



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 20, 2015

Dr. Bruce M. Leaman
Executive Director
International Pacific Halibut Commission
2320 West Commodore Way, Suite 300
Seattle, Washington 98199-1287

Dear Dr. Leaman:

I am writing to recommend that the International Pacific Halibut Commission (IPHC) consider adopting changes to its 2015 annual management measures to maintain consistency with Federal regulations for the guided sport (charter) halibut fishery in Alaska. The National Marine Fisheries Service (NMFS) has proposed changes to charter halibut fishery regulations that could be implemented for the 2015 charter fishing season. The proposed revisions would affect several IPHC annual management measures for charter halibut fishing in Alaska. NMFS recommends eight minor changes to IPHC annual management measures to maintain coordinated management of charter halibut fisheries in Alaska. NMFS requests that the IPHC consider adopting these changes at its 2015 Annual Meeting.

NMFS published a proposed rule on December 3, 2014 (79 FR 71729) to revise Federal regulations for charter halibut fishing in IPHC Regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). The proposed revisions were recommended by the North Pacific Fishery Management Council (Council) under authority of the Northern Pacific Halibut Act of 1982 at 16 U.S.C. 773b. The proposed rule would align Federal regulations with State of Alaska regulations to clarify Council and NMFS intent for management of charter halibut fisheries in Alaska. The proposed regulatory clarifications also would facilitate enforcement and clarify recordkeeping and reporting requirements for the charter halibut fishery. The proposed rule is available on the NMFS Alaska Region web site at <http://www.alaskafisheries.noaa.gov/prules/79fr71729.pdf>.

The proposed rule is primarily intended to clarify that 1) “guide-assisted” sport fishing services for halibut would be managed under Federal charter fishery regulations, and 2) halibut harvested by a guide-assisted angler would accrue toward charter allocations. These clarifications are necessary because current Federal charter fishing regulations do not apply to a small number of businesses that offer guide-assisted sport fishing services in which guides provide assistance to halibut anglers, likely for compensation, from adjacent vessels or shore. Under current Federal regulations, a person providing assistance to an angler during a fishing trip, and who is not on board the vessel with the anglers, is not providing sport fishing guide services. As a result, persons providing guide-assisted sport fishing services are not required to have charter halibut permits as required by the charter halibut limited access program regulations at 50 CFR 300.67. In addition, guide-assisted anglers receiving assistance during the fishing trip from a guide are not subject to regulations that limit guided anglers



to more restrictive daily bag and size limits that are intended to limit charter harvest to allocations specified by the Council's catch sharing plan for Area 2C and Area 3A (78 FR 75844, December 12, 2013). These daily bag and size limits are annually adopted by the IPHC and implemented in section 28 of the annual management measures (March 12, 2014, 79 FR 13906).

In recommending the proposed revisions to Federal regulations, the Council specified that guide-assisted sport fishing services for halibut are a de facto form of charter fishing and should be managed under charter fishing regulations. A guide who is not on the same vessel with an angler and who provides assistance for compensation to an angler meets the Council's definition of guided fishing. For example, the guide may accompany the anglers from a separate vessel, lead them to the fishing location, and assist in landing and filleting the halibut from a separate vessel. The proposed rule would implement the Council's intent for managing these types of activities by establishing clear and consistent regulations that apply to all businesses providing, and all anglers receiving, sport fishing guide services for halibut fishing.

The proposed rule would affect several IPHC annual management measures that govern charter halibut fishing in Alaska. If the proposed rule is approved and implemented for the 2015 charter fishing season, NMFS recommends the following revisions to the IPHC annual management measures:

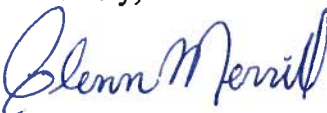
1. Minor technical revisions to management measures at sections 3.(1)(c), 28.(2)(c), and 28.(3)(e) to maintain consistency with revisions to the Federal definition of "charter vessel" and with State of Alaska sport fishing regulations.
2. Revise section 25.(7) to clarify that the charter vessel guide shall be held liable for any violations of annual management measures committed by an angler on a charter vessel, whether the guide is on board the vessel with the angler or on a separate vessel.
3. Add management measures to section 28.(2) and 28.(3) to require that all halibut retained by a charter vessel angler remain on the vessel on which they were caught until the end of the charter vessel fishing trip. This revision would facilitate enforcement of daily bag and possession limits by prohibiting anglers on a charter vessel without a guide on board from transferring their harvested halibut to the guide's vessel for processing.
4. Remove management measures at section 28.(2)(d) and section 28.(3)(d) that require the carcasses of size-restricted halibut to be retained until the end of the charter vessel fishing trip, if halibut are filleted on board the vessel. These management measures are intended to facilitate enforcement of halibut size restrictions by requiring the carcass of filleted halibut to be retained for inspection by an authorized officer. The proposed rule would add a carcass retention requirement for size-restricted halibut to Federal regulations at § 300.65(d)(5). If the IPHC adopts halibut size restrictions for charter vessel anglers in 2015, it could consider removing the annual management measures requiring carcass retention because Federal regulations would require anglers in Area 2C and Area 3A to retain the carcasses of size-restricted halibut.

These recommended revisions are summarized in the Attachment.

We anticipate that the proposed revisions to Federal regulations, if approved, would be effective by May 1, 2015. If the IPHC adopts changes to the 2015 annual management measures to maintain consistency with the proposed revisions to Federal regulations, NMFS staff will work with IPHC staff to ensure a coordinated implementation of the annual management measures and revised Federal regulations. NMFS staff will be available at the Annual Meeting to review our recommendations with the IPHC.

If you have any further questions, please contact Julie Scheurer at (907) 586-7228.

Sincerely,


for James W. Balsiger, PhD
Administrator, Alaska Region

cc: IPHC Commissioners
cc: Ronald Antaya, NOAA Office of Law Enforcement
cc: Chris Oliver, North Pacific Fishery Management Council
cc: Sam Cotten, Alaska Department of Fish and Game
cc: Nicole Kimball, Alaska Department of Fish and Game

Attachment

Attachment

Summary of NMFS' recommended changes to IPHC annual management measures for consistency with proposed changes to Federal regulations.

Annual Management Measure	Current text	Proposed revised text	Rationale
3.(1)(c)	"charter vessel" means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator.	"charter vessel" means a vessel used for hire in sport fishing for halibut.	Charter vessels would include vessels operated by charter anglers if the guide were not required to be on board. This definition could not be changed to match the Federal definition exactly because it also applies to regulations in other IPHC regulatory areas.
28.(2)(c)	No person aboard a charter vessel (as referred to in 50 CFR 300.65) shall take or possess any halibut ...	No person on board a charter vessel (as referred to in 50 CFR 300.65) shall catch and retain any halibut ...	Recommend minor changes in wording for consistency with State and Federal regulations
28.(3)(e)	A charter vessel, as defined in section 3 (Definitions) and referred to in 50 CFR 300.65, on which one or more anglers catch and retain halibut, may only make one charter vessel fishing trip per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear in to the water from a vessel after any charter vessel angler (as defined at 50 CFR 300.61) is on board and the offloading of one or more charter vessel anglers or any halibut from that vessel.	A charter vessel, as defined in 50 CFR 300.61 and referred to in 50 CFR 300.65, 300.66, and 300.67 on which one or more anglers catch and retain halibut, may only make one charter vessel fishing trip per calendar day. A charter vessel fishing trip is defined at 50 CFR 300.61 as the time period between the first deployment of fishing gear in to the water by a charter vessel angler (as defined at 50 CFR 300.61) and the offloading of one or more charter vessel anglers or any halibut from that vessel.	This regulation would be revised to refer to the Federal definition of charter vessel, which would be more specific than the IPHC definition. Additional sections of the CFR that refer to charter vessels would be referenced. The reference to the definition for "charter vessel fishing trip" would be updated to reflect the proposed change to the Federal definition.

Annual Management Measure	Current text	Proposed revised text	Rationale
25.(7)	The operator of a charter vessel shall be liable for any violations of these Regulations committed by a passenger aboard said vessel.	The charter vessel guide of a charter vessel, as these terms are defined in 50 CFR 300.61 and referred to in 50 CFR 300.65, 300.66, and 300.67, shall be liable for any violations of these Regulations committed by an angler aboard said vessel.	The proposed revision would clarify that the charter vessel guide will be held responsible for any violations of annual management measures by anglers, whether the guide is on board the vessel with the anglers or on a separate vessel.
n/a	n/a	<i>(add new paragraph to 28.(2):</i> All halibut harvested on a charter vessel fishing trip must be retained on board the charter vessel on which the halibut was caught until the end of the charter vessel fishing trip as defined at 50 CFR 300.61.	The proposed revision would facilitate enforcement of daily bag and possession limits by prohibiting charter vessel anglers without a guide on board from transferring their harvested halibut to the guide's vessel for processing.
n/a	n/a	<i>(add new paragraph to 28.(3):</i> All halibut harvested on a charter vessel fishing trip must be retained on board the charter vessel on which the halibut was caught until the end of the charter vessel fishing trip as defined at 50 CFR 300.61.	The proposed revision would facilitate enforcement of daily bag and possession limits by prohibiting charter vessel anglers without a guide on board from transferring their harvested halibut to the guide's vessel for processing.
28.(2)(d)	If the halibut is filleted, the entire carcass, with head and tail connected as a single piece, must be retained on board the vessel until all fillets are offloaded.	n/a	NMFS proposes to add this requirement to Federal regulations at § 300.65(d)(5); therefore, it would no longer be needed as an IPHC annual management measure.
28.(3)(d)	If the size-restricted halibut is filleted, the entire carcass, with head and tail connected as a single piece, must be retained on board the vessel until all fillets are offloaded.	n/a	Same rationale as above.