A reverse slot limit of U32O60 would also result in a charter removal under the GHL at this level of harvest. As expected, the number of viable length limit alternatives (shaded cells in Table 2) decreased as harvest increased.

Discussion

This analysis is essentially an extension of the IPHC's analysis of maximum size limit, or Alternative 2 of their paper. These estimates differ in that they are not based on the assumption that fish below the maximum size limit will all be highgraded up to the size limit. While some anglers may try to highgrade, it is unlikely that all will be successful. It is also unlikely that all harvested fish that would otherwise have been larger than the minimum size limit will end up being exactly at the size limit. Therefore, the size distributions and corresponding estimates of average weight presented in this analysis are believed to be more realistic than estimates based on an assumption of 100% highgrading.

The results in Table 2 imply that, under certain conditions, reverse slot limits can also achieve the objective of keeping charter harvest below the GHL. It is important to note, however, that estimates of average weight resulting from reverse slot limits are more sensitive to violations of assumptions about highgrading than estimates from maximum size limits. The reason for this is that large fish have a disproportionate influence on the average weight. For example, a 60-inch fish is over nine times the weight of a 30-inch fish. Departures from the expected size distribution under a reverse slot limit could result in a much higher average weight.

The final estimate of charter removals (in pounds) depends directly on the number of fish harvested, which is uncertain. It is relatively easy to imagine scenarios with either increasing or decreasing charter demand, but there is little information available to inform a projection. Some qualitative conclusions can be drawn, however. Charter demand in Area 2C could potentially increase in 2011 along with an economic recovery. On the other hand, many in the charter industry believe that implementation of the charter halibut limited access program could cause at least localized shortages in available charters. It may take some time to align the distributions of charter permits and potential charter clients throughout Area 2C. As of this writing, NMFS has issued 582 charter halibut permits in Area 2C, which included 155 interim permits. This is below the levels of 722 vessels in 2008, 626 vessels in 2009, and preliminary estimate of 601 vessels in 2010.

In addition, imposition of a size limit or other restriction could reduce angler demand. A reduction in demand might be more pronounced in areas where harvest of large fish is more common, and less pronounced in areas where effort is driven by fishing for other species such as king or coho salmon. While announcement of restrictions is not certain to have an effect on demand, it is not likely to increase it.

The IPHC report did not discuss implications of a maximum size limit on discard mortality. The amount of discard mortality expected with any potential size limit would depend in large part on the size distribution of released fish, which is unknown. Released fish are more likely, however, to be larger on average when the regulations include a maximum size limit than when they do not. Larger fish are generally more difficult to release, which could increase the mortality rate of released fish. With respect to discard mortality, a reverse slot limit may represent an improvement over a maximum size limit in that at least a portion of the larger fish would be retained instead of released.

References

Clark, W. G. 1992. Validation of the IPHC length-weight relationship for halibut. International Pacific Halibut Commission Report and Assessment of Research Activities, 1991: pp 113-116.

IPHC 2011. Appendix 1. Management options for the 2011 Area 2C sport charter fishery. International Pacific Halibut Commission Annual Meeting Bluebook, p. 156-164.

Table 1. Area 2C projected charter average net weight (lb) under alternative length limits, estimated from modified 2010 length data.

Alternative Size Limit	Estimated Average Net Weight (lb)
37" max	13.1770
40" max	15.2219
42" max	16.5315
45" max	18.4204
U37O50	23.9936
U37O55	21.6789
U37O60	19.4634
U35O50	23.0614
U35O55	20.5655
U35O60	18.2329
U32O50	21.5050
U32O55	18.7775
U32O60	16.2954

Table 2. Area 2C projected charter harvest (M lb) for 2011 under alternative harvest levels and length limits. Shading indicates projected harvest less than the charter GHL of 0.788 M lb.

Alternative Size Limit	Projected Number of Fish Harvested (relative to 2010 level)		
	42,134 (-10%)	46,816 (base)	51,498 (+10%)
37" max	0.555	0.617	0.679
40" max	0.641	0.713	0.784
42" max	0.697	0.774	0.851
45" max	0.776	0.862	0.949
U37O50	1.011	1.123	1.236
U37O55	0.913	1.015	1.116
U37O60	0.820	0.911	1.002
U35O50	0.972	1.080	1.188
U35O55	0.867	0.963	1.059
U35O60	0.768	0.854	0.939
U32O50	0.906	1.007	1.107
U32O55	0.791	0.879	0.967
U32O60	0.687	0.763	0.839

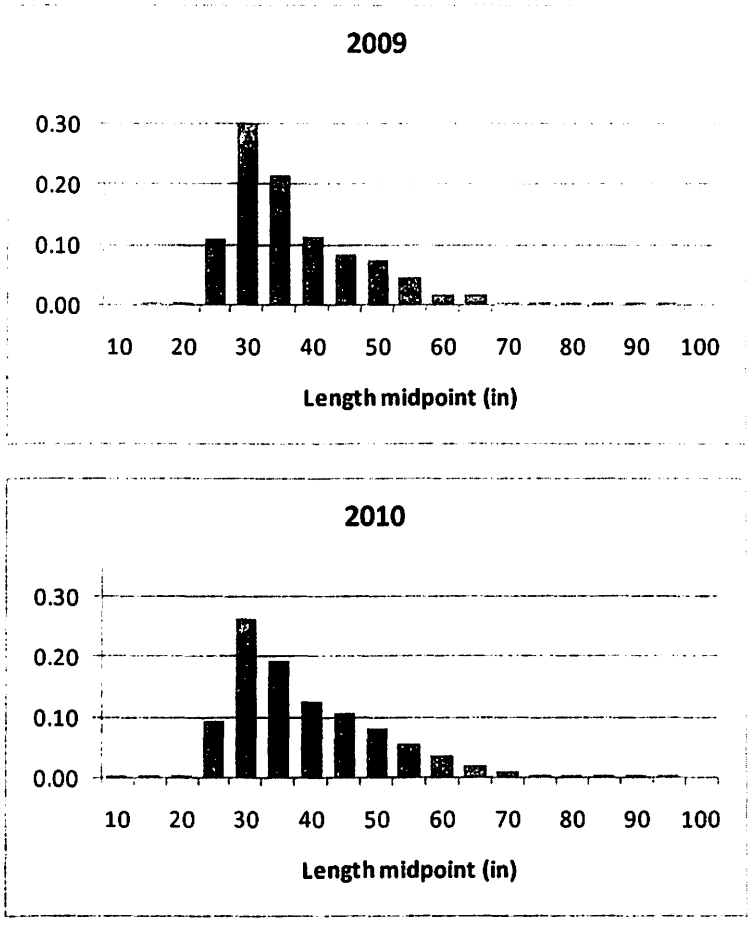

Figure 1. Estimated length-frequency distributions of the Area 2C charter harvest in 2009 and 2010.

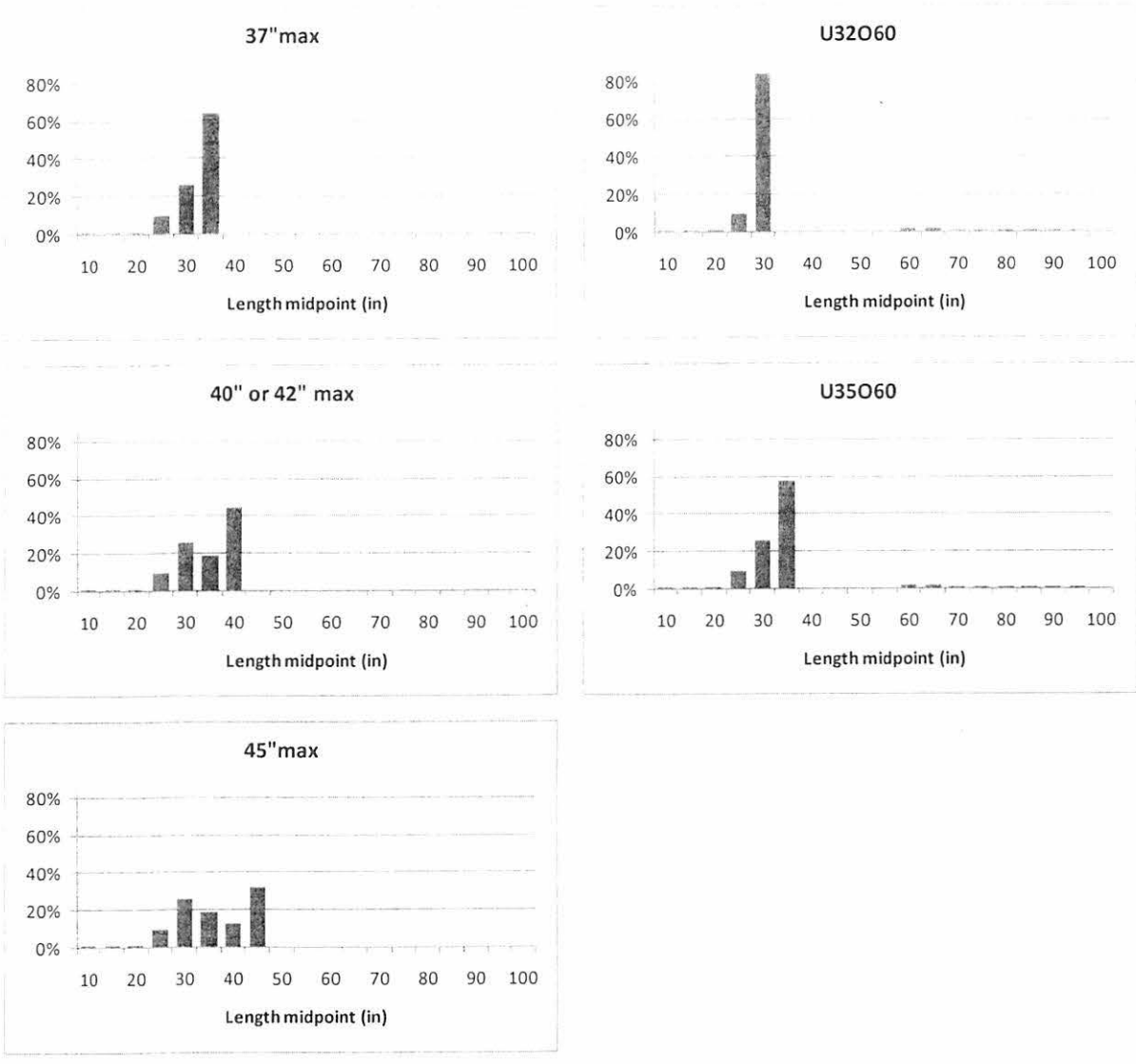

Figure 2. Estimated length-frequency distributions of Area 2C charter halibut harvest corresponding with various alternative size limits. Graphs are plotted on a common y-axis for comparison.

Issues in Selecting a Maximum Length Limit to Manage Charter Halibut Harvest in Times of Low Abundance

Jonathan King, Northern Economics, Inc.
July 6, 2009

Introduction

In October 2008 the North Pacific Fishery Management Council selected its preferred alternative to replace the current Guideline Harvest Level Program with a catch-sharing plan that establishes an allocation between the charter sector and commercial setline sector in Area 2C and Area 3A.[1] Under the plan, the Council would annually request that the International Pacific Halibut Commission (IPHC) set a combined charter and setline catch limit (CCL). The CCL, along with projected charter harvests, would determine the daily bag limit and/or size-limit regulations governing charter clients. It is the Council's intent that the bag limit and/or maximum size limits be implemented with annual IPHC regulations, and not be subject to separate Council review/action and NMFS rulemaking. Therefore, these tiers would be implemented in NMFS regulations under the Council's October 2008 preferred alternative and published in an annual notice prior to the start of the charter halibut fishery. The regulations, therefore, need to explicitly describe the tiers, the resulting management measure, and how the management measure was selected.[2] No action would be required by the IPHC other than to set a combined charter and commercial catch limit. NMFS would identify the management measures to be in effect for the charter sector in the next season based on the projected charter sector harvest as a percentage of the combined catch limit and the tiers with corresponding management measures that would have been published in regulations.

The management measures fall into four tiers for each IPHC area. While the daily bag limit and size limit regulations in Tiers 3 and 4 are specific, the maximum size regulations in Tiers 1 and 2 are undefined as the Council intends to provide flexibility to fishery managers in time of low abundance by reducing harvest while having the least effect on the charter industry and its clients. The Council's language states that under both Tier 1 and 2, the Charter Fishery will operate under a one-fish daily bag limit. However, if the charter harvest as a percentage of the combined charter and setline catch limit exceeds a specified percentage in either Tier *then a maximum size limit will be implemented to reduce the projected harvest level to be lower than x.x%*[3] *of the combined charter and setline catch limit* (See Table 1 and Table 2).

Table 1 Area 2C Proposed Management Regulations

Tier	Combined Catch Limit (million lb)	Allocation	Charter Fishery Bag & Size Limit Regulations		
			If charter harvest within allocation range	If charter harvest projected to exceed allocation range	If charter harvest projected to be below allocation range
1	<5	Comm alloc = 82.7% Charter alloc = 17.3% Charter range = 13.8-20.8%	One Fish	Maximum size limit imposed that brings harvest to 17.3%	One Fish
2	≥5 - <9	Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6%	One Fish	Maximum size limit imposed that brings harvest to 15.1%	Two fish, but one must be less than 32" in length
3	≥9 - <14	Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6%	Two fish, one must be less than 32" in length	One Fish	Two Fish
4	≥14	Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6%	Two Fish	Two fish, but one must be less than 32" in length	Two Fish

Source: Prepared by Scott Meyer, ADF&G, 2008.

[1] The Council's motion is attached to the end of this document.

[2] The regulations will also need to describe how the charter halibut projections would be determined, but that will be the subject of a separate discussion paper.

[3] This number changes with IPHC Area and Tier. In Area 2C this number is equal to 17.3 percent in Tier 1 and 15.1 percent in Tier 2. In Area 3A this number is equal to 15.4 percent for Tier 1 and 14.0 percent for Tier 2.

Table 2 Area 3A Proposed Management Regulations

Tier	Combined Catch Limit (million lb)	Allocation	Charter Fishery Bag & Size Limit Regulations		
			If charter harvest within allocation range	If charter harvest projected to exceed allocation range	If charter harvest projected to be below allocation range
1	<10	Comm alloc = 84.6% Charter alloc = 15.4% Charter range = 11.9-18.9%	One Fish	Maximum size limit imposed that brings harvest to 15.4%	One Fish
2	≥10 - <20	Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5%	One Fish	Maximum size limit imposed that brings harvest to 14.0%	Two fish, but one must be less than 32" in length
3	≥20 - <27	Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5%	Two fish, one must be less than 32" in length	One Fish	Two Fish
4	≥27	Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5%	Two Fish	Two fish, but one must be less than 32" in length	Two Fish

Source: Prepared by Scott Meyer, ADF&G, 2008.

The lack of a specific length in the length limit language in Tiers 1 and 2 raises important technical questions about how to implement this component of the preferred alternative. The following issues/questions are posed to the Scientific and Statistical Committee (SSC) so that its guidance can be incorporated into the Secretarial Review draft of the analysis of the Council's preferred alternative. This guidance will be presented to the Council as part of the NMFS report to the Council (Agenda B-2) on the CSP implementation plan at a future Council meeting.

Key Technical Questions

Which Analytical Method?

What method should the analyst use to determine the effect of the each potential length limit? Analyses conducted for the NPFMC in 2007 and 2008 and NMFS in 2008 used two different methods:

a) Method A: Use creel survey data to assume that anglers would keep the average fish previously kept under the bag limit. We have empirical evidence that this method overestimated the effect of the management measure in the context of a two-fish bag limit.

b) Method B: Assume that all anglers could high-grade up to the maximum length limit. This second method resulted after Method A underestimated anglers' ability to high-grade. We also note that the lower the size limit, the easier it will be for anglers to high-grade to the size limit. This method would be the preferred method for ensuring that the analysis accounted for as much high-grading as possible given recent evidence that anglers may be better at high grading than was previously estimated.

We provide examples showing the differences between these two methods following this section.

Which Maximum Length?

There will likely be a number of maximum lengths that reduce the harvest to below the stated target. Which size limit should be chosen? Given the relative risk of over or under-harvest by the charter industry, discussed later, it might seem advisable to have a different rule for selecting the appropriate maximum length, depending on the estimation method. Under Method A, where the probability of over-harvest is highest, it might be advisable to select a more conservative maximum length, but by what rule? Under Method B, where under-harvest will be a greater concern for industry, it may make sense to select the largest length limit that "best guarantees" the charter industry will not exceed its allocation under the estimated harvest and effort levels.

In the examples for each estimation method below, we use the "closest without going over" rule.

Demand (client effort) Reductions

Should the estimation account for a reduction in angler demand for charter trips because of the length-restricted one-fish bag limit? If so, what magnitude of demand reduction will be used? We have consistently noted the lack of data on reductions in demand. Assuming a one-fish bag limit is in place in Area 2C in 2009, we may begin to gather some data on the effect of that measure on demand for charter trips, but we will have no data on the additional effect a size limit, particularly under a one-fish bag limit, could have on charter demand. We assume that the initial projection the analyst makes may include some adjustment for demand, but would the analyst have to make another projection of the number of fish harvested/effort because of the size limit? If yes, what parameters would guide that adjustment?

Availability of Smaller Fish

ADF&G staff members have suggested that finding smaller fish could be difficult in some areas under certain size limits. However, there are very limited data on this issue. During the 2008 Area 2C charter fishery, approximately ten percent of the Area harvest was under 23 inches, but angler retention of fish of lower sizes is not likely to be a good predictor of relative abundance given that anglers will likely keep larger fish whenever possible. In addition, ADF&G does not regularly collect data on the length of released fish. Harvest data do show that size frequencies and harvest vary within an IPHC Area and we expect that this means a length limit will have differing effects on angler success depending on the sub-Area fished. In spite of this expectation, we note the lack of data required to develop an accurate iterative process that adjusts harvest per unit of effort (HPUE) estimates for small fish availability.

Predicting Out-of-Sample

How will the analyst calculate an average weight for an "unrestricted" fish if the fishery has been operating under a length limit restriction? For example, the analyst may be asked to predict mean weight under a one-fish bag limit when the fishery has been operating under a one-fish bag limit with a maximum size limit. Alternately, the analyst may be asked to predict weight under a two-fish bag limit when the fishery has been operating under a two-fish bag limit with maximum length on one fish. It is not possible for ADF&G to distinguish length data between "first" and "second" fish in a daily bag limit. The analyst may be forced to use the long-term average or median in the fishery when the fishery was unrestricted if no other data are available. In the examples we use the long-term average for Area 2C (see Table 3).[4] One possible solution beyond the use of the long-term average or median is to use the most recent IPHC survey data; these data have been shown in past years to closely match the size composition of the sport (charter + unguided) harvest when there were no size limits. It might be possible to predict charter from longline if there is a consistent relationship.

[4] For these examples we assume an unrestricted mean weight of 19.3 lb based on 1999-2006 harvests, and size composition based on 2006. However, all that base data was from years where the fishery had a two-fish bag limit without size limits. We suspect that size composition will be different under a one-fish bag limit. If the size distribution keeps its shape but shifts to the right in 2009 under a one-fish limit (no size restriction), then higher size limits than the ones predicted using 2006 data will achieve the necessary harvest reductions. However, we suspect that under a one-fish bag limit the size distribution will simply broaden (same floor, mode shifts to the right). While using the 2006 tables may be the best solution for these examples, the best long-term practice would be to use distribution data from the most recent year without a length limit. For example, if a size limit were needed in 2010 to stay within the allocation, you would start with, say, the 2009 size distribution (one-fish bag limit, no size limit).

Table 3. Average Weight per Harvested Halibut in the Area 2C Charter Fishery 1999-2006

Year	1999	2000	2001	2002	2003	2004	2005	2006	Average
Average Weight (lb.)	17.8	19.8	18.1	19.7	19.1	20.7	19.1	19.9	19.3

Source: Alaska Department of Fish and Game, 2008.

Estimation Examples

For discussion purposes, the following section contains two examples of how the analyst might calculate the effect of moving from a one-fish bag limit with a fish of any size to a one-fish bag limit with a maximum size limit. In both cases, we assume that the analyst is starting from a position of having previously made an estimate of harvest under the one-fish bag limit.[5] The two examples use the methods described in 2a and 2b above.

Example 1: Weight of the Average Fish Under the Limit (Creel Survey Based Distribution)

This example shows how Method A, described above, could work. This method replicates the analytical method used in June 2007 when NMFS instituted an emergency rule for the charter halibut fishery in Area 2C. The rule maintained the two-fish daily bag limit, but limited the second fish in an angler's daily bag limit to a length equal to or less than 32 inches. The analysis for this rule assumed that anglers would catch and keep the average fish anglers had kept below 32 inches prior to the institution of the rule. The calculation of the "average" fish below the limit was based on 2006 creel survey data collected by ADF&G. This scenario meant there were no adjustments for high-grading behavior on the part of anglers or changes in stock composition. Data from the 2007 fishery suggest that this method overestimated the effect of the maximum size limit and that anglers were able to high-grade their catch to a length closer to the limit. However, as ADF&G does not collect creel data on the "first fish, second fish" level, it is impossible to know what the actual length was of the "second" fish kept by anglers.[6]

For this example, let us assume that the IPHC has set the Area 2C combined catch limit at 5.5 Mlb. This limit would place the charter sector in Tier 2 at a one-fish bag limit. The analyst has taken this information and projected a harvest under the one-fish bag limit of 1.6 Mlb for the upcoming season. This amount equals 29.0 percent of the combined catch limit and exceeds the 18.6 percent limit in Tier 2 of the preferred alternative. A projection that the charter industry will exceed the 18.6 percent limit will result in the imposition of a length limit to reduce harvest to no more than 15.1 percent of the combined catch limit, in this case equal to 803,500 lb. Reducing harvest from 1.6 Mlb to 803,500 lb requires a 48.1 percent reduction in harvest. This level can be stated alternately as reducing harvest to 51.9 percent of the original harvest estimate.

[5] We assume that the analyst will make projection of current year's harvest after the IPHC has released its combined charter/commercial setline limit. The unspecified maximum size limit will come into play i) if the IPHC's combined limit is within Tier 1 or Tier 2 and ii) the initial harvest projection as a percentage of the limit exceeds the maximum specified by the Council.

[6] If all "second fish" in Area 2C in 2007 were exactly the maximum length allowed of 32" (10.7 lb), then mean wt of "first fish" would have to rise from 19.6 lb in 2006 to 21.7 lb in 2007 for the overall Area 2C mean to be 17.5 lb. While it is theoretically possible that the mean weight of unrestricted fish could have risen that much for biological reasons, it is more likely that anglers were successful at high-grading a portion of their "first" fish during the season.

In order to create a "realistic" example, we have to outline the rules the analyst must follow during the analysis. If anything, this list of rules shows how complicated calculating the effect of the maximum size limit may be and the amount of guidance that the analyst will need before moving ahead. A strict set of rules endorsed by the SSC should alleviate concerns of bias by either sector. For this example, let us also assume that the analyst has the following instructions:

- The analysis should assume that anglers keep the average fish caught below the category maximum based on Area 2C 2006 harvest data.
- There are no changes in effort or harvest per unit of effort. This assumption means no change in the number of fish harvested associated with the maximum length regulation. The analyst may have previously predicted year-to-year changes based on other factors (e.g., biology).[7]
- The analyst is to select the least restrictive length limit that brings harvest below the specified level.

The example starts from the point of the analyst having established a harvest or effort estimate for an unrestricted one-fish bag limit. In this case, the estimated effect of the length regulation is the same as the ratio between the maximum expected average weight of the fish under the length regulation and the average weight under the one-fish bag limit. For this example, assume that the analyst has been instructed to assume that the average fish weight in the prior year's "unrestricted" fishery was 19.3 pounds, which is approximately the same as the median average weight seen in the Area 2C fishery between 1999 and 2006. The longest length limit that reduces the average weight of caught halibut to no more than 51.9 percent of the estimated unrestricted harvest weight is the 38" length limit (see Table 6).

Table 4 Estimated Restricted Harvest as a Percentage of Predicted Unrestricted One-Fish Harvest

Max Allowed Fork Length (in)		24	26	28	30	32	34	36	38	40
Average Weight of Fish Below the Max Fork Length (lb.)		3.6	4.5	5.3	6.0	6.9	7.6	8.4	9.2	10.0
Assumed Current Year Average Weight Under A One-Fish Bag Limit	17.5	20.5%	25.8%	30.3%	34.5%	39.2%	43.7%	48.2%	52.8%	57.4%
	17.7	20.3%	25.5%	30.0%	34.1%	38.7%	43.2%	47.7%	52.2%	56.7%
	17.9	20.1%	25.2%	29.6%	33.7%	38.3%	42.7%	47.2%	51.6%	56.1%
	18.1	19.8%	24.9%	29.3%	33.3%	37.9%	42.3%	46.6%	51.1%	55.5%
	18.3	19.6%	24.6%	29.0%	33.0%	37.4%	41.8%	46.1%	50.5%	54.9%
	18.5	19.4%	24.4%	28.7%	32.6%	37.0%	41.3%	45.6%	50.0%	54.3%
	18.7	19.2%	24.1%	28.4%	32.3%	36.6%	40.9%	45.1%	49.4%	53.7%
	18.9	19.0%	23.9%	28.1%	31.9%	36.3%	40.5%	44.7%	48.9%	53.1%
	19.1	18.8%	23.6%	27.8%	31.6%	35.9%	40.0%	44.2%	48.4%	52.6%
	19.3	18.6%	23.4%	27.5%	31.3%	35.5%	39.6%	43.7%	47.9%	52.0%
	19.5	18.4%	23.1%	27.2%	30.9%	35.1%	39.2%	43.3%	47.4%	51.5%
	19.7	18.2%	22.9%	26.9%	30.6%	34.8%	38.8%	42.9%	46.9%	51.0%
	19.9	18.0%	22.7%	26.6%	30.3%	34.4%	38.4%	42.4%	46.4%	50.4%
	20.1	17.9%	22.4%	26.4%	30.0%	34.1%	38.1%	42.0%	46.0%	49.9%
	20.3	17.7%	22.2%	26.1%	29.7%	33.8%	37.7%	41.6%	45.5%	49.4%
	20.5	17.5%	22.0%	25.9%	29.4%	33.4%	37.3%	41.2%	45.1%	49.0%
	20.7	17.3%	21.8%	25.6%	29.1%	33.1%	37.0%	40.8%	44.6%	48.5%
	20.9	17.2%	21.6%	25.4%	28.9%	32.8%	36.6%	40.4%	44.2%	48.0%
	21.1	17.0%	21.4%	25.1%	28.6%	32.5%	36.3%	40.0%	43.8%	47.6%

Source: Northern Economics estimates, 2008.

[7] We note that the analyst does not have to worry about the year to year variation in HPUE because he/she should be starting from a one-fish bag limit estimate that may already incorporate that change. In this case, the angler will need guidance on changes in HPUE associated with targeting a specific portion of the halibut population.

Table 5 shows the same information as measured by "expected harvest reduction" (as opposed to expected harvest as a percentage of original harvest). In other words, which length limit results in at least a 48.1 percent predicted harvest reduction? Again, the 38" limit is the smallest maximum length limit that predicts at least a 48.1 percent harvest reduction. The 40" limit would only reduce estimated harvest by 48.0 percent.[8]

Table 5 Estimated Percent Harvest Reduction Moving From a One-Fish Bag Limit to a One-Fish Bag Limit with a Maximum Length Assuming Anglers Catch the Average Fish Under the Fork Length

Max Allowed Fork Length (in) / Average Weight of the Average Fish Below the Max Fork Length (lb.)		24 3.6	26 4.5	28 5.3	30 6.0	32 6.9	34 7.6	36 8.4	38 9.2	40 10.0
Assumed Current Year Average Weight Under A One-Fish Bag Limit	17.5	79.5%	74.2%	69.7%	65.5%	60.8%	56.3%	51.8%	47.2%	42.6%
	17.7	79.7%	74.5%	70.0%	65.9%	61.3%	56.8%	52.3%	47.8%	43.3%
	17.9	79.9%	74.8%	70.4%	66.3%	61.7%	57.3%	52.8%	48.4%	43.9%
	18.1	80.2%	75.1%	70.7%	66.7%	62.1%	57.7%	53.4%	48.9%	44.5%
	18.3	80.4%	75.4%	71.0%	67.0%	62.6%	58.2%	53.9%	49.5%	45.1%
	18.5	80.6%	75.6%	71.3%	67.4%	63.0%	58.7%	54.4%	50.0%	45.7%
	18.7	80.8%	75.9%	71.6%	67.7%	63.4%	59.1%	54.9%	50.6%	46.3%
	18.9	81.0%	76.1%	71.9%	68.1%	63.7%	59.5%	55.3%	51.1%	46.9%
	19.1	81.2%	76.4%	72.2%	68.4%	64.1%	60.0%	55.8%	51.6%	47.4%
	19.3	81.4%	76.6%	72.5%	68.7%	64.5%	60.4%	56.3%	52.1%	48.0%
	19.5	81.6%	76.9%	72.8%	69.1%	64.9%	60.8%	56.7%	52.6%	48.5%
	19.7	81.8%	77.1%	73.1%	69.4%	65.2%	61.2%	57.1%	53.1%	49.0%
	19.9	82.0%	77.3%	73.4%	69.7%	65.6%	61.6%	57.6%	53.6%	49.6%
	20.1	82.1%	77.6%	73.6%	70.0%	65.9%	61.9%	58.0%	54.0%	50.1%
	20.3	82.3%	77.8%	73.9%	70.3%	66.2%	62.3%	58.4%	54.5%	50.6%
	20.5	82.5%	78.0%	74.1%	70.6%	66.6%	62.7%	58.8%	54.9%	51.0%
	20.7	82.7%	78.2%	74.4%	70.9%	66.9%	63.0%	59.2%	55.4%	51.5%
	20.9	82.8%	78.4%	74.6%	71.1%	67.2%	63.4%	59.6%	55.8%	52.0%
	21.1	83.0%	78.6%	74.9%	71.4%	67.5%	63.7%	60.0%	56.2%	52.4%

Source: Northern Economics estimates, 2008.

Example 2: Assumption of Maximum High Grading

As an example of Method B described above (i.e., the assumption of maximum high-grading method), let us make the same assumptions as in example 1. To review, charter harvest must be reduced to no more than 15.1% of the combined catch limit, or 803,500 lb. This limit requires a 48.1% reduction in harvest. The analyst assumes no change in the number of fish harvested, and an average weight of 19.3 lb in an unrestricted fishery.

The only difference in this scenario is that we assume that anglers will high-grade to the maximum length allowed by the management measure.

Again, as we are starting from the point of having a harvest estimate under a one-fish bag limit, the estimated effect of the length regulation is the same as the ratio between the maximum expected average weight of the fish under the length regulation and the average weight under the one-fish bag limit. The

[8] We note that "knife's edge" difference between the reduction required by the Council's language and the estimated reduction associated with the 40" limit. The 40" limit is 0.1% away from meeting the Council's language. We suspect that such close margins will result in consternation in the charter industry given the potential for different size limits to affect the demand for charter trips.

longest length that reduces harvest to no more than 51.9 percent of the predicted unrestricted level is the 30 inch maximum (Table 7).

Table 6 Estimated Restricted Harvest as a Percentage of Predicted Unrestricted One-Fish Harvest s-Maximum Length Method

Max Allowed Fork Length (in)		24	26	28	30	32	34	36	38	40
Projected Average Weight (lb.)		4.2	5.4	6.9	8.7	10.7	13.0	15.6	18.6	22.0
Assumed Current Year Average Weight Under A One-Fish Bag Limit	17.5	24.0%	31.1%	39.6%	49.5%	61.0%	74.3%	89.4%	106.5%	125.7%
	17.7	23.8%	30.8%	39.1%	48.9%	60.3%	73.4%	88.4%	105.3%	124.3%
	17.9	23.5%	30.4%	38.7%	48.4%	59.7%	72.6%	87.4%	104.1%	122.9%
	18.1	23.2%	30.1%	38.3%	47.9%	59.0%	71.8%	86.4%	103.0%	121.6%
	18.3	23.0%	29.8%	37.9%	47.3%	58.4%	71.0%	85.5%	101.8%	120.2%
	18.5	22.7%	29.5%	37.4%	46.8%	57.7%	70.3%	84.5%	100.7%	118.9%
	18.7	22.5%	29.1%	37.0%	46.3%	57.1%	69.5%	83.6%	99.7%	117.7%
	18.9	22.2%	28.8%	36.7%	45.8%	56.5%	68.8%	82.8%	98.6%	116.4%
	19.1	22.0%	28.5%	36.3%	45.4%	55.9%	68.0%	81.9%	97.6%	115.2%
	19.3	21.8%	28.2%	35.9%	44.9%	55.3%	67.3%	81.0%	96.6%	114.0%
	19.5	21.6%	27.9%	35.5%	44.4%	54.8%	66.6%	80.2%	95.6%	112.8%
	19.7	21.3%	27.7%	35.2%	44.0%	54.2%	66.0%	79.4%	94.6%	111.7%
	19.9	21.1%	27.4%	34.8%	43.5%	53.7%	65.3%	78.6%	93.6%	110.6%
	20.1	20.9%	27.1%	34.5%	43.1%	53.1%	64.7%	77.8%	92.7%	109.5%
	20.3	20.7%	26.8%	34.1%	42.7%	52.6%	64.0%	77.0%	91.8%	108.4%
	20.5	20.5%	26.6%	33.8%	42.3%	52.1%	63.4%	76.3%	90.9%	107.3%
	20.7	20.3%	26.3%	33.5%	41.9%	51.6%	62.8%	75.6%	90.0%	106.3%
	20.9	20.1%	26.1%	33.1%	41.5%	51.1%	62.2%	74.8%	89.2%	105.3%
	21.1	19.9%	25.8%	32.8%	41.1%	50.6%	61.6%	74.1%	88.3%	104.3%

Source: Northern Economics estimates, 2008.

Table 7 shows the same information from a different perspective: what is the highest maximum length limit that results in an estimated harvest reduction of at least 48.1 percent? Again, the answer is the 30-inch length limit, as a 32-inch length limit would only reduce estimated harvest by 44.7 percent.

Table 7 Estimated Percent Harvest Reduction Moving From a One-Fish Bag Limit to a One-Fish Bag Limit with a Maximum Length Assuming All Anglers High-Grade to the Maximum Fork Length within the Size Category

Max Allowed Fork Length (in)		24	26	28	30	32	34	36	38	40
Projected Average Weight (lb.)		4.2	5.4	6.9	8.7	10.7	13.0	15.6	18.6	22.0
Assumed Current Year Average Weight Under A One-Fish Bag Limit	17.5	76.0%	68.9%	60.4%	50.5%	39.0%	25.7%	10.6%	-6.5%	-25.7%
	17.7	76.2%	69.2%	60.9%	51.1%	39.7%	26.6%	11.6%	-5.3%	-24.3%
	17.9	76.5%	69.6%	61.3%	51.6%	40.3%	27.4%	12.6%	-4.1%	-22.9%
	18.1	76.8%	69.9%	61.7%	52.1%	41.0%	28.2%	13.6%	-3.0%	-21.6%
	18.3	77.0%	70.2%	62.1%	52.7%	41.6%	29.0%	14.5%	-1.8%	-20.2%
	18.5	77.3%	70.5%	62.6%	53.2%	42.3%	29.7%	15.5%	-0.7%	-18.9%
	18.7	77.5%	70.9%	63.0%	53.7%	42.9%	30.5%	16.4%	0.3%	-17.7%
	18.9	77.8%	71.2%	63.3%	54.2%	43.5%	31.2%	17.2%	1.4%	-16.4%
	19.1	78.0%	71.5%	63.7%	54.6%	44.1%	32.0%	18.1%	2.4%	-15.2%
	19.3	78.2%	71.8%	64.1%	55.1%	44.7%	32.7%	19.0%	3.4%	-14.0%
	19.5	78.4%	72.1%	64.5%	55.6%	45.2%	33.4%	19.8%	4.4%	-12.8%
	19.7	78.7%	72.3%	64.8%	56.0%	45.8%	34.0%	20.6%	5.4%	-11.7%
	19.9	78.9%	72.6%	65.2%	56.5%	46.3%	34.7%	21.4%	6.4%	-10.6%
	20.1	79.1%	72.9%	65.5%	56.9%	46.9%	35.3%	22.2%	7.3%	-9.5%
	20.3	79.3%	73.2%	65.9%	57.3%	47.4%	36.0%	23.0%	8.2%	-8.4%
	20.5	79.5%	73.4%	66.2%	57.7%	47.9%	36.6%	23.7%	9.1%	-7.3%
	20.7	79.7%	73.7%	66.5%	58.1%	48.4%	37.2%	24.4%	10.0%	-6.3%
	20.9	79.9%	73.9%	66.9%	58.5%	48.9%	37.8%	25.2%	10.8%	-5.3%
	21.1	80.1%	74.2%	67.2%	58.9%	49.4%	38.4%	25.9%	11.7%	-4.3%

Source: Northern Economics estimates, 2008.

What is the Functional Difference between the Two Methods?

The functional difference between the two methods is who bears the risk associated with the assumptions. Under Method A (e.g., the average weight method), the risk is primarily born by the halibut stock while under Method B the risk is primarily born by charter anglers and the charter fleet. Data from the 2007 Area 2C halibut fishery suggests that anglers were able to catch fish larger than the average size below the length limit that NMFS instituted in 2007. ADF&G staff discussed these issues at the December 2008 NPFMC meetings. However, those data do not tell us how much anglers were able to high-grade. Additionally, those data also show that changes in HPUE and overall effort can overwhelm changes in average weight. Under Method A, if anglers, on average, are able to high-grade, then the charter fishery will exceed the target allocation under the maximum length limit. For example, in our examples we used an "unrestricted one-fish per day" harvest of 1.6 Mlb with an average weight of 19.3 lbs per fish. These numbers suggest a harvest of 82,900 fish under a one-fish per day fishery.[9] Table 8 shows the potential over-harvest above target levels if Method A is used to set the length limit and anglers are able to high-grade. Example A set a maximum length limit of 38 inches, but the average fish caught in 2006 that was 38 inches or less in length measured less than 32 inches and weighed an average just less than 9.2 pounds (ADF&G 2008). A harvest of 82,900 fish weighing just less than 9.2 pounds will weigh approximately 766,000 pounds (equal to 13.9 percent of the CCL); an under harvest of 37,000 pounds. Remember our

[9] Recent "first fish" harvests have been closer to 55,000 fish.

target is no more than 15.1 percent of the CCL. If anglers are able to high-grade, on average, to the 32-inch length, then the charter fishery will over-harvest by 82,000 pounds or 10.2 percent, and the charter sector's portion of the CCL would violate the 15.1 percent allocation set in the Council's preferred alternative. The more successful anglers are at high grading fish to close to the maximum length allowed by the regulations, the higher the levels of over-harvest. We believe that anglers would be able to high grade successfully above the average below the length limit as the median fish in 2006 Area 2C fishery was between 32 and 34 inches in length while the average fish was over 38 inches.

Table 8. Potential Over-harvest Levels under Example 1/Method A

Over Harvest if the Average fish is...	The Predicted Average of 9.2 lbs	Larger than Predicted: 32" and 10.7 lbs	Larger than Predicted: 34" and 13.0 lbs	Larger than Predicted: 36" and 15.6 lbs	Larger than Predicted: 38" and 18.6 lbs
Pounds	-37,000	82,000	274,000	493,000	741,000
Percentage	-4.6%	10.2%	34.1%	61.4%	92.3%
Charter CCL Portion	13.9%	16.1%	19.6%	23.6%	28.1%

Source: Northern Economics estimates, 2008.

Method B would eliminate the over-harvest risk associated with high grading as it would restrict anglers to a 30-inch maximum length limit. However, it reduces the ability of the charter sector to harvest to their sector allocation in exchange for that reduction in risk.[10] Harvesting 82,900 30-inch fish would result in an approximate total harvest weight just over 718,000 pounds. This amount is slightly greater than 85,000 pounds under the 803,500 allocation to the charter industry; an under-harvest of 10.6 percent (see Table 9). In this situation, the charter industry would be allowed to harvest 13.1 percent of the CCL instead of the 15.1 percent allocated by the Council. We note that if anglers were unable to find 82,900 30-inch fish and had to settle for smaller fish, then the under-harvest would grow substantially. If anglers can only harvest an average of a 28-inch fish, then total harvest will equal 565,800 for an under-harvest of nearly 30 percent.[11]

Table 9. Potential Under-harvest Levels Under Example 2/Method B

Under Harvest if the Average fish is...	The Maximum Allowed: 30" and Weighs 8.7 lbs	Smaller than Allowed: 28" and Weighs 6.9 lbs	Smaller than Allowed: 26" and Weighs 5.4 lbs	Smaller than Allowed: 24" and Weighs 4.2 lbs
Pounds	86,000	229,000	352,000	455,000
Percentage	10.6%	28.5%	43.8%	56.6%
Charter CCL Portion	13.1%	10.4%	8.2%	6.3%

Source: Northern Economics estimates, 2008.

While these examples show the clear difference in risk burden, they do not address the underlying changes that could exacerbate or mitigate the over and under-harvest risk. For example, how many anglers will pay to fish for a 30-inch halibut with a one-fish daily bag limit? Method B, the more biologically conservative, will result comparatively lower length limits than Method A. We presume that lower length limits will result in a higher risk of anglers choosing not to come to Alaska. On the other hand, the risk associated with Method B may be mitigated by the fact that in time of low biological abundance, it may be very difficult for anglers to consistently high-grade. These are unanswered, and currently unanswerable, issues which will make managing the fishery challenging in times of low abundance.

[10] We note that there is still over-harvest risk from changes in demand or HPUE.

[11] We note that the potential for under-harvest could be reduced by managing in one-inch increments instead of two-inch increments.

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NPFMC October 2008 Motion on Area 2C/3A Catch Sharing Plan

Agenda Item C-1(b) – Halibut Charter Catch Sharing Plan

Motion to establish a halibut charter allocation and management plan based on bag limits

The purpose of the proposed action is to create a catch sharing plan that establishes a clear allocation, with sector accountability, between charter and setline sectors in Areas 2C and 3A. The Council requests that the IPHC annually set a combined charter and setline catch limit to which the allocation percentage for each area will be applied to establish the domestic harvest targets for each sector. This action also establishes the management actions for the charter sector at identified combined charter and setline catch amounts.

The Council recognizes that management measures are imprecise therefore a small variance can be expected to occur around the allocation. The Council's expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

Element 1 – Initial allocation and bag limits.

Area 2C

In Area 2C, when the combined charter and setline catch limit is less than 5 million pounds, the charter allocation will be 17.3% of the combined charter and setline catch limit. When the combined charter and setline catch limit is 5 million pounds and above the allocation will be 15.1%. Management variance not to exceed 3.5 percentage points (plus or minus) may occur around this allocation. The Council's expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

Trigger 1: When the combined charter and setline catch limit is below 5 Mlb, the halibut charter fishery will be managed under a 1 halibut daily bag limit. The allocation for the charter sector will be 17.3% of the combined charter and commercial catch limit. The charter sector's expected catch may vary between 13.8% and 20.8%. However, if the charter harvest for an upcoming season is projected to exceed 20.8% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected harvest level to be lower than 17.3% of the combined charter and setline catch limit, and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Trigger 2: When the combined charter and setline catch limit is ≥ 5 Mlb and < 9 Mlb, the halibut charter fishery shall be managed under a 1 halibut daily bag limit. The charter sector's allocation will be 15.1% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 11.6% and 18.6%. However, if the charter harvest for an upcoming season is projected to exceed 18.6% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected harvest level to 15.1% of the combined charter and setline catch limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the

next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Trigger 3: When the combined charter and setline catch limit is ≥ 9 Mlb and < 14 Mlb, the halibut charter fishery shall be managed under a 2 halibut daily bag limit (only one of which may be longer than 32 inches). The charter sector's allocation will be 15.1% of the combined charter and commercial catch limit. The charter sector's expected catch may vary between 11.6% and 18.6%. However, if the charter harvest for an upcoming season is projected to exceed 18.6% of the combined charter and setline catch limit, then the charter fishery will revert back to a 1 halibut daily bag limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Trigger 4: When the combined charter and setline catch limit is ≥ 14 Mlb, the halibut charter fishery will be managed under a 2 halibut daily bag limit. The charter sector's allocation will be 15.1% of the combined charter and setline catch limit. The charter sector's expected catch may range between 11.6% and 18.6%. However, if the charter harvest for an upcoming season is projected to exceed 18.6% of the combined charter and commercial catch limit, the charter fishery will revert back to a 2 halibut daily bag limit, only one of which may be longer than 32 inches.

Area 3A

In Area 3A, when the combined charter and setline catch limit is less than 10 million pounds, the charter allocation will be 15.4% of the combined charter and setline catch limit. When the combined charter and setline catch limit is 10 million pounds and above, the allocation will be 14.0%. Management variance not to exceed 3.5 percentage points (plus or minus) may occur around this allocation. The Council's expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

Trigger 1: When the combined charter and setline catch limit is < 10 Mlb, the halibut charter fishery will be managed under a 1 halibut daily bag limit. The charter sector's allocation will be 15.4% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 11.9% and 18.9% of the combined charter and setline catch. However, if the charter harvest for an upcoming season is projected to exceed 18.9% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected charter harvest below 15.4% of the combined charter and setline harvest and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Trigger 2: When the combined charter and setline catch limit is ≥ 10 Mlbs and < 20 Mlb, the halibut charter fishery will be managed under a 1 halibut daily bag limit. The charter sector's allocation will be 14.0% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 10.5% and 17.5% of the combined charter and setline catch limit. However, if the charter harvest for an upcoming season is projected to exceed 17.5% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected charter harvest level to 14%

of the combined charter and setline catch limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Trigger 3: When the combined charter and setline catch limit is ≥ 20 Mlb and < 27 Mlb, the halibut charter fishery will be managed under a 2 halibut daily bag limit (only one of which may be longer than 32 inches). The charter sector's allocation will be 14.0% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 10.5% and 17.5% of the combined charter and setline catch limit. However, if the charter harvest for an upcoming season is projected to exceed 17.5% of the combined charter and setline catch limit, then the charter fishery will revert back to a 1 halibut daily bag limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Trigger 4: When the combined charter and setline catch limit is ≥ 27 Mlb, the halibut charter fishery will be managed under a 2 halibut daily bag limit. The charter sector's allocation will be 14.0% of the combined charter and setline catch limit. The charter sectors expected harvest may range between 10.5% and 17.5% of the combined charter and setline catch limits. However, if the charter harvest for an upcoming season is projected to exceed 17.5% of the combined charter and setline catch limit, the charter fishery will revert back to a 2 halibut daily bag limit, only one of which may be longer than 32 inches.

In Areas 2C and 3A, there is no retention of halibut by skipper and crew while paying clients are on board.

Element 2 – Annual regulatory cycle/timeline.

It is not the Council's intent to revisit or readjust bag limits; such bag limit changes will be triggered by changes in combined charter and setline catch limits established annually by the IPHC. Bag limits will be implemented by the IPHC based upon their determination of the combined charter and setline catch limits and the bag limit parameters described above.

Element 4 – Timeline—DELETE FROM ANALYSIS

Element 5 – Supplemental, individual use of commercial IFQ to allow charter limited entry permit holders to lease commercial IFQ, in order to provide additional anglers with harvesting opportunities, not to exceed limits in place for unguided anglers.

A. Leasing commercial IFQ for conversion to Guided Angler Fish (GAF).

1. A LEP (Limited Entry Permit) holder may lease IFQ for conversion to GAF for use on the LEP.

2. Commercial halibut QS holders may lease up to 1500 pounds or 10 percent (whichever is greater) of their annual IFQ to LEP holders (including themselves) for use as GAF on LEPs. If an IFQ holder chooses to lease to a CQE, then the same limitations apply as if they were leasing to an individual charter operator—1500 lbs or 10% whichever is greater—the 100% has no application here. With regard to CQE leasing: any quota which a CQE holds, regardless of its origin, could be leased up to 100% to eligible residents of the CQE

community. For example, a CQE may hold quota share derived from purchase, lease from another qualified CQE, or leased from an individual, and then lease out up to 100% of the quota it holds.

3. No more than 400 GAF may be assigned to an LEP endorsed for 6 or fewer clients.

   Suboption: No more than 600 GAF may be assigned to an LEP endorsed for more than 6 clients.

B. LEP holders harvesting GAF while participating in the guided sport halibut fishery are exempt from landing and use restrictions associated with commercial IFQ fishery, but subject to the landing and use provisions detailed below.

C. GAF would be issued in numbers of fish. The conversion between annual IFQ and GAF would be based on average weight of halibut landed in each region's charter halibut fishery (2C or 3A) during the previous year as determined by ADF&G. The long-term plan may require further conversion to some other form (e.g., angler days).

D. Subleasing of GAF would be prohibited.

E. Conversion of GAF back to commercial sector.

   Unused GAF may revert back to pounds of IFQ and be subject to the underage provisions applicable to their underlying commercial QS either automatically on November 1 of each year or upon the request of the GAF holder if such request is made to NMFS in writing prior to November 1 of each year.

F. Guided angler fish derived from commercial QS may not be used to harvest fish in excess of the non- guided sport bag limit on any given day.

G. Charter operators landing GAF on private property (e.g., lodges) and motherships would be required to allow ADF&G samplers/enforcement personnel access to the point of landing.

H. Commercial and charter fishing may not be conducted from the same vessel on the same day.

D-1(b) Halibut Catch Sharing Plan Discussion Papers

Jane DiCosimo (NPFMC), Jonathan King (Northern Economics), and Scott Meyer (ADF&G) presented a pair of discussion papers on estimation and projection problems related to implementation of the halibut catch sharing plan. Public testimony was provided by Tory O'Connell (Halibut Coalition).

(i) Maximum Size Limit Analysis

The main issue here is the difficulty in predicting the average weight of halibut caught under different bag limits and/or maximum size limits. In Method A, the analyst assumed no change in average weight to calculate the charter harvest. This would tend to underestimate harvest if highgrading occurs. The document provides some evidence that this might occur when a maximum size limit is put in place. In Method B, the analyst assumed that all guided anglers would highgrade to the largest permissible size halibut. This assumption would overestimate harvest, because not all anglers would be able to do so. Thus, the range of values presented in the tables, in effect, brackets the worst and best anticipated cases. However, as explained in part (ii) below, there are myriad other factors that could also affect average weight (and number of fish harvested), so it should be expected that large deviations from the desired charter harvest will occur. This is not surprising: It is well known in recreational fisheries management that the suite of management measures used (e.g., size limits, bag limits, seasons, closed areas) constitute an imperfect and inaccurate instrument to attain a specific harvest limit. To achieve high levels of accuracy in attaining harvest levels, the Council would have to move to (1) an in-season management approach with closure of the charter industry when the harvest limit is surpassed, or (2) an individual vessel allocation system.

The decision about which maximum size limit (Lmax) to use (between the limits of Methods A or B) is essentially a policy call. Method A (with an estimated Lmax of about 38 to 40 inches) would be expected to produce the largest overage in harvest, the least impact on the charter industry, but the most impact on the resource. (Because the overage is not subtracted from the CEY in this new plan, the overage is essentially deducted from the resource itself.) In contrast, method B (with an estimated Lmax of about 30 inches) would be expected to restrict harvest to less than desired catch levels, creating an undesirable economic loss to the charter industry and a loss of opportunity to interested anglers. The Council may wish to choose an intermediate value, between these two methods, as a first step in an iterative process. The Council may also wish to install a buffer between the default charter harvest limit and the one actually recommended, to account for uncertainty. It may be useful to present projections for the maximum size limit that would result from buffers of 5% to 25 %, for example.

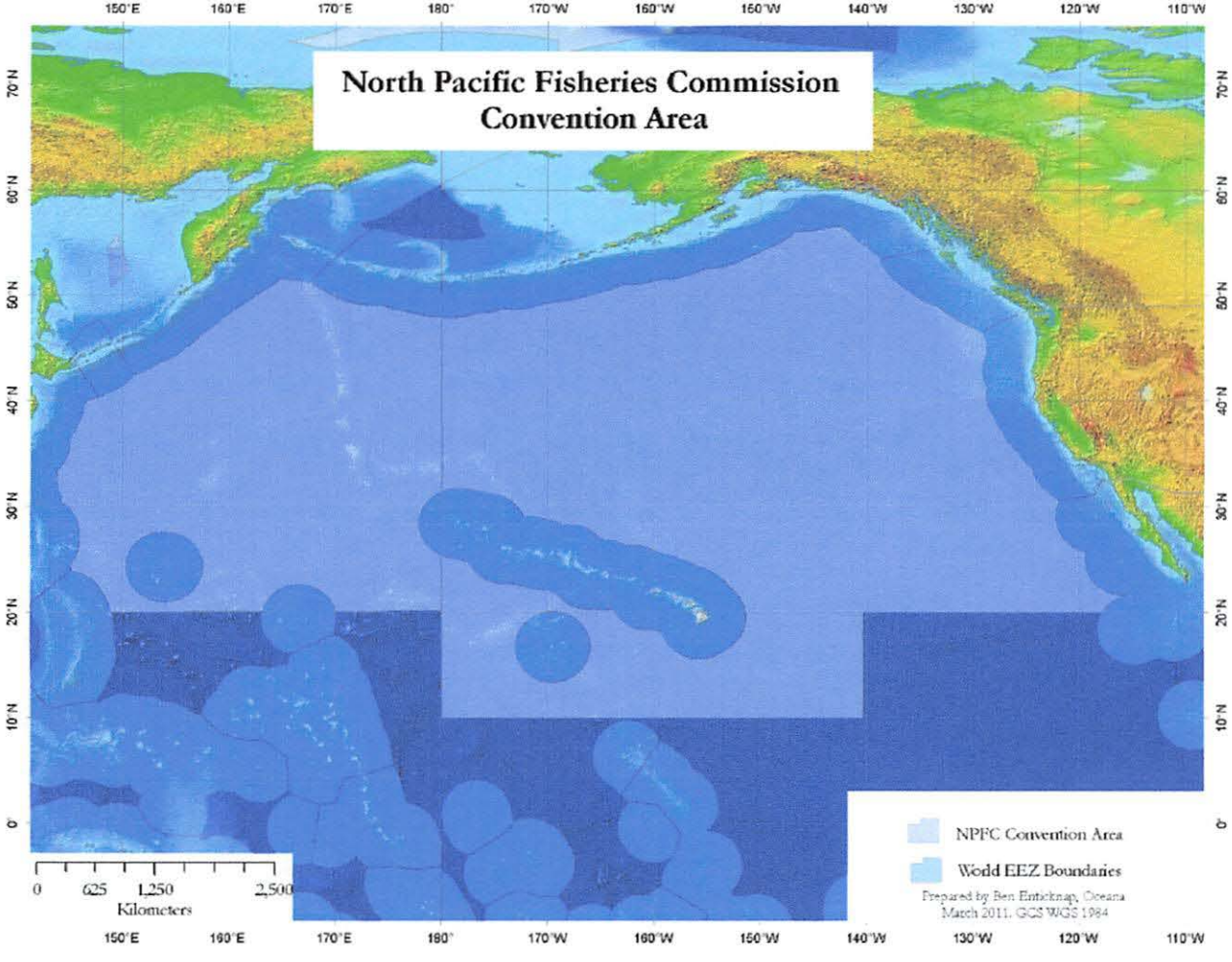
The SSC believes that the choice of maximum size limit should be an iterative process for a few years. There is, and will continue to be, insufficient information to accurately predict fishing behavior until regulations have stabilized and additional studies have been completed, so that the process must be adaptive to new information and conditions. The SSC also suggests that the analyst compare average weight in two successive years, one in which a maximum size limit was not in place and the next in which it was. In conjunction with the halibut stock assessment information (such as size selectivity) and other studies, it might be possible to obtain a preliminary estimate of how much high-grading may occur with a maximum size limit.

(ii) ADFG Charter Halibut Harvest Projection Methodology

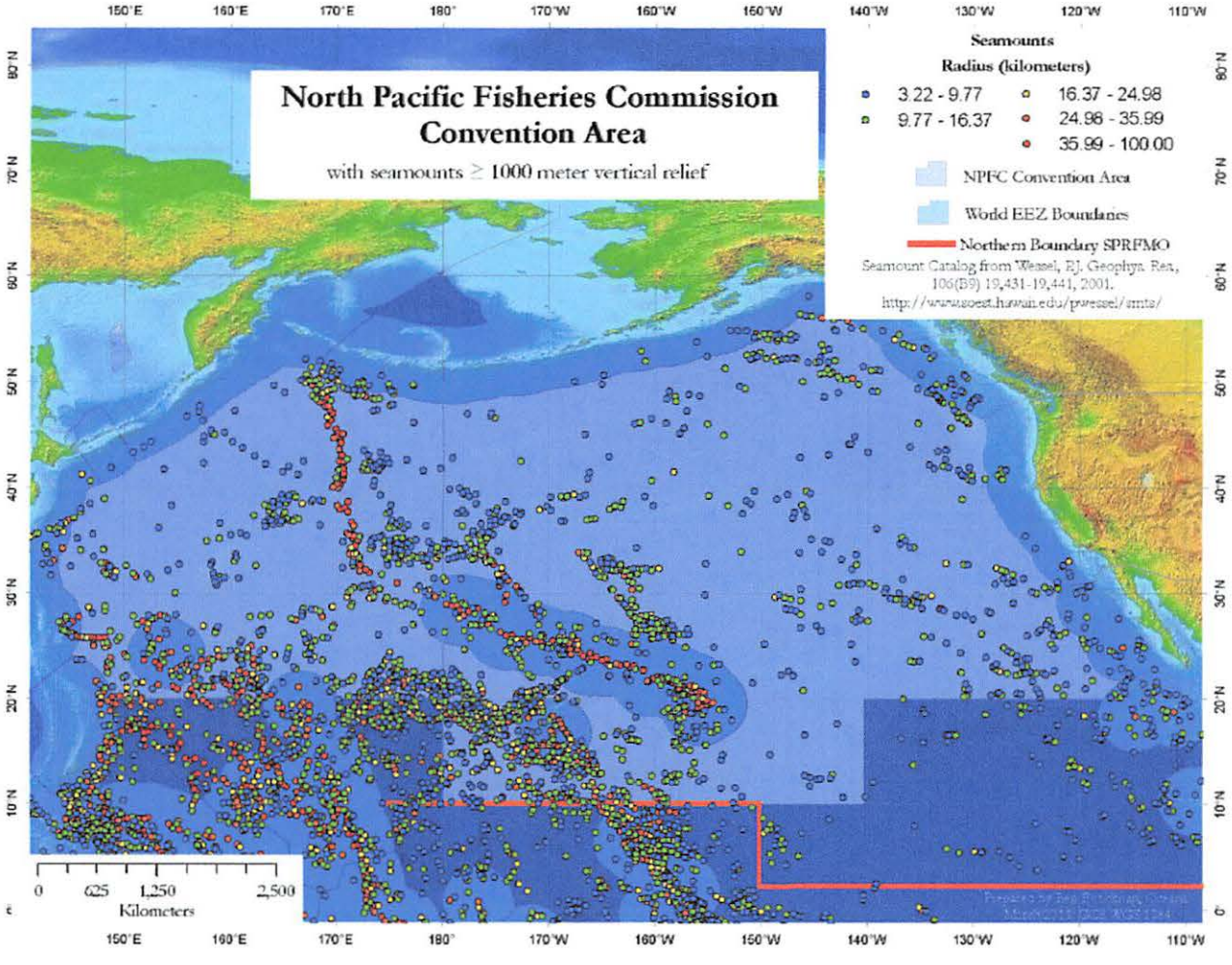
Projecting charter halibut harvests is difficult, because it requires predictions or assumptions about how the consumer demand for charter trips will change through time, predictions or assumptions about how people will respond to regulatory change, as well as changes in the abundance, distribution, and size composition of halibut stocks. The limited time series data available for use in estimation severely constrains model complexity. The discussion paper effectively describes these limitations and how they affect forecast accuracy. It also describes asymmetries in risk and the distribution of risk that arises from under- and over-estimating catch. **The forecast methods used in the discussion paper are suitable,**

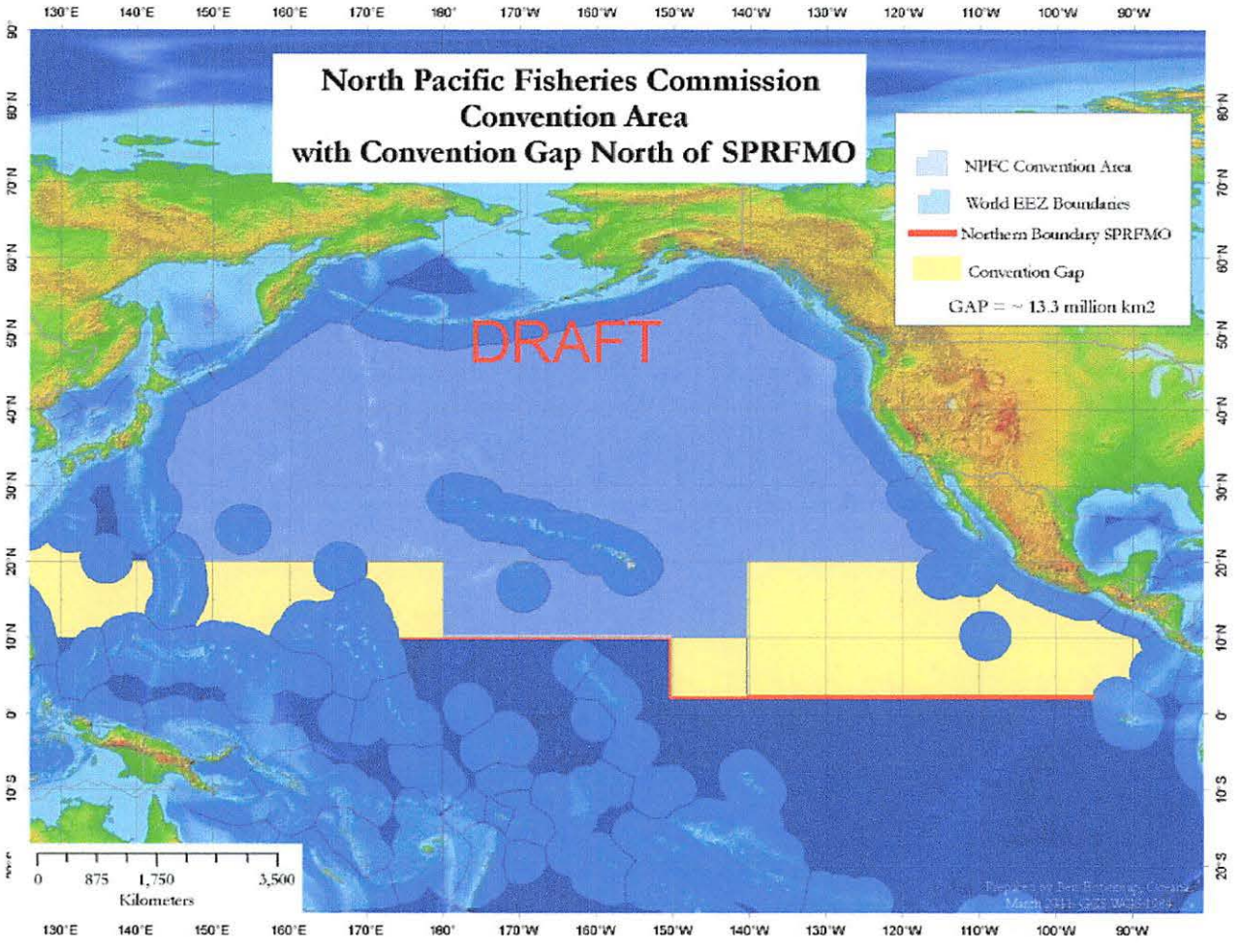
given current data limitations. While the resulting forecasts have had large errors, errors of this magnitude are not surprising given the uncertainties in the data, variability in the processes affecting the halibut stock and its fisheries, and the shortness of the time series. **Consequently, the SSC believes that the magnitude and range of uncertainties will prevent the forecast accuracy to be anywhere near the plus or minus 3.5% allowed in the charter range allocation of the preferred alternative.** While the SSC believes that the current projections are appropriate, given current information, there are some avenues of research that warrant further investigation. A contingent behavior model estimated on survey data might provide improved estimates of changes in the demand for charter trips. Incorporating halibut stock dynamics into the projection model could provide improved estimates of catch rates and sizes. Logbook data that are currently being collected should provide the most promising source of timely estimates of current year catch that will be useful for updating catch projections. **The SSC recommends that data from logbooks be brought into the catch projection methodology, as soon as they can be properly validated.**

Dave Be[illegible]
Handout



Dave Ferguson
Handout




North Pacific Fisheries Commission
Convention Area
with Convention Gap North of SPRFMO
NPFC Convention Area
World EEZ Boundaries
Northern Boundary SPRFMO
Convention Gap
GAP = ~ 13.3 million km2
DRAFT
0 875 1,750 3,500
Kilometers
130°E 140°E 150°E 160°E 170°E 180° 170°W 160°W 150°W 140°W 130°W 120°W 110°W 100°W 90°W
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April 4, 2011

Mr. William Chappell
1315 East-West Highway
SSMC3, SF5, Room 13142
Silver Spring, MD 20910

RE: Comments on E.O. 13563

Dear Mr. Chappell:

Executive Order 13563, issued on January 18, 2011, states that it is "*supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866 of September 30, 1993*". E.O. 12866 has been one of the primary guiding laws to which all of our fishery management regulations must adhere. The intent of E.O. 13563 appears to reinforce the provisions of the previous E.O, and appears to have the further intent of reducing complexity of regulations, eliminating unnecessary regulations, and generally streamlining regulations which govern public and private activities. We believe that these are laudable goals, and we also recognize that regulations governing fishing activities are often, by their nature, quite complex. Development of these regulations, through the Regional Fishery Management Council process, is also one of the most robust processes in existence relative to transparency and public participation. Fishery management plans, and their implementing regulations, often require allocation of fisheries resources to various user groups, and these regulatory requirements undergo extensive biological, economic, and social impact analyses pursuant to numerous applicable laws, including E.O 12866, and are developed consistent with the various objectives stated in E.O. 13563.

We support the intent of minimizing the burden of regulations, and we understand that NOAA, as the agency which promulgates fishery regulations, must develop a preliminary plan to periodically review its significant regulations to determine whether they should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective and less burdensome in achieving the regulatory objectives. We understand that the Regional Fishery Management Councils will be an essential partner in such an evaluation. The primary concern we wish to highlight at this early stage of development is that the review process should be focused on the underlying intent of the E.O., and not be construed to require the Councils or the agency to revisit basic policy or allocation decisions which have been subsequently promulgated through agency regulations.

To highlight this concern, I will point to a specific example of where we believe the intent of the E.O. could be misconstrued. NOAA Fisheries is currently engaged in an initiative to develop a plan and/or policy for reviewing and reassessing fishery allocations developed under 'catch share' programs. While there are specific statutes and laws governing the requirements for review of such programs (and the allocations arising from those programs), this current NOAA initiative will likely result in useful advice to itself and to the Regional Fishery Management Councils, in terms of both developing and periodically

reviewing such allocations. It has been stated that the recent E.O. 13563 provides a further impetus for NOAA's development of a plan and/or policy for reviewing fishery allocations under catch share programs. We believe this is contrary to the basic intent of the E.O., and that the E.O. should in no way be construed to require the reconsideration of basic policy and allocation decisions. This is particularly relevant to catch share programs which establish individual transferable quotas (ITQs), and which have been in place for many years with significant business and investment changes occurring for numerous fishery participants. While a Council may wish to revisit allocations for various good reasons, they should not be compelled to do so as part of a review of regulatory processes, nor does that appear to be the intent of the Executive Order. The Federal Register notice soliciting comment indeed correctly points out that "*retrospective review does not allow NOAA to contravene requirements of its various statutory mandates...as is the case with fishery management plans and regulations developed by Regional Fishery Management Councils...NOAA's ability to modify, streamline, expand, or repeal regulations is similarly constrained*".

We believe that current fishery regulations, while often complex, largely adhere to the spirit and intent of the provisions of E.O. 13563. While there is certainly room for improvement per the intent of the E.O., we do not believe it should require a wholesale revision of existing regulations, and certainly should not be construed to require the reassessment of policy and allocation decisions made through the Council process, approved by the Secretary of Commerce pursuant to all applicable law, and promulgated by NOAA Fisheries. We appreciate the opportunity to comment on this important issue.

Sincerely,

Chris Oliver
Executive Director

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