

Charter Halibut Moratorium Discussion Paper
NPFMC Staff
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The Council has approved two alternatives for the charter halibut moratorium analysis. Alternative 1 is the no action alternative. Alternative 2 includes thirteen primary issues that provide the structure to implement a limited entry program for the charter halibut sector. Some of these issues contain sub-options from which the Council must select to complete the program's design. Each of the issues will be discussed, some very briefly, in this document. The purpose of this paper is to identify those issues that need further clarification by the Council and to provide historic participation data for a preliminary analysis of the impacts of different issues.

Note that the Charter Halibut Stakeholder Committee (Committee) met October 16 – 18, 2006 to develop recommendations to the Council on numerous charter management issues, including the moratorium options. The Committee recommendations are provided in its minutes. **A summary of the clarifications requested by staff and the related Committee recommendations is provided at the end of this paper (starting on page 36).**

Note also that implementation of the halibut charter moratorium program will require NMFS RAM Division, NOAA Enforcement, and the Appeals Division to have access to State logbook and business information. Without this access, the moratorium cannot be implemented. At a minimum, this information is needed to evaluate an applicant's ability to meet the initial qualification criteria to receive a permit and provide supporting documentation for appeals. There are several possible approaches to obtaining access to these data, but the preferred approach is explicit authorization in State statute to allow logbook and business data to be transferred from the State of Alaska to NOAA. ADF&G has previously conveyed that language accomplishing this need has been submitted to the governor's office and is intended to be reviewed by the legislature during the 2007 session.

Features of the proposed moratorium (limited entry) program: Issues 1 - 12

1. *Permits¹ may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership of the business². A business owner may receive multiple permits due to charter halibut activity by vessels owned by the business. Currently licensed business owners may be "grandfathered" below the 75 percent ownership level and above proposed use caps until any change in ownership of the business occurs.*

The permit conditions identified by the Council will add a U.S ownership requirement a person must meet in order to operate a halibut charter business in IPHC Areas 2C and 3A. Currently, the only requirements to own and operate a guide business in the State of Alaska are found in Section 16.40.260 of the Alaska Statutes (AS). Those requirements do not include U.S. ownership provisions. Language from AS 16.40.260 is provided in the box below.

Many halibut charter business owners also operate the charter vessel. Those owners are required to meet State and U.S. Coast Guard requirements for operating a for-hire vessel carrying clients. One requirement to operate the vessel is that the person must be a resident of the United States, Canada, Mexico or a resident alien. Owners that do not provide the actual guide services are not required to meet those additional requirements under current laws.

¹ Through initial issuance and transfers

² Military (Morale, Welfare, and Recreational) boats are exempted from limited entry, but harvests still count against the GHL.

Implementing the permit requirements identified by the Council will ensure that any transfers of permits must be made to U.S. Citizens or U.S. businesses with 75 percent U.S. ownership of the business. This regulation will prohibit nonresident aliens and citizens of Canada³ and Mexico⁴ that were not initially issued a permit from owning halibut charter businesses that fish in Area 2C and 3A. These persons could continue to own and operate halibut charter businesses operating in other areas of the State.

- (a) The department shall issue an annual sport fishing operator license to a person who:
 - (1) holds a current business license under AS 43.70 to provide services to sport fishermen;
 - (2) presents proof satisfactory to the department of a general liability insurance policy or marine protection and indemnity insurance policy, covering the services provided by the person and person's employees to sport fishermen, that provides coverage of at least \$100,000 for each incident, and \$300,000 for all incidents in a year;
 - (3) pays the license fee prescribed by AS 16.05.340(a); and
 - (4) satisfies all additional requirements adopted in regulation by the Board of fisheries.
- (b) A person may not provide sport fishing services unless the person holds a current sport fishing operator license and has current insurance coverage as required in (a)(2) of this section.
- (c) A person who holds a current sport fishing operator license may contract to provide sport fishing guide services to a sport fisherman through an employee who holds a current sport fishing guide license under AS 16.40.270.
- (d) A person who holds a current sport fishing operator license may not directly provide sport fishing guide services to a sport fisherman unless the person also holds a current sport fishing guide license under AS 16.40.270(b).
- (e) A person who holds a sport fishing operator license may not aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40, including regulations relating to the proper method to release fish, by a sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person.

The issue also states that persons may be issued multiple permits based on the bottomfish trip history of vessels as reported in Alaska Department of Fish and Game (ADF&G) logbooks⁵ that were submitted by the charter business in a timely manner. This indicates that a business that submitted logbook data for two qualified vessels, for example, would be issued two distinct permits. Each of those permits would be transferable independent of the other. Allowing businesses to sell permits independently does not add additional vessels to the charter fleet, but it may allow increases in effort through more optimal distribution of permits among charter operators

2. Permit would be designated for either Area 2C or Area 3A.

Designating the IPHC area in which a permit may be used will restrict movement of permits from one IPHC area to another. Restricting movement will reduce the potential number of halibut charter vessels that could operate in that area. In the near term, limiting moratorium permits to a specific IPHC area is not expected to have a substantial impact on charter businesses or guided anglers. The permits issued for each area are expected to be about the same or greater than the number of vessels that operated in recent years. If conditions change in the fishery and clients want to take more trips in an area, the restrictions could impact the availability and price of trips.

The amount of protection⁶ specific ports within that area receive will depend on the number of permits issued in that IPHC area and number of permits needed to operate guide operations in other ports. If

³ NOAA GC guidance is necessary regarding whether the 75 percent U.S. ownership requirement is consistent with the Council's authority under the North Pacific Halibut Act.

⁴ Citizens of all countries, except the US, would be prohibited from buying permits in the future.

⁵ Bottomfish trips reported in ADF&G logbooks will be referred to as logbooks in this document.

⁶ "Protection" refers to limits placed on the number of new businesses and vessels that may operate out of a port, and the impacts those operations could have on competition for clients, fishing grounds, and port infrastructure.

several permits are issued that are not needed to provide charter clients trips in the port they were earned, they could be moved to other ports in that IPHC area and increase competition in that port. Increased competition for clients could benefit guided anglers through lower prices, but increased fishing effort could impact catch rates if localized depletion of halibut results from the effort increase.⁷

The ADF&G provided data that allows preliminary estimates of the number of permits that would be issued in each area to be generated. **Based on that data, seven businesses submitted logbook entries for both Areas 2C and 3A.** A brief summary of those operations is provided. Three businesses submitted logbook entries for three vessels that made trips in 2C and 3A during the 2004 and 2005 qualifying period. Two of those vessels would only qualify for a 3A endorsement if 5 or more trips were required in each area they fished. The history of those vessels would generate a permit for 3A at any trip requirement levels being considered by the Council. The third vessel would qualify for a 2C endorsement under any of the Council's alternatives and a 3A endorsement at any trip level being considered below the 20 or more trip threshold. **It is assumed that if a vessel qualifies for more than one area they will be issued a permit that is endorsed for both areas.** In addition to those three vessels, four other businesses reported trips in both 2C and 3A but did not have a single vessel operate in both areas. These businesses would be issued permits for both areas (if they meet the minimum trip requirements), but no permit would be endorsed for both areas.

3. Permit would be issued to registered guide business operator

This issue indicates the Council's preference to issue the permit to licensed sport fishing businesses, and not licensed captains or crew hired to operate vessels. Most license and permit programs issue the permit to the owner of the business. IFQ systems, in some cases, recognized the contribution of captains with allocations of a percentage of the quota. Because this moratorium program issues one permit per qualified entity, it is not possible to reward multiple participants in a single business. Rewarding more than one person with a permit would require issuing more than one permit per qualified entity. Issuing additional permits would contradict the program's goal of restricting the number of vessels in the fleet to, approximately, historic levels.

The business owners (licensed sport fishing business in this program) are generally issued the permits under limited entry programs because they are deemed to have taken the greater financial risk. They often own vessels and have expenses associated with operating the business (booking clients). In some cases, the captain may also incur costs, but those cases are assumed to be less prevalent.

4. Permit applicant would be required to sign affidavit attesting that all legal requirements were met.⁸

This requirement was developed as part of the procedure for gathering information and issuing a permit. The goal is to encourage permit applicants to provide true and accurate information on their permit application. It also provides a record of owners stating they are entitled to the permit based on having met the legal requirements for its issuance. It eliminates new, conflicting, or redundant requirements by simply referring to other legal requirements.

5. Transfers of permits (permanent) would be allowed

This issue states that persons holding a permit will be allowed to sell it to another person meeting the requirements to hold the permit. **In this program, the buyer must meet the U.S. ownership**

⁷ Localized depletion may be less of an issue as the size of charter vessels increases and the range that vessels operate in becomes larger. ADF&G Sport Fish Division staff has indicated that charter vessels are regularly ranging up to 60-80 nautical miles from the ports of Homer, Seward, Whittier, and Valdez.

⁸ The only tangible evidence is the ADF&G logbook, which requires meeting all State legal requirements.

requirements and the permit use cap requirements, unless Issue 1 is modified such that the grandfather provision is applied to the holder of the transferred permit as well as the initial recipient of the permit.

Without a mechanism to transfer permits, they would revert back to NOAA Fisheries when an owner leaves the business. Over time, the number of permits would decline and, at some point,⁹ not meet the client demand for trips. This would lead to an increase in trip prices for clients or clients not being able to take trips. Because the halibut charter industry is closely linked to the tourist industry, it could impact the types of vacations people take to Alaska or be a factor in people taking their vacation in another location.

6. *Leasing of permits (annual) would not be allowed*

Leasing of permits is generally prohibited in fisheries under NPFMC authority. Prohibitions on leasing stem from a desire to keep persons from holding permits for the sole purpose of generating income from the active participants.

Tracking whether halibut charter moratorium permits are being leased may be difficult. In many cases, a charter business may hire a captain(s) to take clients fishing. Contracts with captains are business arrangements that can be extended within a year, or over a number of years, and may be terminated at any time with proper notice. The hired captain may or may not own the vessel used to take clients fishing. If the captain owns the vessel and the permit holder hires him to take their clients fishing, distinguishing this operation from a lease arrangement may not be possible. (Note that the proposed moratorium program does not require that a permit holder own a vessel in order to use the permit.) These business arrangements may make it difficult to determine with certainty whether permits are being leased to a captain for a year or if the captain is working as an employee of the owner. **Given the structure of business arrangements within the halibut charter industry, enforcing a prohibition on permit leases may be difficult.**

7. *Permit Endorsement for Number of Clients on Board*

6 clients

uninspected (6-packs) vessels

new construction (uninspected or inspected vessels)

constructive loss¹⁰

highest number on any trip in 2004 or 2005^{C3}

inspected vessels (but not less than 4)

uninspected >100 gross tons ("Super-T")

constructive loss¹⁰

The intent of this issue is to limit the number of clients a vessel may carry.¹¹ Six clients would be allowed per trip for 6-pack vessels. Inspected vessels would be allowed to carry from 4 to the maximum number of clients they carried on a trip in 2004 or 2005. Uninspected vessels greater than 100 gross tons would also be limited to the maximum number of clients they carried on a trip in 2004 or 2005.

ADF&G charter logbook data do not differentiate between inspected and uninspected vessels. Since the data do not identify whether a vessel was a 6-pack or some other type of vessel, it is not possible to determine the maximum number of clients a vessel should be allowed to carry or provide an exact

⁹ Depending on whether client demand for halibut trips increases over time and the rate of that increase, the moratorium could prohibit the suppliers of charter trips from responding to client demand, even if transfers are allowed. The proposed structure of the program will result in a decline in the maximum number of clients that can take a halibut charter trip, when permit holders do not meet the annual trip requirements to keep their permit. However, it is anticipated that the supply of permits, and the resulting number of trips that can be offered through those permits, will decline at a faster rate if transfers are not allowed. A more rapid decline in the available supply of trips could cause the moratorium to become binding more quickly.

¹⁰ Limited to the permit endorsement associated with the lost vessel.

¹¹ It should be noted that ADF&G staff have questioned whether the Council and NMFS have the authority to restrict the number of clients a charter vessel may carry, because not all clients may be fishing halibut. They have suggested that this provision should instead focus on the number of clients allowed to retain halibut on a charter trip.

analysis of this alternative. In an attempt to approximate the intent of this option, the ADF&G Sportfish Division provided data on the maximum number of clients that were reported on a trip for each vessel from 1999 through 2005. That information was summarized and is reported in **Table 1**. During 2005, 15 vessels carried more than 6 clients on a trip in Area 2C; 95 vessels carried more than 6 clients on a trip in Area 3A. Some logbooks did not report the number of clients on the vessel. Information from those logbooks is reported in the “no client data” section of the table.

Table 1 Maximum number of clients per trip on each vessel during the years, 1999 - 2005

		<i>AREA 2C</i>						
Clients per trip	Annual # of Trips	1999	2000	2001	2002	2003	2004	2005
1 to 6	1 to 4 Trips	80	64	54	67	57	50	60
	5 to 9 Trips	60	54	54	46	36	41	46
	10 to 19 Trips	65	74	65	50	48	56	62
	20 or More Trips	163	207	198	170	187	192	195
1 to 6 Total		368	399	371	333	328	339	363
7+	1 to 4 Trips	3		1		2	1	2
	5 to 9 Trips	2	3	1	2	1	1	1
	10 to 19 Trips	2	1	2	3	3	3	2
	20 or More Trips	13	9	9	6	7	14	10
7+ Total		20	13	13	11	13	19	15
No Client Data	1 to 4 Trips			2	4	9	6	
	5 to 9 Trips				3	2		
	10 to 19 Trips					3		1
	20 or More Trips				1			2
No Client Data Total			2	8	14	6	3	
2C Total		388	412	386	352	355	364	381
		<i>AREA 3A</i>						
Clients per trip	Annual # of Trips	1999	2000	2001	2002	2003	2004	2005
1 to 6	1 to 4 Trips	39	31	29	34	34	32	41
	5 to 9 Trips	40	42	43	39	44	25	44
	10 to 19 Trips	57	52	60	59	60	58	46
	20 or More Trips	206	269	256	220	209	244	219
1 to 6 Total		342	394	388	352	347	359	350
7+	1 to 4 Trips	1						
	5 to 9 Trips	5	1			2	1	3
	10 to 19 Trips	10	2	3	3	3	1	7
	20 or More Trips	85	54	60	35	33	41	85
7+ Total		101	57	63	38	38	43	95
No Client Data	1 to 4 Trips	2	3		3	2	4	1
	5 to 9 Trips				3	2	4	2
	10 to 19 Trips	4	1		2	1	3	
	20 or More Trips	5		1	8	12	8	3
No Client Data Total		11	4	1	16	17	19	6
3A Total		454	455	452	406	402	421	451

Source: ADF&G logbook data, provided by the Sportfish Division.

Table 2 provides additional detail on the maximum number of clients carried by vessels during the years 1999 through 2005. In Area 2C, between 7 and 9 clients were carried on 10 vessels during 2005; between 10 and 19 clients were carried on five vessels during 2005. During 2005, 50 vessels carried a maximum of 7 to 9 clients on a trip in Area 3A. Thirty-four vessels carried a maximum of 10 through 19 clients. Finally, 11 vessels were reported to have carried more than 20 clients during 2005.

Table 2 Detailed breakout of the number of clients per trip, 1999-2005

Max. # of Clients per Trip	Number of Trips	Area 2C							Area 3A						
		1999	2000	2001	2002	2003	2004	2005	1999	2000	2001	2002	2003	2004	2005
7-9 Clients	1 to 4 Trips	3		1		1	1	2	1						
	5 to 9 Trips	1	3	1	2	1	1		4			2		3	
	10 to 19 Trips	1	1	2	2	3	3	1	8	2		1	2	1	5
	20 or More Trips	8	6	6	6	4	13	7	27	13	21	4	4	9	42
7-9 Clients Total		13	10	10	10	9	18	10	40	15	21	5	8	10	50
10-19 Clients	1 to 4 Trips					1									
	5 to 9 Trips	1						1	1				1		
	10 to 19 Trips	1						1	2		2	2	1	2	
	20 or More Trips	4	2	2			1	3	51	31	29	22	22	23	32
10-19 Clients Total		6	2	2		1	1	5	54	31	31	24	23	24	34
20+ Clients	1 to 4 Trips														
	5 to 9 Trips									1					
	10 to 19 Trips				1						1				
	20 or More Trips	1	1	1		3			7	10	10	9	7	9	11
20+ Clients Total		1	1	1	1	3			7	11	11	9	7	9	11

Source: ADF&G logbook data, provided by the Sportfish Division.

In Area 2C, only 6 rods are allowed to be fished at any given time on halibut charter vessels, but more than 6 clients may be on the vessels if the vessel is permitted to carry them. ADF&G staff know of vessels that carry more than 6 clients when only six lines are fished at one time. Area 2C vessels could be allowed to continue carrying more than six clients, but only allowed 6 to fish at one time, or they could be limited to only carrying 6 clients at one time. Limiting the number of clients that a vessel is allowed to carry could reduce revenues for owners that base their business plan on carrying more than 6 clients but allowing only 6 to fish at one time.

Given the lack of information on inspected and uninspected vessels, the Council will need to define how many clients a vessel will be allowed to carry.

8. Permits may be stacked^{12,13}

More than one permit may be assigned to a vessel. The advantage of assigning more than one permit to a vessel is that it would allow the vessel to carry the number of passengers equal to the aggregate number of clients that the permits are endorsed to carry. For example, a vessel that had three permits that are each permitted to carry 6 clients would be allowed to carry up to 18 clients, if the U.S. Coast Guard and the State of Alaska licensed the vessel and captain for that activity.

The Council should state its intent whether stacked licenses are permanently joined together, or if they can be separated and moved to other vessels with the characteristics they were initially issued.

¹² A business can use, for example, two 6-packs license endorsements on one "Super-T" vessel.

¹³ Staff requests clarification from the Council as to whether once a permit is stacked, it is always stacked with the other permit(s) or whether the permit must continue to denote its original endorsement.

If they are permanently joined together they could only be used on one vessel at a given time. Stacking permits would reduce the number of vessels that may carry clients, but it would not reduce the total number of clients that could be carried.

9. Evidence of participation - ADF&G logbook entry with bottomfish statistical area, rods, or boat hours

ADF&G logbook entries with bottomfish statistical area, rods, or boat hours were used to generate the data provided in this document. Information on actual halibut fishing effort is not available through the logbook program. Bottomfish data was used because it is the closest proxy for halibut effort that is available.

10. Qualifying years - Require a business to have client activity for bottomfish effort as reported in ADF&G logbook in 2004 or 2005 and participation in year prior to implementation (unless unavoidable circumstance occurred), with a minimum number of bottomfish trips^{C2} (1, 5, 10, or 20) to demonstrate bottomfish activity

Option 1: “unavoidable circumstances”¹⁴ clause would be adjudicated on a case by case basis through the NOAA Fisheries Office of Administrative Appeals.

Option 2: under construction as of December 9, 2005 and must have at least 1 year of ADF&G halibut/bottomfish logbook activity from 1998-2005.

Data reported under this issue are by both the number of businesses and vessels that would qualify based solely on participation reported in 2004 or 2005 ADF&G logbooks. The information presented does not account for the requirement that entities must have participated in the year prior to program implementation. When that data becomes available and is applied to the qualification requirement, the number of qualified vessels and businesses are expected to decline. The number of entities that will not qualify because of that provision cannot be predicted, so estimates of the actual number of permits that would be issued cannot be calculated.

The Council should clarify how the minimum landing criteria is defined. Two options¹⁵ have been identified as the possible meaning of this option.

- 1) A permit would be issued to the licensed business owner for each vessel that met the minimum requirement of 1, 5, 10, or 20 bottomfish logbook trips in 2004 or 2005, and participation in the year prior to implementation; or
- 2) Each licensed business owner that reported a minimum of 1, 5, 10 or 20 bottomfish logbook trips during 2004 or 2005, and had participation in year prior to implementation, would be issued a permit for each vessel they currently own and operated during the qualifying year(s).

The obvious difference between the two definitions is whether the trips accumulate at the vessel or business level. The two are only different when a business operated more than one vessel during the qualifying period or switched vessels after 2005 and before the year prior to implementation of the proposed program.

¹⁴ To address medical emergencies, military exemptions, and constructive losses on a case by case basis.

¹⁵ During the October Committee Meeting a third option was identified. Information on the impact of that method of calculating whether a vessel met the minimum trip criteria is also included in the tables. That method would allow a permit to be issued if the licensed business owner reported a sufficient number of trips in logbooks. For example, if a business reported 60 trips for all their vessels in a year during the qualifying period they could qualify up to 3 vessels at the 20-trip requirement, 6 vessels at the 10-trip requirement, and 12 vessels at the 5-trip requirement. The number of permits issued depends on the number of vessels for which the business submitted logbook entries. So, if a business had 60 trips but only used two vessels, they would only be issued two permits.

For example, if a business operated more than one vessel (two vessels that each reported 8 trips in 2004 and 2005) and the minimum trip requirement was 10 bottomfish trips in 2004 or 2005, then no permits would be issued under the first interpretation. Under the second interpretation, two permits would be issued to the business if it still owns both vessels. So, in cases where a business operated more than one vessel, the second alternative could increase the number of permits that would be issued. That option would also benefit businesses that changed vessels during the year (only operated one at a time), since the catch of all vessels would count toward qualification (e.g., and two permits could be issued).

No information is available on the impact of the option “*allowing vessels under construction as of December 9, 2005 and must have at least 1 year of ADF&G halibut/bottomfish logbook activity from 1998-2005*” to qualify for the program. **It is assumed that the one year of ADF&G halibut/bottomfish logbook activity refers to the owner and not the vessel.** So, if the vessel owner reported one year of activity from 1998 - 2005, then the vessel under construction would be issued a permit. This option does not address whether the owner had to report a minimum number of trips during the year(s) they were active. **The Council should provide rationale for allowing hardship cases to qualify with fewer trips than the other participants’ minimum trip requirements.**

Data in Tables 3 through 7 provide estimates of the number of businesses that would qualify and the number of permits that would be issued or the change in number of permits or businesses based on the option selected. **None of the tables account for the requirement that a vessel or business reports bottomfish activity during the year prior to implementation.**

Table 3 reports estimates of the maximum number of permits that could be issued to businesses under each of the three options (recall that information is reported for the Committee recommendation in addition to the two options described above) for determining the number of trips taken. The number of businesses and vessels in Area 2C that made at least 1 trip is more than twice the number that took 20 or more trips. A total of 447 businesses had at least one bottomfish trip, while 206 businesses made 20 or more trips. About 60 businesses drop out of the table between the 1 and 5 trip levels and the 5 and 10 trip levels.

A total of 855 vessels made at least one bottomfish trip in Area 2C, based on logbook reports, during 2004 or 2005. A total of 447 businesses reported logbook data on those vessels. Of those 855 vessels, 483 made 20 or more trips. Under Option 1, approximately 120 permits drop out between each step in the number of trips required. If permits were issued based on the maximum number of trips reported by the business in one year during the qualifying period, which would qualify all the vessels that made a trip during the qualifying period (Option 2), then the range of permits issued would be from 885 to 635. The number of permits that would be issued under Option 2 is greater than Option 1 for each threshold that requires more than one trip. Under the 20 or more trip threshold, the difference is 152 permits, and the number declines as the number of trips required is reduced. The number of permits issued under the Committee’s recommendation (“Committee Option”) always falls between Option 1 and Option 2 when more than 1 trip is required, but the number is closer to Option 2.

Area 3A has more businesses that reported 1 bottomfish trip than Area 2C, but fewer vessels. A total of 520 businesses and 709 vessels reported bottomfish trips in 2004 or 2005. About 68 percent of those businesses (354) and 67 percent of those vessels (476) made 20 or more trips. These data indicate that 3A vessels, on average, take more trips than 2C vessels.

Table 3 Permits and businesses based on total vessels used during the qualifying period

Number of Trips Required	Permits Issued Based on Trips by Each Vessel (Option 1 above)		Permits based on Total Trips by Business (Option 2 above)		Committee Option (Defined at its October 2006 meeting)	
	Permits	Businesses	Permits	Businesses	Permits	Businesses
Area 2C						
1 or More Trips	855	447	855	447	855	447
5 or More Trips	720	377	783	383	771	383
10 or More Trips	601	316	725	330	681	330
20 or More Trips	483	246	635	258	553	258
Area 3A						
1 or More Trips	709	520	709	520	709	520
5 or More Trips	640	471	658	471	653	471
10 or More Trips	574	423	610	426	596	426
20 or More Trips	476	354	534	360	502	360

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

Table 4 shows the changes in the maximum number of permits that could be issued under the various options being considered. Compared to the Committee Option for Area 2C, Option 1 would result in 51, 80, and 70 fewer permits at the 5 or more, 10 or more, and 20 or more trip requirement levels, respectively. The decrease in the number of business operators that would be issued a permit(s) would be up to 14. In Area 3A, the maximum number of permits that could be issued in 3A could be reduced from 13 to 26, if 5 or more trips are required.

Table 4 Change in the potential number of permits issued relative to the Committee Option

Number of Trips Required	Option 1 minus Committee Option		Option 2 minus Committee Option	
	Permits	Businesses	Permits	Businesses
Area 2C				
1 or More Trips	0	0	0	0
5 or More Trips	-51	-6	12	0
10 or More Trips	-80	-14	44	0
20 or More Trips	-70	-12	82	0
Area 3A				
1 or More Trips	0	0	0	0
5 or More Trips	-13	0	5	0
10 or More Trips	-22	-3	14	0
20 or More Trips	-26	-6	32	0

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

The maximum number of permits that could be issued, if Option 2 is implemented, compared to the Committee Option, would increase by up to 82 in Area 2C. In Area 3A, the number of permits could increase by up to 32. The number of businesses would not change, because the criteria for both options are based on the number of trips a business reported in logbooks. Either option would result in the business qualifying for at least one permit, but the number of permits issued to the business could be reduced. For example, a business reported trips in logbooks for 2 vessels: one vessel took 20 trips and the other vessel took 10 trips. The trip threshold selected to qualify for a permit is 20 or more trips. Under

Option 2, the business would be issued two permits; under the Committee Option the business would be issued one permit. Two permits would be issued under Option 2 because the business had 30 trips total and two vessels were reported to take trips. Option 2 allows all vessels operated by the business to qualify for a permit if the *business* met the minimum trip requirement.

In contrast, only one permit would be issued under the Committee Option, because the business must have a minimum of 20 trips for each vessel. In order for the business to have received two permits under the Committee Option, it would need to have reported at least 40 trips in total (20 trips x 2 vessels = 40 required trips by the business). However, one vessel could have made 30 trips and the other vessel could have made 10 trips in order to meet this threshold and receive two permits.

Table 5 reports the maximum number of permits that could be issued if the number of permits issued to a business is limited to number of vessels that fished in one year during the qualifying period. Businesses may have used different vessels in 2004 and 2005 for a variety of reasons. **The question this table addresses is: should a business be issued 2 permits because it used a different vessel in 2004 than 2005? For example, a business took 50 trips in 2004 with vessel “A” and 60 trips in 2005 with vessel “B”. In Table 3, the business would be issued 2 permits. In Table 5, only 1 permit would be issued. Which of these interpretations is the Council’s intent?**

Table 5 Potential number of permits and businesses based on maximum number of vessels used any year during the qualifying period

Number of Trips Required	Permits Issued Based on Trips by Each Vessel (Option 1)		Permits based on Total Trips by Business (Option 2)		Committee Option	
	Permits	Businesses	Permits	Businesses	Permits	Businesses
	Area 2C					
1 or More Trips	772	447	772	447	772	447
5 or More Trips	645	377	705	383	702	383
10 or More Trips	540	316	650	330	623	330
20 or More Trips	433	246	564	258	504	258
	Area 3A					
1 or More Trips	669	520	669	520	669	520
5 or More Trips	596	471	620	471	618	471
10 or More Trips	535	423	574	426	568	426
20 or More Trips	444	354	503	360	488	360

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

Table 6 reports the change in the number of permits and businesses when Option 1 and 2 are compared to the Committee Option and the number of permits is limited to the maximum number of vessels that fished in one year during the qualifying period. The changes follow trends similar to those reported in Tables 3 and 4.

Table 6 Change in the number of permits issued relative to the Committee Option

Number of Trips Required	Option 1 minus Committee Option		Option 2 minus Committee Option	
	Permits	Businesses	Permits	Businesses
Area 2C				
1 or More Trips	0	0	0	0
5 or More Trips	-57	-6	3	0
10 or More Trips	-83	-14	27	0
20 or More Trips	-71	-12	60	0
Area 3A				
1 or More Trips	0	0	0	0
5 or More Trips	-22	0	2	0
10 or More Trips	-33	-3	6	0
20 or More Trips	-44	-6	15	0

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

Fewer permits will be issued if the maximum number of permits issued to a business is limited to the number of vessels used in one year during the qualifying period. **Table 7** reports the change in number of permits issued when Tables 3 and 5 are compared. Restricting the number of permits a business could be issued to the maximum number of vessels they used in one year during the qualification period would reduce the number of permits by 83 to 49, under the Committee Option. Similar trends are shown under the other two options.

Table 7 Additional permits that could be issued by allowing all vessels used during the qualifying period to generate a permit versus the maximum number of vessels used in any one year

Number of Trips Required	Change in Potential Number of Permits (Option 1)		Change in Potential Number of Permits (Option 2)		Change in Potential Number of Permits (Committee Option)	
	Permits	Businesses	Permits	Businesses	Permits	Businesses
Area 2C						
1 or More Trips	83	0	83	0	83	0
5 or More Trips	75	0	78	0	69	0
10 or More Trips	61	0	75	0	58	0
20 or More Trips	50	0	71	0	49	0
Area 3A						
1 or More Trips	40	0	40	0	40	0
5 or More Trips	44	0	38	0	35	0
10 or More Trips	39	0	36	0	28	0
20 or More Trips	32	0	31	0	14	0

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

11. Permit holder must annually renew permit and have minimum activity equal to preferred alternative under Issue 10^{16,17}

Option. Except under “unavoidable circumstances”⁷ clause that would be adjudicated on a case by case basis through the NOAA Fisheries Appeals Division

Annual permit renewals are expected to reduce the number of permits that are available. Persons owning a permit that provides a sufficient number of guided halibut trips in the future will meet the annual renewal requirement. Those that do not meet the requirement will forfeit their right to the permit. It is not possible to determine how many permits will not be renewed in the future. It is assumed, however, that some percentage of people that know that they will not meet the minimum activity requirement in a given year will sell the permit prior to it being forfeited to NOAA Fisheries.

This issue does not address how the minimum activity is calculated, as under Issue 10. For a business that owns a single vessel, the calculation is obvious. The vessel and the business each have the same number of trips and that number must be equal to or greater than the minimum number selected under Issue 10. However, if a business owns three vessels, must all three vessels meet the minimum trip requirement in Issue 10, or does just the business need to meet the minimum trip requirement? Does the trip requirement change if the permits are “stacked” as allowed under Issue 8?

In cases where the permit holder could not make the minimum number of trips due to “unavoidable circumstances,” the NOAA Fisheries Office of Administrative Appeals will hear the case to determine whether he must forego the permit. These hearings will increase the number of cases that the Office of Administrative Appeals will need to act on annually, and increase the costs of the program. The amount that costs will increase will depend on the number of cases that must be heard each year and the average cost to administer each case.

12. Use caps¹⁸, with grandfather¹⁹ provision

uninspected vessels:

- Option 1. 1 permit*
- Option 2. 5 permits*
- Option 3. 10 permits*

inspected and uninspected (>100 gt) vessels:

- Option 1. 1 permit*
- Option 2. 2 permits*
- Option 3. 3 permits*

ADF&G data do not contain information on whether a vessel was inspected, uninspected, or uninspected and >100 gross tons.²⁰ Because the data are not currently available, information is presented on the number of vessels per business, without regard to the type of vessel. **The Council should reconsider this use cap issue as written because it cannot be analyzed. If the Council elects to proceed with the alternative as written, NOAA Fisheries will need to collect vessel class information, perhaps as part of its permitting process, to enforce the proposed caps.**

Should the Council proceed with the alternative as written, the Council must state its intent regarding whether the use cap options for uninspected vessels are mutually exclusive or additive with the use cap options for the inspected and uninspected (>100gt) vessels. In other words, if Option 3 is selected for both types of vessels, can an owner own 10 uninspected vessel permits and 3

¹⁶ Non-renewed permits would be available for communities under Issue 13, Option 3.

¹⁷ Permits could not be renewed if allowed to lapse (due to holder’s inaction or because minimum activity was not met).

¹⁸ Staff interprets the proposed use caps as **not** additive across both areas and vessel categories (inspected and uninspected), i.e., up to 3 permits could be for uninspected vessels.

¹⁹ A business whose permit is endorsed in excess of the permit limit maintains that exemption for those that remain in its control after others are sold, but those sold vessels lose that grandfather status in perpetuity. Grandfathered vessels that are sold in total when a business owner sells his entire business/fleet maintain that grandfathered status.

²⁰ Personal communication, ADF&G staff.

inspected vessel permits? Or must the owner choose which type of vessels they want to operate and be limited by the 10 uninspected vessel permits or the 3 inspected vessel permits?

Table 8 reports the number of permits per business in Area 2C if all vessels used during the qualifying period were eligible to earn a permit. This table provides information on the total number of businesses that could be issued multiple permits. In Area 2C, if only one trip is required to qualify for a permit, 9 businesses are estimated to earn 10 or more permits under the Committee Option. A total of 29 businesses would earn 5 or more permits. Increasing the required number of trips to 20 or more would result in 26 businesses receiving 5 or more permits. Six businesses would earn 6 or more permits.

Under Option 1, 9 businesses at the 1-trip level and less than 4 businesses at the 20-trip level would earn 10 or more permits. The number of businesses that would earn 5 or more permits is 29 at the 1-trip level and 19 at the 20-trip level. Finally, under Option 2, 29 businesses would earn 10 or more permits at the 1-trip level. At any of the trip levels, 9 businesses would earn 10 or more permits.

Table 8 Number of permits per business in Area 2C

Option	Permits per Business	1+Trip	5+ Trips	10+ Trips	20+ Trips
Committee Option	1	311	259	221	172
	2	79	70	60	40
	3	18	15	11	9
	4	10	11	10	11
	5	10	10	10	10
	6 to 7	7	6	6	6
	8 to 9	*	*	4	4
	10 to 15	*	*	4	*
	16+	6	6	4	*
Committee Option Total		447	383	330	258
Option 1	1	311	267	225	172
	2	79	60	45	29
	3	18	12	10	15
	4	10	13	11	11
	5	10	8	12	9
	6 to 7	7	6	7	6
	8 to 9	*	*	*	*
	10 to 15	*	6	*	*
	16+	6	*	*	*
Option 1 Total		447	377	316	246
Option 2	1	311	254	206	149
	2	79	73	68	56
	3	18	17	17	14
	4	10	10	10	10
	5	10	10	10	10
	6 to 7	7	7	7	7
	8 to 9	*	*	*	*
	10 to 15	*	*	*	*
	16+	6	6	6	6
Option 2 Total		447	383	330	258

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

Cells marked with an * contain less than four businesses.

Table 9 provides information on the number of permits per business for Area 3A. No business would earn more than 7 permits. Ten businesses would earn 5 or more permits under each option at the 1-trip level. At the 20-trip level, 8, 6, and 10 businesses would earn 5 or more permits under the Committee Option, Option 1, and Option 2, respectively.

Table 9 Number of permits per business in Area 3A

Option	Permits per Business	1+Trip	5+ Trips	10+ Trips	20+ Trips
Committee Option	1	409	365	327	279
	2	70	67	64	51
	3	20	18	14	12
	4	11	11	11	10
	5	4	4	5	*
	6 to 7	6	6	5	*
Committee Option Total		520	471	426	360
Option 1	1	409	371	330	275
	2	70	65	66	60
	3	20	15	8	4
	4	11	11	11	9
	5	4	4	4	*
	6 to 7	6	5	4	*
Option 1 Total		520	471	423	354
Option 2	1	409	362	320	261
	2	70	68	65	61
	3	20	20	20	17
	4	11	11	11	11
	5	4	4	4	4
	6 to 7	6	6	6	6
Option 2 Total		520	471	426	360

Source: ADF&G logbook data provided by Sportfish Division for 2004 and 2005.

Note: These estimates do not account for trips also being required in the year prior to implementation.

Cells marked with an * contain less than four businesses or are masked to protect the confidentiality of another cell.

Community provisions in the proposed moratorium (limited entry) program: Issue 13

As discussed in the previous section, the Council has approved two alternatives for the halibut charter moratorium analysis: Alternative 1) no action; and Alternative 2) implement a limited entry permit program (moratorium) for the charter sector (using a control date of 12/9/05). Alternative 2 currently includes three options to specifically provide for community participation in the halibut charter limited entry program under Issue 13. **The following three options are not mutually exclusive**; the Council could choose any or all of the options at final action.

Issue 13. *Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66*

Option 1. Community Quota Entities (CQE)²¹ may purchase limited entry permits.

Area 2C – use cap of 5 permits per community

Area 3A – use cap of 10 permits per community

Option 2. A CQE representing a community which has <10 active charter businesses with their primary place of business in the community, may request a limited entry permit on behalf of a community resident.

Area 2C – use cap of 3 permits per qualified community

Area 3A – use cap of 5 permits per qualified community

Option 3. CQEs may request non-renewed limited entry permits as defined under Issue 11 on a “first come, first served” basis.²²

At its June 2006 meeting, the Council included the above options in the moratorium analysis, noting that staff should provide a discussion paper at a subsequent meeting to: 1) provide additional information as to whether inclusion of the community options would delay analysis or implementation of the halibut charter moratorium, and/or 2) request clarification of any of the options. **This paper outlines several general and specific issues that require clarification by the Council, the summary of which is at the end of this paper. If these issues can be addressed in a timely fashion, it does not appear that the community provisions would delay the development or implementation of the moratorium.**

Note also that the Charter Halibut Stakeholder Committee recommendations on this issue are provided in the Committee minutes and also summarized at the end of this paper.

General Issues

Goal of the community provisions

The Council should clarify the overall goal of the community provisions, in order to guide development of the program options. The primary question relates to who the Council is intending to benefit with the proposed options. The problem statement notes that the purpose of the moratorium is to limit entry into the growing halibut charter industry in Areas 2C and 3A. In June, the Council discussion on the community options focused on the fact that while Area 2C and 3A harvest has been steadily increasing, there are several small, rural communities not located on the road system in both areas that do not have a fully developed halibut charter industry. The charter industry continues to be relatively concentrated in and around a small number of larger coastal communities. In Area 2C, the vast majority of charter businesses reported Sitka (112), Juneau/Auke Bay (53), Ketchikan (43), Petersburg (37), or

²¹As defined in regulation at 50 CFR 679.2 and GOA FMP Amendment 66.

²²These permits would derive from a much more limited pool of vacated limited entry permits by permit holders who did not renew them.

Craig (30), as the port of landing in 2005. In Area 3A, in 2005, most charter businesses list the port of landing as communities on the Kenai Peninsula, primarily Homer (149), Deep Creek/Ninilchik (95), Seward (89), and Anchor Point (49), or Valdez (38).²³ Businesses reporting the port of landing in these communities comprise over 63% of the total number of businesses reporting bottomfish trips in 2005 in Areas 2C and 3A combined.

Recognizing that substantial growth in the industry has been limited to relatively few communities, businesses in these communities would likely receive the great majority of limited entry permits allocated under the proposed moratorium program. The community provisions are intended to ‘keep the door open’ for those rural, small communities that have very few alternative economic opportunities, to develop or further develop charter operations in those areas. Allowing communities to receive halibut charter permits (‘gifted’ permits) removes an economic barrier for communities with undeveloped or under-developed charter industries to participate in the halibut charter industry.

Given the above, the Council should clarify the intended beneficiaries of the community options. For example, is the Council attempting to limit benefits to **residents** of small, under-developed charter communities by allowing them to receive a charter permit through a nonprofit community entity? Or is the Council attempting to benefit communities by encouraging or allowing new **businesses to operate out of** small rural communities that have under-developed halibut charter industries? While some of the Council’s previous programs have tied benefits to residency of an eligible community, this may not be the primary objective of the moratorium program. This issue is discussed in more detail under Option 2.

Use of the Community Quota Entity and Amendment 66 Communities

Note that in all of the above options, staff assumes that the Community Quota Entity (CQE) is the holder of the permit, whether the permit is purchased by or given to the entity. In effect, the CQE would be issued the permit and would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. Thus, the CQE would remain the holder of the permit. CQE is a term of art created under GOA Amendment 66, for purposes of the commercial halibut and sablefish IFQ Program. Under that amendment, specified Gulf communities can form CQEs for the purpose of purchasing, holding, and using commercial halibut and/or sablefish catcher vessel quota share. CQEs are defined in Federal regulations (50 CFR 679.2) as follows:

Community quota entity (CQE) (for purposes of the IFQ Program)²⁴ means a non-profit organization that:

- (1) Did not exist prior to April 10, 2002;
- (2) Represents at least one eligible community that is listed in Table 21 of this part; and,
- (3) Has been approved by the Regional Administrator to obtain by transfer and hold QS, and to lease IFQ resulting from the QS on behalf of an eligible community.

While GOA Amendment 66 included Gulf communities in Areas 2C, 3A, and 3B, the proposed moratorium program is limited to Areas 2C and 3A. Under Amendment 66, there are 21 eligible communities in Area 2C and 14 in Area 3A (see Table 10). Of those, four communities in Area 2C (Craig, Hydaburg, Pelican, Hoonah) and three communities in Area 3A (Ouzinkie, Larsen Bay, Old Harbor) have approved CQEs to date.

²³ADF&G logbook data, 2005. Active business is defined as a business reporting at least one charter bottomfish trip. The same communities are reported as the most common ports of landing in 2004.

²⁴From 50 CFR 679.2: “IFQ program means the individual fishing quota program for the fixed gear fisheries for Pacific halibut and sablefish in waters in and off Alaska and governed by regulations under this part.”

While the CQE concept is currently applicable only to the commercial IFQ Program, use of the CQE system in the community options for the halibut charter moratorium is intended to streamline analysis and implementation. The primary advantage is that the CQE structure and the communities that may be represented by CQEs are already defined in Federal regulation, thus, some of the fundamental hurdles associated with developing such a program would already be met. There may exist concerns that the communities eligible to form a CQE were evaluated against criteria formulated specifically for the commercial halibut and sablefish sector, and that these same communities would not represent underdeveloped charter ports.

Eligible communities under Amendment 66 must have met the following criteria: recognized by the U.S. Census;²⁵ population of greater than 20 but less than 1,500 according to the U.S. Census; not be connected to a larger community on the road system; located on the coast of the Gulf of Alaska; have a commercial landing of either halibut or sablefish by a resident between 1980–2000 according to Commercial Fisheries Entry Commission data for permit and fishing activity; and be listed in Table 21 to Part 679 of Federal regulations. Thus, while the commercial participation and landings threshold is rather broad, it does not account for charter activity.

However, the intent is that the Am. 66 eligible communities represent the starting universe of potentially eligible communities under the charter moratorium options. In addition to being listed as an eligible community in Table 21 to Part 679, a community must have formed a CQE under the laws of the State of Alaska²⁶ and had its application to represent the community approved by NMFS. Under Option 2 of the community charter moratorium options, a community must meet additional criteria intended to narrow the universe of eligible communities to those that do not have a developed charter industry (i.e., less than 10 active charter businesses). Thus, while the Am. 66 criteria may not represent an exact fit for the charter sector, the additional criteria in Option 2 is intended to further focus the provision on those small, rural communities that do not have an extensive associated charter industry.

Should the Council deviate from using the Am. 66 communities as the starting point to determine eligibility under the moratorium options, it could require substantial additional data and staff time to evaluate eligibility. **However, using the Am. 66 communities as a starting point does not preclude the Council from proposing other criteria that the Council determines may better define an ‘underdeveloped charter port.’** Two of the primary policy decisions under the community provisions are related to the definition of an ‘active’ charter business and the criteria for determining what constitutes an ‘underdeveloped charter port.’

For example, analysts currently provide the number of active charter businesses reporting ports of landing in the Amendment 66 communities, in order to show how many Amendment 66 communities meet the criteria of having had ten or more active charter businesses terminating trips in the community in either 2004 or 2005 under Option 2. **In effect, the Council motion currently uses ten or more charter businesses as the dividing line between communities that have an established charter industry and those that do not.** In addition, ‘active’ is currently defined in the Council motion as businesses with 20 or more charter bottomfish trips per year; however, the data provided show the number of active businesses by port of landing if ‘active’ is defined as businesses with ≥ 1 , ≥ 5 , ≥ 10 , or ≥ 20 charter bottomfish trips per year. The Council and the public will thus also be able to evaluate how many communities would meet alternative thresholds (e.g., no active businesses, five active businesses, etc, combined with various criteria to define ‘active’). This issue is discussed in more detail in a subsequent section on eligible communities.

²⁵This means that the U.S. Census would identify the community as a city or census designated place (CDP).

²⁶Each CQE must be a non-profit entity incorporated under the laws of the State of Alaska, with the exception of Metlakatla, which may be incorporated under tribal authority due to its status as an Indian Reservation, which is incorporated under Federal law.

Issues under Option 1

*Option 1. Community Quota Entities (CQE)²⁷ may purchase limited entry permits.
Area 2C – use cap of 5 permits per community
Area 3A – use cap of 10 permits per community*

Option 1 would allow a CQE to purchase a limited entry permit, subject to a use cap of 5 permits per Area 2C community and 10 permits per Area 3A community. As stated previously, there are 21 eligible communities in Area 2C and 14 in Area 3A. Thus, at a maximum, CQEs located in Area 2C could purchase 105 charter permits and CQEs in Area 3A could purchase 140 permits. Note, however, that only four communities in Area 2C and three communities in Area 3A have approved CQEs to date.

One primary feature of the charter moratorium program is that permits may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership. Thus, because permits can be held by businesses as well as natural persons, and because permits may be transferred, CQEs would already be eligible to receive permits by transfer under the moratorium program, without a specified provision to do so. As long as a CQE (see regulatory definition above) is 75 percent U.S. owned, it would be eligible to purchase and hold a permit, similar to any other U.S. business located in any community. While “business” is not defined in the Council’s motion, it is assumed that U.S. citizen would be defined for the charter moratorium program similarly to how it is defined for the IFQ program. For example: (a) any individual who is a citizen of the United States at the time of application for the permit; or (b) any corporation, partnership, association, or other entity that is at least 75 percent U.S. owned. Under this type of definition, CQEs would be included as eligible to receive permits by transfer, if they were at least 75 percent U.S. owned.

Given the above, the only reason to include Option 1 under the community provisions may be to specify use caps applicable to CQEs that are different from those applicable to every other individual or U.S. business. Option 1 provides for use caps of 5 permits and ten permits per Area 2C and Area 3A community, respectively. Thus, if a CQE represented two communities located in Area 2C, it would be limited to purchasing 10 moratorium permits on behalf of those communities. The use caps proposed for every other permit holder (individual or business) are 1, 5, or 10 permits for uninspected vessels and 1, 2, or 3 permits for inspected vessels, notwithstanding the grandfather provisions. While the range proposed in the overall moratorium program encompasses the use caps proposed to apply to a CQE, the current structure of the motion would allow the Council to select different use caps for all other permit holders than apply to a CQE. The Council could thus choose more, less, or equally restrictive use caps for all other permit holders, compared to those applicable to CQEs in Area 2C. The Council could also choose more or equally restrictive use caps for all other permit holders compared to those applicable to CQEs in Area 3A. Note that regardless of the use cap selected for CQEs, other entities located in the CQE communities could also purchase a moratorium permit for use in the community. The use caps under Option 1 only apply to permits purchased by a CQE.

Note also that staff assumes that the use caps specified in Option 1 apply regardless of the type of vessel designated on the permit. For instance, a CQE representing a community in Area 2C is subject to a use cap of 5 permits in total, regardless of whether they are for use on inspected vessels, uninspected vessels, or a combination of the two. The Council should clarify if this interpretation is incorrect.

Finally, it is assumed that the CQE would use the permit similar to any other business. The CQE would purchase the charter permit on the open market and retain an individual with the necessary U.S. Coast Guard license to operate a charter vessel. Under the general rules of the moratorium program, ownership of a vessel is not required for a business to hold a moratorium permit. The CQE and the charter captain

²⁷As defined in regulation at 50 CFR 679.2 and GOA FMP Amendment 66.

would likely develop a private contract, but the CQE would not be required to own a vessel or lease the moratorium permit in order to use the privilege. Note that leasing (annual transfer) is not allowed under the moratorium program.

Note also that Option 1 does not require that the individual designated on the CQE's charter permit to operate the vessel and conduct charter trips: 1) be a resident of the community, or 2) conduct the trip out of the community's port. Under the commercial IFQ Program, a CQE has the special status of an entity (as opposed to an individual) that can receive catcher vessel quota share by transfer. This beneficial status comes with certain burdens to which the CQE is subject (e.g., requirement to lease the quota to a community resident; submitting annual reports, etc.). However, under the charter moratorium program, permit holders may be natural persons or businesses or other entities, and thus, there is no natural advantage conveyed by allowing CQEs to hold and use a charter permit. In that sense, there is no apparent rationale for establishing additional restrictions on the use of charter permits purchased by CQEs.

Issues under Option 2

Option 2. A CQE representing a community ~~which has <10 active charter businesses with their primary place of business in the community~~ in which less than 10 active charter businesses terminated trips, may request a limited entry permit on behalf of a community resident.

Area 2C – use cap of 3 permits per qualified community

Area 3A – use cap of 5 permits per qualified community

The first several issues raised under Option 2 are primarily technical or program design clarifications. First, as originally written, Option 2 would allow a CQE representing “a community which has <10 active²⁸ charter businesses with their primary place of business in the community,” to request a moratorium permit from NMFS. However, ADF&G does not record the community in which the charter business is located or the residency of the operator; rather, it reports the port of landing. **Due to these data limitations, staff recommends that the Council revise Option 2 as provided above: “A CQE representing a community in which less than 10 active charter businesses terminated trips, may request a limited entry permit...”**

In consulting with ADF&G staff, this change may also better reflect the intent of the option proposed. The intent of Option 2 appears to be to mitigate effects of a moratorium on small, rural communities with under-developed halibut charter ports and few alternative economic opportunities, by allowing CQEs to receive permits on behalf of eligible communities. The intent of the criterion (less than 10 active charter businesses) is thus to prohibit communities that already have a specified level of charter activity from being eligible to receive a permit, regardless of whether the charter activity is generated by a business physically located in the community or by a business that is physically located elsewhere but operates in and out of the community's port. For example, the revised language would mean that both businesses physically located in Seldovia and businesses physically located in Homer but that operate out of Seldovia (i.e., terminate the trip in Seldovia) would count toward the threshold of “<10 active charter businesses” when determining the CQE communities that are eligible to request a permit from NMFS.

In addition, note that ADF&G reports nearly 200 ports of landing, many of which are not associated with a geographic community (e.g., remote lodges) and others whose community association is not well defined (e.g., named bays). ADF&G staff evaluated the data summaries provided to the Council to determine: 1) the correct number of charter trips associated with each of the 35 CQE communities in order to evaluate which communities met the <10 active charter business threshold in Option 2; and 2) whether there are communities that are similarly situated (i.e., met the Am. 66 geographic and population

²⁸The Council motion defines “active” as 20 or more charter bottomfish trips per year.

criteria) that would be excluded under Option 2 (and/or Option 3), because they are not Am. 66 communities.

Second, the Council should identify the years on which the threshold under Option 2 is based. The general qualifying years under Alternative 2 to receive a moratorium permit by initial issuance are 2004 or 2005, and the year prior to implementation. **Option 2 could be applied such that a community would qualify to request a permit if it had less than 10 active charter businesses terminating trips in the community in each of the years 2004 and 2005.** In effect, if twelve businesses terminated trips in the community in 2004 and five businesses terminated trips in the community in 2005, the community *would not qualify* for this provision and would not be allowed to request a moratorium permit. **This approach represents staff's default at this time; the Council should clarify if a different threshold is preferred. For instance, the Council could establish that a community that has less than 10 active charter businesses terminating trips in the community in either 2004 or 2005 qualifies to receive a permit under Option 2.**

Third, staff requests clarification on the applicability of the use caps. The use caps under Option 2 are: 3 permits for each Area 2C community and 5 permits for each Area 3A community. The Council should clarify the following:

- Do the use caps under Option 2 include or exclude any charter permits that the CQE may have purchased under Option 1? Staff currently assumes there are *separate* use caps for purchased permits versus requested permits, and that the use cap on permits *purchased* by CQEs is the same as the cap that applies to all other businesses in the moratorium program.
- Do the use caps under Option 2 include or exclude any non-renewed limited entry permits that the CQE may have received under Option 3? (Staff default is to assume that the use caps under Option 2 include any non-renewed permits received, as Option 3 only identifies a specified pool of permits that may be given to, as opposed to purchased by, a CQE.)

Fourth, staff assumes the following about the use of the permit under Option 2:

- Upon verification that the CQE was qualified, NMFS would distribute the requested permit to the CQE, without further criteria for qualification.²⁹
- The halibut charter permit issued to a CQE under Option 2 would be designated for the area (Area 2C or 3A) in which the community represented by the CQE is located.
- The halibut charter permit issued to a CQE under Option 2 would be endorsed for six clients (i.e., 6-pack).
- The CQE could permanently transfer the permit if desired.

The Council should clarify if any of the above assumptions are incorrect; specifically, whether the CQE is allowed to sell the permit.

Finally, as described previously, the Council should clarify the beneficiary of the community provisions. This task is fundamental to the development and implementation of Options 2 and 3. The current language of Option 2 specifies that the CQE may request a permit “on behalf of a community resident.” This appears to require that the CQE could only designate *residents* to operate a charter vessel under the authority of the permit held by the CQE. First, the Council should consider the intent of the

²⁹Staff is working with NMFS to determine other information and/or reporting needs that may be necessary to include under Option 2. NMFS may also determine that additional information is necessary during the development of the analysis or implementation. The analysis can provide more information on the process by which NMFS could process permit requests and distribute permits.

option, and whether the residency requirement is necessary to meet the objective. Second, the Council should be aware of the potential implications of an explicit or implicit notion that the resident, and not the CQE, is the beneficiary of the charter permit.

The first issue relates to the objective under Option 2. For example, is the primary objective to benefit individual *residents* of small, rural communities with under-developed charter ports that may want to operate charter businesses, **or** is it to mitigate effects of a moratorium on small, rural communities with underdeveloped charter ports by providing an opportunity for new businesses to *operate* in those communities? If the objective is in part the latter, it is likely appropriate that the CQE determine who it may retain to conduct the charter operation, regardless of the residency of the vessel owner or skipper. In effect, the CQE would be the beneficiary of the permit, and it would decide how the permit is to be used, with the intent that it would support a business whose port of landing is the community it represents. Recognize that under the current language, a CQE could only designate a skipper that is a resident of the community it represents. This would prohibit, for example, a CQE representing Port Graham from retaining a skipper that is a resident of Homer, even if the charter business at issue operates in and out of Port Graham and supports other businesses in the community. It may be beneficial to allow a broader scope of potential businesses to operate within the community beyond those operated by residents. For some of the smallest communities, this flexibility may be necessary in order to use the permit provided. Thus, depending on the goal of the program, the Council may want to consider if the residency requirement is necessary.

The second issue relates to the potential implications of an explicit or implicit notion that the resident, and not the CQE, is the beneficiary of the charter permit. **If the option states that the permit is requested by a CQE “on behalf of a community resident,” it appears that the CQE is required to designate use of that permit only to community residents. In this case, the intended beneficiary appears (implicitly or explicitly) to be the individual resident, which may raise an issue related to the delegation of Secretarial authority.** In previous opinions, NOAA GC related that the Secretary cannot delegate its authority to make (discretionary) allocations to an outside entity. Meaning, if the resident is the beneficiary of the program, the role of the CQE appears to solely or primarily be to determine which resident can be designated on the charter permit. While this issue has previously been discussed in terms of quota share, NOAA GC’s concern also applies to this situation in that the primary role of the CQE is to decide how a specific privilege is to be used by an eligible group of individuals (i.e., allocate).

In sum:

- **If the CQE is the intended beneficiary and is issued the permit to benefit the community as it sees fit**, there is no delegation of SOC authority. Thus, the criteria to designate a skipper to conduct the charter operation are not necessary in Federal regulations. If this is the case, Option 2 should be modified such that the language ‘on behalf of a community resident’ is removed.
- **If the CQE is issued the permit and is required to designate a community resident as the skipper (i.e., the resident is the intended beneficiary)**, the Council would need to develop criteria to which every CQE would be subject, to determine the resident(s) to be designated on the charter permit to operate the vessel. The criteria would be established in Federal regulation. Each decision by the CQE to annually designate a skipper to conduct the charter operations would be reviewed by NMFS against the criteria and NMFS would approve or disapprove the designation of the permit. An appeals process must be provided for aggrieved individuals. In this case, the criteria would have to be developed for the analysis and part of the Council’s final action.
- **If the community resident is the intended beneficiary, an alternative approach may be for eligible community residents to apply directly to NMFS for the charter permit, without going through the CQE.** Criteria would still have to be developed to guide NMFS’s distribution

of the permits. For example, NMFS could distribute permits on a first come, first serve basis to individuals that provide documentation of: U.S. citizenship; residency in an eligible community; a USCG license; and a vessel and/or charter business. The CQE does not have a role under this approach and would not receive or distribute the charter permit.

If the intent is to facilitate new charter businesses operating in small communities that do not have developed charter industries, staff proposes that the Council clarify that the CQE is the beneficiary of the permit, and that Option 2 be modified such that the language ‘on behalf of a community resident’ is removed. In addition, the stated intent is that the moratorium will be an interim program, replaced by a long-term solution in the near future. Thus, it appears appropriate to develop a simple and streamlined management approach to community provisions in this phase. Note that should the Council need to develop criteria for determining the individual residents that can be designated on a permit held by a CQE, both the analytical and implementation requirements would be significantly increased.

Finally, for the purpose of this program, the CQE would continue to be accountable to its Board of Directors, to ensure that the charter permit is used to benefit the community. Further, the Council may consider amending the existing requirements of the CQE annual report, such that it includes a description of how the charter permit is used and a list of individuals that were retained as skippers. The Council could modify the halibut moratorium program to amend or eliminate this provision at any time, subject to analysis and rulemaking, if concerns were raised about how the CQEs were using their charter permits.

Issues under Option 3

Option 3. CQEs may request non-renewed limited entry permits as defined under Issue 11 on a “first come, first serve” basis.

As stated previously, the requirement for annual permit renewals under Issue 11 is expected to reduce the number of permits that are available. Persons owning a permit that complete a sufficient number of guided halibut trips in the future will meet the annual renewal requirement, and those that do not meet the requirement will forfeit their right to the permit. It is not possible to determine how many permits will not be renewed in the future, and thus, how many permits would be available for distribution to community entities. It is assumed, however, that some percentage of people that know that they will not meet the minimum activity requirement in a given year will sell the permit prior to it being forfeited to NOAA Fisheries.

There appear to be two differences under Option 3 compared to Option 2: 1) Option 3 defines a limited pool of non-renewed charter permits for which CQEs could apply, and 2) Option 3 would allow every Amendment 66 community that forms a CQE to request a non-renewed permit. Amendment 66 communities that have less than 10 active businesses can request a new charter permit under Option 2, and thus, their opportunity to receive a permit is not dependent on a permit holder not renewing his/her permit. Unlike Option 2, Option 3 does not exclude some Amendment 66 communities on the basis that they have 10 or more active charter businesses recently operating out of the community.

The Council could select either or both Option 2 and Option 3 at final action. **If Option 2 is selected, the only reason to also select Option 3 appears to be to allow Amendment 66 communities that have 10 or more active charter businesses to have an opportunity to request a non-renewed limited entry permit (as opposed to purchasing a permit).** Note that under the current Council motion, it appears that only two Amendment 66 communities would not qualify under Option 2; however, the Committee has recommended changes to these qualifications, resulting in up to twelve potential Amendment 66 communities that would not qualify under Option 2 (see **Table 10**). The Council may thus want to

consider whether communities that do not qualify under Option 2 should have a higher priority in receiving non-renewed permits under Option 3.

Similar to Option 2, absent further direction, several assumptions must be made about the use of the permit under Option 3:

- Upon verification that the CQE was qualified, NMFS would distribute the requested permit to the CQE, without further criteria for qualification.³⁰
- The non-renewed halibut charter permits under Option 3 could only be issued to a CQE located in the area (Area 2C or 3A) for which the permit is designated.
- The non-renewed halibut charter permit issued to a CQE under Option 3 would maintain the original endorsement for the number of clients on board.
- The CQE could permanently transfer the permit if desired.

Note that there are no use caps specific to Option 3. As mentioned in the discussion of Option 2, the staff default is to assume that the use caps under Option 2 include any non-renewed permits received. Thus, a CQE representing one community in Area 2C that qualifies under Option 2 would be subject to a use cap of 3 permits, regardless of whether a new permit or non-renewed permit was issued. In the case that both Option 2 and 3 are selected at final action, and there are some communities that have 10 or more active charter businesses and thus only qualify under Option 3 to receive a non-renewed permit, the Council should clarify whether these communities are subject to the same use cap specified in Option 2. In effect, would communities only eligible under Option 3 be limited to holding 3 (if located in Area 2C) or 5 (if located in Area 3A) non-renewed charter permits? Or would there be no limit as to how many non-renewed permits a CQE could hold?

Finally, note that because the vehicle for distributing and using the permit under Option 3 is the CQE, the same issues exist relative to the beneficiary of the program as discussed under Option 2, if there is a requirement that the CQE designate a community resident to use the annual permit. However, unlike Option 2, the current language of Option 3 does not make this requirement explicit.

Eligible communities

Current Council motion

The data summary to date is provided in the following tables. Recall that under the current Council motion, CQEs would be eligible to purchase permits similar to any other U.S. business. Thus, all 35 Amendment 66 eligible communities in Area 2C and 3A could form CQEs and purchase permits under the general program and **Option 1**.

Option 2 includes a threshold of less than 10 active charter businesses in order to be eligible to apply for (not purchase) a permit from NMFS. The communities that qualify under the current Council motion are provided in Table 11. **Table 11 shows that only two Amendment 66 communities (Craig and Gustavus) had 10 or more active charter businesses in either 2004 or 2005.** The Council's motion currently defines 'active' as 20 or more charter bottomfish trips per year. Thus, under the Council's current motion for Option 2, it appears that 19 of the 21 Area 2C communities and all 14 Area 3A

³⁰Staff is working with NMFS to determine other information and/or reporting needs that may be necessary to include under Option 3. NMFS may also determine that additional information is necessary during the development of the analysis or implementation. The analysis can provide more information on the process by which NMFS could process permit requests and distribute permits.

communities would qualify to receive charter permits by request, if the community formed a CQE that was qualified by NMFS.³¹

Most communities had less than four active charter businesses terminating trips in the community. Five of the 21 eligible Amendment 66 communities in Area 2C and 6 of the 14 eligible Amendment 66 communities in Area 3A were not listed as a port of landing for any businesses conducting bottomfish charter trips in 2004 or 2005.³²

Under **Option 3** in the current Council motion, CQEs representing all 35 Amendment 66 eligible communities in Area 2C and 3A would be eligible to apply for and receive permits from the pool of permits that were not renewed or did not meet the minimum activity required under the general program (Issue 11).

Charter Halibut Stakeholder Committee recommendations

At its October meeting, the Charter Halibut Stakeholder Committee recommended that the Council revise Option 2 to: 1) reduce the maximum number of active charter businesses a community could have for its CQE to qualify to receive a charter permit by request from 9 to 5; 2) define ‘active’ charter business the same way it is defined to demonstrate minimum charter bottomfish activity in the overall moratorium program (Issue 10, Option 1); and 3) require that communities meet this criteria in 2004, 2005, and the year prior to implementation of the program. The options for defining minimum charter bottomfish activity are 1, 5, 10, or 20 charter bottomfish trips. The Committee also recommended that these same thresholds apply to Option 3.

The Committee recommendations result in changes to the number of Amendment 66 communities that would qualify under Option 2 and Option 3 compared to the Council’s current motion and are dependent upon the trip threshold selected for minimum bottomfish activity in Issue 10. The communities that qualify under the Committee’s recommendations are provided in **Table 12**.

A summary table comparing the number of communities that potentially qualify under the Committee’s recommendations and the current Council motion is provided below in **Table 10**. The Committee recommendations are the four options on the left side of the table, resulting in 23, 25, 27, or 31 eligible communities that would qualify under Option 2 (and/or Option 3). The Council’s current option is provided in the far right-hand column (shaded), resulting in 33 eligible communities that would qualify under Option 2. (Note that the Council’s current motion would allow all 35 eligible communities to qualify to receive non-renewed permits under Option 3.)

The primary factors affecting the number of eligible communities are the reduction in the number of minimum trips to define an ‘active’ business, and the reduction in the maximum number of businesses a community could already have to qualify. However, determining whether to apply the business threshold in 2004 and 2005 versus 2004 or 2005 also has an effect. If the Council requires that communities have less than 10 active businesses in both 2004 and 2005, as opposed to 2004 or 2005, it does not affect the number of eligible communities when ‘active’ business is defined as at least 5, 10, or 20 charter bottomfish trips. However, three communities (Hoonah, Klawock, Yakutat) have 10 or more active businesses in only one of the years 2004 or 2005 if ‘active’ is defined as 1 or more bottomfish trips. Likewise, if the Committee recommendation of requiring that communities have 5 or less active businesses is applied to both 2004 and 2005, as opposed to 2004 or 2005, it does not affect the number of

³¹To date, four communities in Area 2C (Craig, Hyدابurg, Pelican, Hoonah) and three communities in Area 3A (Ouzinkie, Larsen Bay, Old Harbor) have qualified CQEs.

³²Eight of these same communities were not listed as the port of landing for any businesses conducting bottomfish charter trips from 1999 to 2005.

eligible communities if 'active' business is defined as 20 or more trips. However, a few communities do not meet the criteria if 'active' business is defined as 1, 5, or 10 or more trips.³³

Table 10 Number of Am. 66 communities that qualify under Option 2, under the specified thresholds

Committee recommendation				Council motion			
5 or fewer businesses meeting threshold for 'active' trips in 2004 and 2005 ¹				9 or fewer businesses meeting threshold for 'active' trips in 2004 and 2005 ²			
At least 1 Bottomfish Trip per Year	Bottomfish Trips per Year	Bottomfish Trips per Year	Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	Bottomfish Trips per Year	Bottomfish Trips per Year	20 or more Bottomfish Trips per Year ²
23	25	27	31	27	32	32	33

¹The charter committee recommends that a community must have five or fewer active charter businesses to qualify under Option 2 (and Option 3), and that 'active' should be defined the same way it's defined in the overall moratorium program to demonstrate minimum charter activity (options are: 1+, 5+, 10+, or 20+ trips; see Issue 10, Option 1). These estimates assume that this threshold must be met in both 2004 and 2005. The Committee also recommended that communities must meet this threshold in the year prior to implementation; thus, the number of potentially eligible communities is not definitive.

²The Council's current motion (shaded) specifies that a community must have less than 10 active charter businesses to qualify under Option 2, and 'active' is defined as 20 or more charter bottomfish trips per year. These estimates also assume that this threshold must be met in both 2004 and 2005.

Finally, **Table 13** provides the data on which Tables 11 and 12 are based. This table shows the number of charter *businesses* that reported an Amendment 66 community as the port of landing during 2001 – 2005, under various trip thresholds of at least one, five, ten, or twenty charter bottomfish trips. Recall that in an earlier section of this paper under Issue 10, staff identified three approaches for applying the minimum trip requirements to qualify a business, and staff is requesting clarification from the Council on the desired approach. In sum, the approaches include: (1) counting the trips at the business level and issuing a permit for each vessel the business owns; (2) counting the trips at the individual vessel level and issuing a permit only for each vessel that meets the qualifications; or (3) counting trips on the business level but only issuing the number of permits that result from the combined trips (Committee recommendation). The discussion of Issue 10 (starting on page 7) outlines the three approaches, and Tables 3 – 7 provide the number of qualifying businesses and the number of permits that would be issued under each of the three approaches.

To avoid complication, the community data in Table 13 are based on counting trips at the 'business level.' For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify and be counted in Table 13. In effect, a business qualifies by the sum of its trips; each individual vessel does not have to meet the threshold. **This mirrors two of the three possible approaches, including the Committee's recommendation.** Note that the same number of *businesses* qualify under these two approaches; it is only the number of permits issued to those businesses that would differ between the two.

Table 14 is provided at the request of the Committee. Table 14 shows the number of *vessels* operated by the businesses that qualify at the various bottomfish trip thresholds during 2001 – 2005. In other words, Table 14 shows the number of vessels operated by the businesses shown in Table 13.

An example of how to read Table 13 and 14 together is as follows:

³³Thorne Bay and Larsen Bay have more than 5 active businesses in only one of the years 2004 or 2005 if 'active' is defined as 1 or more bottomfish trips. Pelican, Thorne Bay, and Seldovia have more than 5 active businesses in one of the years 2004 or 2005 if 'active' is defined as 5 or more bottomfish trips. Port Lions and Seldovia have more than 5 active businesses in one of the years 2004 or 2005 if 'active' is defined as 10 or more bottomfish trips.

- Table 13 shows that, in 2005, Angoon is listed as the port of landing for a total of 6 businesses that had at least one bottomfish trip. Five of those businesses had at least 10 trips, and 4 of those businesses had at least 20 trips.
- Table 14 shows that, in 2005, those 6 businesses whose port of landing was Angoon operated 10 vessels. The five businesses with at least 10 trips operated 9 of those vessels, and the four businesses that had at least 20 trips operated 8 of those vessels.

Note again that the vessel counts in Table 14 are not equivalent to the number of *vessels* that meet the various trip threshold levels. They are also not equivalent to the number of *permits* that the example business would receive, which depends on the Council's clarification under Issue 10. The information in Tables 13 and 14 show the number of businesses operating at various thresholds in the communities at issue, to assist the Council in determining the number of communities that meet various definitions of 'under-developed' charter ports. The tables also show whether these businesses are associated with relatively large fleets, or whether it is more common for a business to operate one or two vessels in a given year on average. The data show that businesses making 1 to 9 trips per year are usually operating only one vessel, while many businesses making 20 or more trips per year operate multiple vessels. Note, however, that because two vessels are associated with one business does not mean that the business operated both vessels simultaneously. Data is not available at this point to show whether a business operated multiple vessels on the same day, or whether one vessel acted as a replacement vessel in the same season.

For reference purposes, **Table 15** provides the population (2000 U.S. Census) and a brief description of the geographic location of the eligible GOA Amendment 66 communities. **Figures 1 and 2** are maps of the eligible Amendment 66 communities in Areas 2C and 3A.

Table 11 Comparison of Amendment 66 communities that have less than 10 businesses under the various trip thresholds to define an active charter business

IPHC Area	shaded cells have <10 businesses meeting threshold for 'active' trips in 2004 and 2005			
	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	(Current Council motion) 20 or more Bottomfish Trips per Year
2C	ANGOON	ANGOON	ANGOON	ANGOON
2C	COFFMAN COVE	COFFMAN COVE	COFFMAN COVE	COFFMAN COVE
2C	CRAIG	CRAIG	CRAIG	CRAIG
2C	EDNA BAY	EDNA BAY	EDNA BAY	EDNA BAY
2C	ELFIN COVE	ELFIN COVE	ELFIN COVE	ELFIN COVE
2C	GUSTAVUS	GUSTAVUS	GUSTAVUS	GUSTAVUS
2C	HOLLIS	HOLLIS	HOLLIS	HOLLIS
2C	HOONAH	HOONAH	HOONAH	HOONAH
2C	HYDABURG	HYDABURG	HYDABURG	HYDABURG
2C	KAKE	KAKE	KAKE	KAKE
2C	KASSAN	KASSAN	KASSAN	KASSAN
2C	KLAWOCK	KLAWOCK	KLAWOCK	KLAWOCK
2C	METLAKATLA	METLAKATLA	METLAKATLA	METLAKATLA
2C	MEYERS CHUCK	MEYERS CHUCK	MEYERS CHUCK	MEYERS CHUCK
2C	PELICAN	PELICAN	PELICAN	PELICAN
2C	POINT BAKER	POINT BAKER	POINT BAKER	POINT BAKER
2C	PORT ALEXANDER	PORT ALEXANDER	PORT ALEXANDER	PORT ALEXANDER
2C	PORT PROTECTION	PORT PROTECTION	PORT PROTECTION	PORT PROTECTION
2C	TENAKEE	TENAKEE	TENAKEE	TENAKEE
2C	THORNE BAY	THORNE BAY	THORNE BAY	THORNE BAY
2C	WHALE PASS	WHALE PASS	WHALE PASS	WHALE PASS
3A	AKHIOK	AKHIOK	AKHIOK	AKHIOK
3A	CHENEGA	CHENEGA	CHENEGA	CHENEGA
3A	HALIBUT COVE	HALIBUT COVE	HALIBUT COVE	HALIBUT COVE
3A	KARLUK	KARLUK	KARLUK	KARLUK
3A	LARSEN BAY	LARSEN BAY	LARSEN BAY	LARSEN BAY
3A	NANWALEK	NANWALEK	NANWALEK	NANWALEK
3A	OLD HARBOR	OLD HARBOR	OLD HARBOR	OLD HARBOR
3A	OUZINKIE	OUZINKIE	OUZINKIE	OUZINKIE
3A	PORT GRAHAM	PORT GRAHAM	PORT GRAHAM	PORT GRAHAM
3A	PORT LIONS	PORT LIONS	PORT LIONS	PORT LIONS
3A	SELDOVIA	SELDOVIA	SELDOVIA	SELDOVIA
3A	TATITLEK	TATITLEK	TATITLEK	TATITLEK
3A	TYONEK	TYONEK	TYONEK	TYONEK
3A	YAKUTAT	YAKUTAT	YAKUTAT	YAKUTAT
TOTAL # eligible communities	27	32	32	33

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

NOTE: Shaded cells denote potentially eligible communities under Issue 13, Option 2 using various thresholds: communities with less than 10 active charter businesses in 2004 and 2005, with ‘active’ defined as ≥ 1 , ≥ 5 , ≥ 10 , or ≥ 20 charter bottomfish trips. **The right hand column represents the 33 communities eligible under the current Council motion in Issue 13, Option 2.** All 35 Am. 66 communities are eligible under the current Council motion for Option 3. Note that eligible communities would need to form and qualify a Community Quota Entity (CQE) with NMFS in order to receive a charter permit under Option 2 or 3.

Table 12 Comparison of Amendment 66 communities that have 5 or fewer businesses under the various trip thresholds to define an active charter business

IPHC Area	shaded cells have 5 or fewer businesses meeting threshold for 'active' trips in 2004 and 2005			
	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	ANGOON	ANGOON	ANGOON	ANGOON
2C	COFFMAN COVE	COFFMAN COVE	COFFMAN COVE	COFFMAN COVE
2C	CRAIG	CRAIG	CRAIG	CRAIG
2C	EDNA BAY	EDNA BAY	EDNA BAY	EDNA BAY
2C	ELFIN COVE	ELFIN COVE	ELFIN COVE	ELFIN COVE
2C	GUSTAVUS	GUSTAVUS	GUSTAVUS	GUSTAVUS
2C	HOLLIS	HOLLIS	HOLLIS	HOLLIS
2C	HOONAH	HOONAH	HOONAH	HOONAH
2C	HYDABURG	HYDABURG	HYDABURG	HYDABURG
2C	KAKE	KAKE	KAKE	KAKE
2C	KASSAN	KASSAN	KASSAN	KASSAN
2C	KLAWOCK	KLAWOCK	KLAWOCK	KLAWOCK
2C	METLAKATLA	METLAKATLA	METLAKATLA	METLAKATLA
2C	MEYERS CHUCK	MEYERS CHUCK	MEYERS CHUCK	MEYERS CHUCK
2C	PELICAN	PELICAN	PELICAN	PELICAN
2C	POINT BAKER	POINT BAKER	POINT BAKER	POINT BAKER
2C	PORT ALEXANDER	PORT ALEXANDER	PORT ALEXANDER	PORT ALEXANDER
2C	PORT PROTECTION	PORT PROTECTION	PORT PROTECTION	PORT PROTECTION
2C	TENAKEE	TENAKEE	TENAKEE	TENAKEE
2C	THORNE BAY	THORNE BAY	THORNE BAY	THORNE BAY
2C	WHALE PASS	WHALE PASS	WHALE PASS	WHALE PASS
3A	AKHIOK	AKHIOK	AKHIOK	AKHIOK
3A	CHENEGA	CHENEGA	CHENEGA	CHENEGA
3A	HALIBUT COVE	HALIBUT COVE	HALIBUT COVE	HALIBUT COVE
3A	KARLUK	KARLUK	KARLUK	KARLUK
3A	LARSEN BAY	LARSEN BAY	LARSEN BAY	LARSEN BAY
3A	NANWALEK	NANWALEK	NANWALEK	NANWALEK
3A	OLD HARBOR	OLD HARBOR	OLD HARBOR	OLD HARBOR
3A	OUZINKIE	OUZINKIE	OUZINKIE	OUZINKIE
3A	PORT GRAHAM	PORT GRAHAM	PORT GRAHAM	PORT GRAHAM
3A	PORT LIONS	PORT LIONS	PORT LIONS	PORT LIONS
3A	SELDOVIA	SELDOVIA	SELDOVIA	SELDOVIA
3A	TATITLEK	TATITLEK	TATITLEK	TATITLEK
3A	TYONEK	TYONEK	TYONEK	TYONEK
3A	YAKUTAT	YAKUTAT	YAKUTAT	YAKUTAT
Total # eligible communities	23	25	27	31

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

NOTE: Shaded cells denote potentially eligible communities under Issue 13, Option 2 and Option 3 resulting from Committee recommendations: communities with 5 or fewer active charter businesses in 2004 and 2005, with 'active' defined as ≥ 1 , ≥ 5 , ≥ 10 , or ≥ 20 charter bottomfish trips. The Committee also recommended that communities must meet this threshold *in the year prior to implementation*; thus, this list of potentially eligible communities is not definitive. Note that eligible communities would need to form and qualify a Community Quota Entity (CQE) with NMFS in order to receive a charter permit under Option 2 or 3.

Table 13 Number of businesses meeting the categorized vessel trip thresholds (1+, 5+, 10+, or 20+ bottomfish trips) by port of landing, 2001 - 2005

IPHC Area	Port of Landing Site	2001				2002				2003			
		At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	ANGOON	4	4	3	3	7	6	5	3	5	4	4	3
2C	COFFMAN COVE	3	2	2	2	4	4	4	4	4	4	4	4
2C	CRAIG	26	20	18	14	26	20	16	13	23	19	17	13
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	22	17	14	12	17	11	9	8	17	13	12	10
2C	GUSTAVUS	15	14	13	12	14	12	10	9	14	11	11	8
2C	HOLLIS	0	0	0	0	0	0	0	0	0	0	0	0
2C	HOONAH	12	9	8	4	6	4	3	2	10	5	4	2
2C	HYDABURG	1	1	0	0	0	0	0	0	0	0	0	0
2C	KAKE	5	1	0	0	2	0	0	0	1	0	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	10	10	7	5	11	9	8	6	10	8	7	4
2C	METLAKATLA	1	0	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	6	4	4	3	6	4	4	2	7	5	4	4
2C	POINT BAKER	1	1	1	0	1	1	1	0	0	0	0	0
2C	PORT ALEXANDER	4	4	4	4	4	4	4	4	4	4	4	4
2C	PORT PROTECTION	4	4	4	2	2	2	1	1	3	3	3	1
2C	TENAKEE	3	2	1	1	2	1	1	0	3	1	0	0
2C	THORNE BAY	2	2	2	1	4	3	1	1	3	2	2	1
2C	WHALE PASS	1	1	1	0	1	1	1	0	2	1	1	1
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	1	1	1	1	1	1	1	1	1	1	1	1
3A	HALIBUT COVE	0	0	0	0	0	0	0	0	0	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	7	6	6	6	6	5	3	3	6	5	5	4
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	5	4	4	3	3	3	2	2	5	5	4	2
3A	OUZINKIE	1	0	0	0	0	0	0	0	1	1	0	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	7	6	4	3	9	7	5	3	10	6	3	2
3A	SELDOVIA	10	5	4	4	7	4	4	3	6	6	4	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	7	6	5	4	7	7	6	5	9	9	8	7

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of active businesses associated with the port of landing for a specified year is shown in the "At least 1 bottomfish trip per year" column.

Note: For the purposes of business qualification, these counts assume that the trips are counted at the 'business level' (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council's clarification under Issue 10.

Table 13 continued.

IPHC Area	Port of Landing Site	2004				2005			
		At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	ANGOON	8	5	4	3	6	5	5	4
2C	COFFMAN COVE	4	4	4	4	5	5	5	5
2C	CRAIG	29	26	20	16	30	25	20	17
2C	EDNA BAY	0	0	0	0	0	0	0	0
2C	ELFIN COVE	14	12	11	9	13	12	11	9
2C	GUSTAVUS	15	13	12	12	18	14	12	12
2C	HOLLIS	0	0	0	0	1	0	0	0
2C	HOONAH	9	8	8	2	12	7	6	2
2C	HYDABURG	0	0	0	0	0	0	0	0
2C	KAKE	1	0	0	0	0	0	0	0
2C	KASSAN	0	0	0	0	0	0	0	0
2C	KLAWOCK	10	9	6	4	8	7	6	5
2C	METLAKATLA	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0
2C	PELICAN	7	6	3	1	7	5	5	4
2C	POINT BAKER	1	1	1	0	2	2	1	1
2C	PORT ALEXANDER	4	4	4	3	4	4	4	4
2C	PORT PROTECTION	2	1	1	1	2	2	1	1
2C	TENAKEE	3	2	0	0	3	2	1	0
2C	THORNE BAY	4	4	3	2	6	6	4	3
2C	WHALE PASS	4	2	2	2	2	2	2	2
3A	AKHIOK	0	0	0	0	0	0	0	0
3A	CHENEGA	2	1	1	0	1	1	0	0
3A	HALIBUT COVE	0	0	0	0	1	1	0	0
3A	KARLUK	0	0	0	0	0	0	0	0
3A	LARSEN BAY	5	5	5	4	6	5	4	4
3A	NANWALEK	0	0	0	0	0	0	0	0
3A	OLD HARBOR	5	3	3	1	4	3	3	2
3A	OUZINKIE	1	0	0	0	1	1	1	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0
3A	PORT LIONS	10	9	7	4	10	7	4	3
3A	SELDOVIA	10	5	5	4	10	7	6	4
3A	TATITLEK	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0
3A	YAKUTAT	9	8	8	8	10	9	8	7

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of active businesses associated with the port of landing for a specified year is shown in the “At least 1 bottomfish trip per year” column.

For the purposes of business qualification, these counts assume that the trips are counted at the ‘business level’ (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council’s clarification under Issue 10.

Table 14 Number of vessels operated by businesses that ‘qualify’ at the various trip thresholds (1+, 5+, 10+, or 20+ bottomfish trips) by port of landing, 2001 – 2005

IPHC Area	Am. 66	Port of Landing Site	2001				2002				2003			
			At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	Y	ANGOON	10	10	9	9	8	7	6	4	5	4	4	3
2C	Y	COFFMAN COVE	5	4	4	4	6	6	6	6	6	6	6	6
2C	Y	CRAIG	51	45	43	39	50	44	40	36	51	47	45	41
2C	Y	EDNA BAY	0	0	0	0	0	0	0	0	0	0	0	0
2C	Y	ELFIN COVE	32	27	24	21	29	23	21	20	32	28	27	24
2C	Y	GUSTAVUS	19	18	17	16	19	17	15	14	19	16	16	13
2C	Y	HOLLIS	0	0	0	0	0	0	0	0	0	0	0	0
2C	Y	HOONAH	13	10	9	5	6	4	3	2	10	5	4	2
2C	Y	HYDABURG	1	1	0	0	0	0	0	0	0	0	0	0
2C	Y	KAKE	5	1	0	0	2	0	0	0	1	0	0	0
2C	Y	KASSAN	0	0	0	0	0	0	0	0	0	0	0	0
2C	Y	KLAWOCK	15	15	12	10	17	15	14	12	15	13	12	9
2C	Y	METLAKATLA	1	0	0	0	0	0	0	0	0	0	0	0
2C	Y	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0	0	0
2C	Y	PELICAN	7	5	5	4	6	4	4	2	8	6	4	4
2C	Y	POINT BAKER	1	1	1	0	1	1	1	0	0	0	0	0
2C	Y	PORT ALEXANDER	6	6	6	6	6	6	6	6	7	7	7	7
2C	Y	PORT PROTECTION	5	5	5	3	3	3	2	2	3	3	3	1
2C	Y	TENAKEE	4	3	2	2	3	2	2	0	3	1	0	0
2C	Y	THORNE BAY	6	6	6	4	6	5	3	3	7	6	6	5
2C	Y	WHALE PASS (POW - SE)	1	1	1	0	2	2	2	0	3	2	2	2
3A	Y	AKHIOK	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	CHENEGA	1	1	1	1	1	1	1	1	1	1	1	1
3A	Y	HALIBUT COVE	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	KARLUK	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	LARSEN BAY	12	11	11	11	10	9	6	6	10	9	9	8
3A	Y	NANWALEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	OLD HARBOR	6	5	5	4	5	5	4	4	8	8	7	4
3A	Y	OUZINKIE	1	0	0	0	0	0	0	0	1	1	0	0
3A	Y	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	PORT LIONS	8	7	5	4	10	8	6	4	11	7	4	3
3A	Y	SELDOVIA	10	5	4	4	7	4	4	3	6	6	4	4
3A	Y	TATITLEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	TYONEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	Y	YAKUTAT	13	12	11	9	11	11	10	9	14	14	13	12

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of vessels operated by businesses associated with the port of landing for a specified year is shown in the “At least 1 bottomfish trip per year” column.

Note: These counts are not equivalent to the number of vessels that would “qualify” at the various threshold levels; these counts represent the total number of vessels operated by a business that ‘qualifies’ under the various thresholds. For the purposes of business qualification, these counts assume that the trips are counted at the ‘business level’ (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council’s clarification under Issue 10.

Table 14 continued.

IPHC Area	Am. 66	Port of Landing Site	2004				2005			
			At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	Y	ANGOON	8	5	4	3	10	9	9	8
2C	Y	COFFMAN COVE	6	6	6	6	5	5	5	5
2C	Y	CRAIG	62	59	53	48	69	64	59	55
2C	Y	EDNA BAY	0	0	0	0	0	0	0	0
2C	Y	ELFIN COVE	28	26	25	23	27	26	25	22
2C	Y	GUSTAVUS	22	20	18	18	23	19	17	17
2C	Y	HOLLIS	0	0	0	0	1	0	0	0
2C	Y	HOONAH	11	10	10	2	12	7	6	2
2C	Y	HYDABURG	0	0	0	0	0	0	0	0
2C	Y	KAKE	1	0	0	0	0	0	0	0
2C	Y	KASSAN	0	0	0	0	0	0	0	0
2C	Y	KLAWOCK	17	16	13	11	15	14	13	12
2C	Y	METLAKATLA	0	0	0	0	0	0	0	0
2C	Y	MEYERS CHUCK	0	0	0	0	0	0	0	0
2C	Y	PELICAN	7	6	3	1	7	5	5	4
2C	Y	POINT BAKER	1	1	1	0	3	3	2	2
2C	Y	PORT ALEXANDER	5	5	5	3	5	5	5	5
2C	Y	PORT PROTECTION	3	2	2	2	2	2	1	1
2C	Y	TENAKEE	3	2	0	0	4	3	2	0
2C	Y	THORNE BAY	8	8	7	6	11	11	9	8
2C	Y	WHALE PASS (POW - SE)	6	4	4	4	3	3	3	3
3A	Y	AKHIOK	0	0	0	0	0	0	0	0
3A	Y	CHENEGA	2	1	1	0	1	1	0	0
3A	Y	HALIBUT COVE	0	0	0	0	1	1	0	0
3A	Y	KARLUK	0	0	0	0	0	0	0	0
3A	Y	LARSEN BAY	13	13	13	11	13	12	11	11
3A	Y	NANWALEK	0	0	0	0	0	0	0	0
3A	Y	OLD HARBOR	7	5	5	3	6	5	5	4
3A	Y	OUZINKIE	1	0	0	0	1	1	1	0
3A	Y	PORT GRAHAM	0	0	0	0	0	0	0	0
3A	Y	PORT LIONS	11	10	8	5	10	7	4	3
3A	Y	SELDOVIA	10	5	5	4	10	7	6	4
3A	Y	TATITLEK	0	0	0	0	0	0	0	0
3A	Y	TYONEK	0	0	0	0	0	0	0	0
3A	Y	YAKUTAT	14	13	13	13	14	13	12	11

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of vessels operated by businesses associated with the port of landing for a specified year is shown in the "At least 1 bottomfish trip per year" column.

Note: These counts are not equivalent to the number of vessels that would "qualify" at the various threshold levels; these counts represent the total number of vessels operated by a business that 'qualifies' under the various thresholds. For the purposes of business qualification, these counts assume that the trips are counted at the 'business level' (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council's clarification under Issue 10.

Table 15 Population and description of geographic location of GOA Amendment 66 communities

Community	Population ¹	Description of Location ²
Area 2C		
Angoon	572	SW coast of Admiralty Island, 55 miles southwest of Juneau and 41 miles northeast of Sitka
Coffman Cove	199	northeast coast of Prince of Wales Island, 73 air miles northeast of Ketchikan
Craig	1,397	on a small island off the west coast of Prince of Wales Island, 31 road miles west of Hollis
Edna Bay	49	on Kosciusko Island, NW of Prince of Wales Island
Elfin Cove	32	Chichagof Island, 33 miles west of Hoonah
Gustavus	429	at mouth of Salmon River, 48 air miles from Juneau
Hollis	139	east side of Prince of Wales Island, 19 miles east of Craig by road, 35 miles west of Ketchikan by water
Hoonah	860	northeast shore of Chichagof Island, 40 air miles west of Juneau
Hydaburg	382	SW coast of Prince of Wales Island, 45 air miles NW of Ketchikan, 36 road miles west of Hollis
Kake	710	northwest coast of Kupreanof Island along Keku Strait, 38 air miles NW of Petersburg
Kassan	39	on the east side of Prince of Wales Island on Kasaan Bay, 30 miles NW of Ketchikan
Klawock	854	on west coast of Prince of Wales Island, 7 road miles N of Craig, 24 road miles from Hollis
Metlakatla	1,375	on the west coast of Annette Island, 15 air miles south of Ketchikan
Meyers Chuck	21	along Clarence Strait on the northwest tip of Cleveland Peninsula, 40 air miles northwest of Ketchikan
Pelican	163	NW coast of Chichagof Island on Lisianski Inlet, 80 miles north of Sitka and 70 miles west of Juneau
Point Baker	35	on the northern tip of Prince of Wales Island, 50 miles west of Wrangell
Port Alexander	81	on the south end of Baranof Island, 65 miles south of Sitka
Port Protection	63	on the northern tip of Prince of Wales Island, 50 miles west of Wrangell, in the Tongass National Forest
Tenakee	104	on the east side of Chichagof Island, on the north shore of Tenakee Inlet, 45 miles SW of Juneau
Thorne Bay	557	on the east coast of Prince of Wales Island, 47 air miles NW of Ketchikan, 60 road miles from Hollis
Whale Pass	58	on NE coast of Prince of Wales Island, north of Coffman Cove, about 64 road miles north of Klawock
Area 3A		
Akhiok	80	at the southern end of Kodiak Island at Alitak Bay, 80 miles southwest of Kodiak, actually located in Area 3B.
Chenega	86	on Evans Island at Crab Bay, 42 miles southeast of Whittier, 104 air miles SE of Anchorage
Halibut Cove	35	on and around Ismailof Is., adjacent to Kachemak Bay State Park, 6 miles across the inlet from Homer Spit
Karluk	27	west coast of Kodiak Island, on the Karluk River, 88 air miles southwest of Kodiak
Larsen Bay	115	on Larsen Bay, on the northwest coast of Kodiak Island, 60 miles southwest of the City of Kodiak
Nanwalek	177	southern tip of the Kenai Peninsula, 10 miles southwest of Seldovia and west of Port Graham
Old Harbor	237	southeast coast of Kodiak Island, 70 miles southwest of the City of Kodiak
Ouzinkie	225	on the west coast of Spruce Island, adjacent to Kodiak Island. It lies northwest of the City of Kodiak
Port Graham	171	south end of the Kenai Peninsula on shore of Port Graham, adjacent to Nanwalek, 28 air miles from Homer
Port Lions	256	located in Settler Cove, 247 air miles southwest of Anchorage
Seldovia	286	on the Kenai Peninsula across from Homer on the south shore of Kachemak Bay
Tatitlek	107	lies 30 miles east of Valdez by sea near Bligh Island
Tyonek	193	on a bluff on the northwest shore of Cook Inlet, 43 miles southwest of Anchorage
Yakutat	680	at the mouth of Yakutat Bay, 225 miles NW of Juneau and 220 miles SE of Cordova

¹2000 U.S. Census.

²State of Alaska, DCCED, Community Database Community Information Summaries.

Figure 1 Map of the 21 eligible GOA Amendment 66 communities in Area 2C

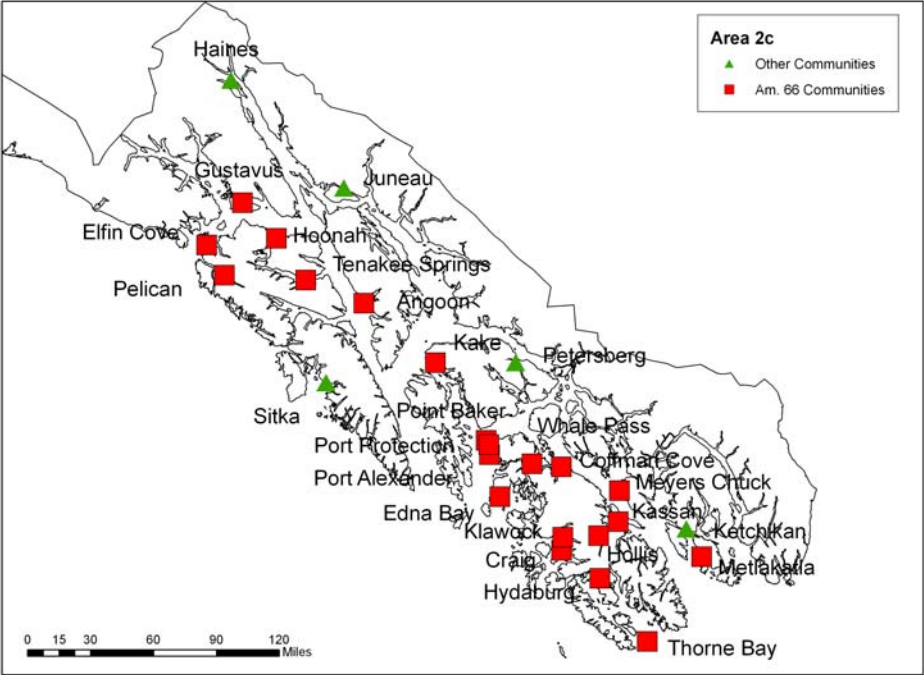
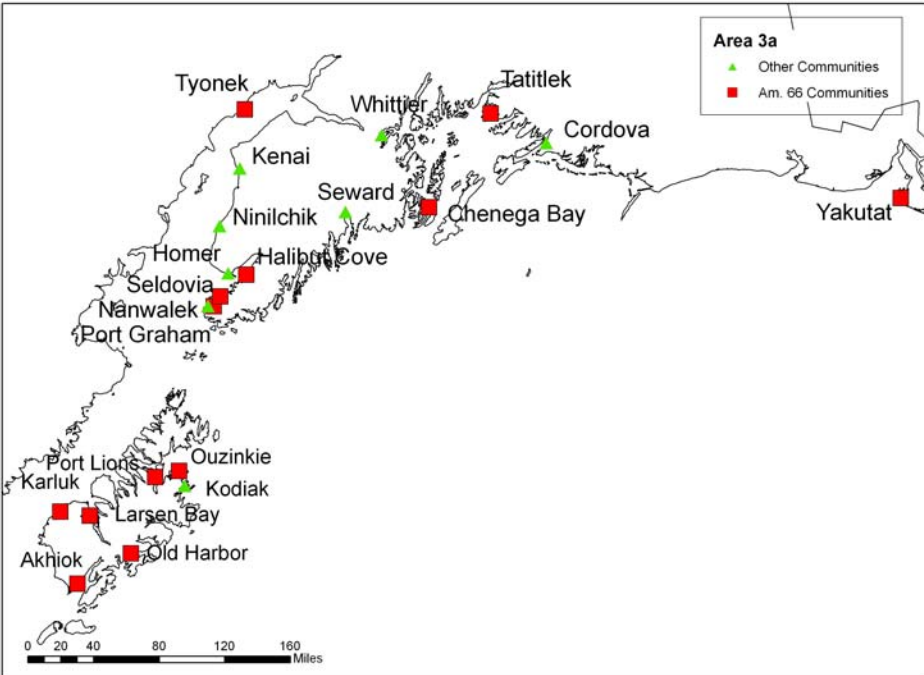


Figure 2 Map of the 14 eligible GOA Amendment 66 communities in Area 3A



Summary of clarifications necessary on Issues 1 – 13

This paper outlines several specific issues that require clarification by the Council under several provisions of the proposed charter moratorium program. Note that if the questions raised under Issue 13 can be addressed in a timely fashion, it does not appear that the community provisions would delay the development or implementation of the moratorium. The necessary clarifications and assumptions to review are provided below. **The Committee's recommendations are provided in italics below each bullet.** Please reference the Committee minutes for detail on the rationale supporting its recommendations.

Issue 7. Permit endorsement for number of clients on board

- Given the lack of information on inspected and uninspected vessels, the Council should define how many clients a vessel will be allowed to carry.

The Committee recommended that references to inspected and uninspected vessels be deleted from Issue 7 and that the analysis consider setting a permit endorsement equal to the highest number of clients, but not less than 4.

Issue 8. Permits may be stacked

- The Council should define whether stacked licenses are permanently joined together, or if they can be separated and moved to other vessels with the characteristics they were initially issued.

The Committee recommended that stacking of permits be allowed, and that stacked permits be separable. The committee recommended that each stacked permit must meet the minimum trip threshold to remain valid each year, and that a business may not hold more than 1 permit beyond the capacity of the vessel on which it will be assigned, in order to discourage stacking and hoarding of permits that may be needed by the fleet. Only permits could be stacked and unstacked. An endorsement cannot be separated from its permit.

Issue 10. Qualifying years

- The Council should define the minimum landing criteria. Staff identified two options as the possible meaning of this option:
 - 1) A permit would be issued to the licensed business owner for each vessel that met the minimum requirement of 1, 5, 10, or 20 bottomfish logbook trips in 2004 or 2005, and participation in the year prior to implementation; or
 - 2) Each licensed business owner that reported a minimum of 1, 5, 10 or 20 bottomfish logbook trips during 2004 or 2005, and had participation in year prior to implementation, would be issued a permit for each vessel they currently own and operated during the qualifying year(s).

The committee clarified that under either approach, the permit would be issued to “the registered business owner.” The committee recommended a blending of the two approaches above, such that the business would be subject to the minimum number of bottomfish trips (summed for all vessels), but each individual vessel would not need to meet the threshold. For example, a business could have 3 vessels with 6, 10, and 8 trips, respectively (total trips = 24). This would result in the business receiving 1 permit under a 20 trip minimum; 2 permits under a 10 trip minimum; and 4 permits under a 5 trip minimum.

- It is assumed that the one year of ADF&G halibut/bottomfish logbook activity refers to the owner and not the vessel. *The Committee agreed.*
- Should a business be issued 2 permits because they used a different vessel in 2004 than 2005? For example, a business took 50 trips in 2004 with vessel “A” and 60 trips in 2005 with vessel “B”. Under Table 3, the business would be issued 2 permits; under Table 5, the business would be issued 1 permit." Which of these interpretations is the Council’s intent?

The Committee was not requested to address this issue, because the data to determine its impact was not available at that time.

- The Council should provide rationale for allowing hardship cases to qualify with fewer trips than the other participants’ minimum trip requirement.

Issue 11. Permit holder must annually renew permit

- The Council should define how the ‘minimum activity’ is calculated, as similarly requested under Issue 10. For a business that owns a single vessel it is obvious. The vessel and the business each have the same number of trips and that number must be equal to or greater than the minimum number selected under Issue 10. However, if a business owns three vessels, must all three vessels meet the minimum trip requirement in Issue 10, or does just the business need to meet the minimum trip requirement? Does the trip requirement change if the permits are “stacked” as allowed under Issue 8?

The Committee recommended that the same method for determining minimum trip activity under Issue 10 be applied under Issue 11.

Issue 12. Use caps

- The Council should reconsider its use cap options (relative to differentiating between inspected and uninspected vessels) since it cannot be analyzed. If the Council elects to proceed with the alternative as written, NOAA Fisheries will need to collect vessel class information, perhaps as part of their permitting process, to enforce the proposed caps.

The committee recommended that references to inspected and uninspected vessels under Issue 12 be deleted, and that use cap options of 1, 5, or 10 permits be analyzed for all vessels.

- Should the Council proceed with the alternative as written, the Council must state its intent regarding whether the use cap options for permits on uninspected vessels are mutually exclusive or additive with the use cap options for the inspected and uninspected (>100gt) vessels. In other words, if Option 3 is selected for both types of vessels, can an owner hold 10 uninspected vessel permits and 3 inspected vessel permits? Or must the owner choose which type of vessels they want to operate and be limited by the 10 uninspected vessel permit cap or the 3 inspected vessel permit cap?

This question is moot under the Committee recommendation to delete the inspected and uninspected categories.

Issue 13. Community provisions

Option 1

- The only reason to include Option 1 under the community provisions appears to be to specify use caps applicable to CQEs that are different from those applicable to every other individual or U.S. business. Staff assumes that the use caps specified in Option 1 apply regardless of the type of vessel designated on the permit (e.g., inspected or uninspected).

The Committee recommended that CQEs be subject to the same overall use caps as any other permit holder (use caps are selected in Issue 12). The Committee also recommended eliminating the ‘inspected’ and ‘uninspected’ permit designations, thus, the staff assumption would not be relevant.

- Are the use caps under Option 1 inclusive or exclusive of any charter permits received under Option 2? (Staff default is to assume that separate use caps apply to purchased permits and issued permits.)

The Committee recommended that the overall use caps for CQEs (see above) be inclusive of any permits purchased under Option 1 or received under Option 2 and/or Option 3.

Option 2

- Is the intended beneficiary of the provision the CQE representing the community or the individual resident of the community?

The Committee recommended clarifying that the CQE is the intended beneficiary of permits received under Option 2 by removing the language: ‘on behalf of a community resident.’

- Due to data limitations, staff recommends that the language of Option 2 be revised as follows: “A CQE representing a community in which <10 active charter businesses terminated trips, may request a limited entry permit...”

The Committee recommended modifying the threshold to represent a number of charter businesses that terminated trips in a community (i.e., the community was listed as the port of landing in the ADF&G logbook). This is in contrast to the current language, which uses the number of charter businesses with their primary place of business in the community.

- Identify the years on which the threshold under Option 2 is based. Staff default is that communities must have less than 10 active charter businesses terminating trips in the community in both 2004 and 2005 in order to qualify to receive a permit under Option 2.

The Committee recommended modifying the threshold to be communities in which 5 or fewer active charter businesses terminated trips in the community in each of the years 2004, 2005, and the year prior to implementation. The Committee also recommended changing the definition of ‘active’ charter business from 20 or more charter bottomfish trips per year to the definition the Council chooses under Issue 10 (options for which include at least 1, 5, 10, or 20 charter bottomfish trips per year).

- Do the use caps under Option 2 include or exclude any non-renewed limited entry permits that the CQE may have received under Option 3? (Staff default is to assume that the use caps under Option 2 include any non-renewed permits received.)

The Committee recommended that the use caps under Option 2 be inclusive of all permits applied for and received by (as opposed to purchased) CQEs. The result is that there are overall use caps for CQEs, and separate use caps that apply to permits applied for and received by CQEs.

- Upon verification that the CQE is qualified, NMFS would distribute the requested permit to the CQE, without further qualification. *Committee agreed.*

- The halibut charter permit issued to a CQE under Option 2 would be designated for the area (Area 2C or 3A) in which the community represented by the CQE is located.

The Committee agreed that the permit issued to a CQE should be designated for the area in which the community is located. However, the Committee also noted that the analysis should provide information on communities that may be on the line and charter in both areas (e.g., Yakutat), should this provision need to be modified.

- The halibut charter permit issued to a CQE under Option 2 would be endorsed for six clients (i.e., 6-pack). *Committee agreed.*
- Is the CQE allowed to sell the permit?

No. The Committee recommended that the CQE is not allowed to sell the permit it is issued under Option 2. In addition, if the CQE does not use the permit within the first full season after receipt from NMFS, it is not renewed. The Committee noted that this should not prevent a CQE from reapplying for a permit in the future.

Option 3

- Should Amendment 66 communities that qualify under Option 3, but do not qualify under Option 2, be given a higher priority for receiving non-renewed permits under Option 3?

No. The Committee did not think a higher priority is warranted.

- A non-renewed halibut charter permit under Option 3 could only be issued to a CQE located in the area (Area 2C or 3A) for which the permit is originally designated.

Committee agreed. See similar bullet under Option 2.

- A non-renewed halibut charter permit issued to a CQE under Option 3 would maintain the original endorsement for the number of clients on board.

No. The Committee recommended endorsing each non-renewed permit issued to a CQE for six clients. (If a CQE wanted to operate a charter for more than 6 clients, it could apply for or purchase another license and stack it on one vessel.)

- Will communities that qualify under Option 3, but do not qualify under Option 2, be subject to the same use cap specified in Option 2?

Yes. The Committee recommended that all communities eligible to receive permits (whether under Option 2 or 3) are subject to the same use cap for requested (as opposed to purchased) permits.

- Is the CQE allowed to sell the permit?

No. The Committee recommended that the CQE is not allowed to sell the permit it is issued under Option 3. In addition, if the CQE does not use the permit within the first full season after receipt from NMFS, the permit is returned to the 'non-renewed permit pool' and is available for other CQEs.