

# Discussion Paper:

## Consideration of a Registration for Self-Guided Halibut Rental Boats

December 2017<sup>1</sup>

1	<i>Introduction</i> .....	1
2	<i>Description of the Problem</i> .....	1
	2.1 Definition of self-guided halibut rental boat.....	2
3	<i>Halibut sport harvest in Alaska</i> .....	2
	3.1 Regulatory definitions of charter halibut fishing.....	5
	3.2 Unguided rental boats.....	6
	3.3 Sport fishing services and sport fishing guides.....	6
4	<i>Vessel registrations</i> .....	6
	4.1 Federal registry.....	6
	4.2 State of Alaska Division of Motor Vehicles.....	7
	4.3 Alaska Department of Fish and Game vessel registration.....	7
5	<i>Next Steps</i> .....	8
6	<i>People consulted</i> .....	8

### 1 Introduction

In June 2017, the North Pacific Fishery Management Council (Council) requested that Council staff, National Marine Fisheries Service (NMFS) staff, and Alaska Department of Fish & Game (ADF&G) staff develop a Discussion Paper to explore mechanisms to create a registration for motorized rental boats that are used by unguided anglers to harvest halibut in International Pacific Halibut Commission (IPHC) regulatory areas 2C and 3A. The stated expectation was that the discussion paper would provide a definition of a “self-guided rental boat” and mechanisms to create a registration, should the Council conclude that it is necessary.

The motion was in response to requests from the public for the Council to address what some members of the public consider to be a growing segment of the halibut sport fishing sector. An unknown number of commercial entities are now offering rental boats to anglers to allow them to fish for halibut and other species without the assistance of a registered guide. Fishing for halibut without the services of a sport fishing guide allows those anglers to access the unguided limit of two fish of any size, rather than being held to the more restrictive guided angler limit. Some members of the public are concerned that this represents an open-ended reallocation to the recreational fishing sector, and may impact other sectors in some communities.

### 2 Description of the Problem

The Council has not yet identified a problem statement, nor a purpose and need statement for any potential action. However, the motion passed by the Council in June 2017 states that the benefit of a registration for rental boats is that it “fills a data gap in fishery participation by a commercial business entity which allows access resulting in significant harvest of Pacific halibut. Knowing how many rental boats there are and where they are spatially distributed will help the Council assess the potential impacts of this sector to communities, the halibut resource, and other stakeholders in the future.” Should the Council wish to analyze any part of this issue further, it will be necessary to identify a problem statement and purpose and need statement for which alternatives can be developed.

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## 2.1 Definition of self-guided halibut rental boat

Although there is not yet a definition of “self-guided halibut rental boat”, the Council’s motion suggests the Council’s intended definition: the motion specifically references “motorized rental boats in regulatory areas 2C and 3A that intend to harvest halibut”. This precludes any vessels not in regulatory areas 2C or 3A, any non-motorized boats (kayaks, row boats, etc.), and any boats not intended to harvest halibut. If the Council intends to limit consideration to vessels owned by businesses providing sport fishing services, or if the Council intends any action to be applicable to other sorts of vessels, then a revised definition of self-guided rental boat will be necessary.

## 3 Halibut sport harvest in Alaska

The halibut sport fishery in Alaska is managed by the IPHC, the Council, and NMFS under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act), which gives effect to the Convention between the United States and Canada for the Preservation of Halibut Fishery of the North Pacific Ocean and Bering Sea. Under the Halibut Act, the Council approved, and NMFS implemented, a Catch Sharing Plan (CSP) that allocates halibut among the commercial and charter sectors in Areas 2C and 3A. The non-charter sport sector is not included in the CSP and is therefore unconstrained by an allocation or other catch limit. Charter vessel operators are required under State and Federal regulations to record the numbers of halibut kept and released by individual clients in an ADF&G logbook to inform annual estimates of harvest and discard mortality. Logbook data have been used to manage the charter sector since 2014. Non-charter harvest is estimated by ADF&G using a post-season mail survey. The survey estimates sport fishery harvests of all species, including Pacific halibut. Data on the size of halibut retained in charter and non-charter fisheries are collected through an ADF&G dockside creel sampling program in major ports in Areas 2C and 3A.

Total non-charter and charter halibut sport harvest levels from 2003 through 2016 are shown in Table 1. Total harvest in Area 2C has varied considerably between years, with a sharp decline from 2008 to 2011, and an increase from 2011 to 2013 (Figure 1). Recent harvest levels since 2013 have been more stable, and are currently around 2Mlb, similar to the harvest levels in 2003. Total harvest in Area 3A has generally declined from about 5.5Mlb in 2003 to 3.5Mlb in 2016 (Figure 1).

Before 2014, charter halibut harvest in Areas 2C and 3A was regulated under Guideline Harvest Levels (GHLs). The GHLs constituted reference levels for harvest, and regulations did not necessarily trigger management actions when the GHLs were exceeded. The GHLs were replaced in 2014 by quotas based on allocations specified in the CSP. From 2003 to 2016, the GHLs or quotas ranged from 1.432 to 0.788 million pounds in Area 2C and from 3.650 to 1.782 million pounds in Area 3A (Table 1). In both Area 2C and Area 3A, the GHL or quota has generally declined since 2003, and reached its lowest point in 2014. Charter harvest of halibut has also declined, generally, from 2003 to 2016. Charter harvest was lowest in 2011 in Area 2C, and in 2016 in Area 3A.

Table 1. Non-charter, charter<sup>a</sup>, and total sport harvest of Pacific Halibut in Area 2C and Area 3A and the GHL or Quota (after 2013) from 2003 – 2016. GHL was replaced with a quota under the Halibut Catch Sharing Plan after 2013 (dashed line). GHL or quota applies only to the charter harvest.

Year	Area 2C				Area 3A			
	Non-charter	Charter	Total	GHL or Quota	Non-charter	Charter	Total	GHL or Quota
2003	0.846	1.412	2.258	1.432	2.046	3.382	5.427	3.650
2004	1.187	1.750	2.937	1.432	1.937	3.668	5.606	3.650
2005	0.845	1.952	2.789	1.432	1.984	3.689	5.672	3.650
2006	0.723	1.804	2.526	1.432	1.674	3.664	5.337	3.650
2007	1.131	1.918	3.049	1.432	2.281	4.002	6.283	3.650
2008	1.265	1.999	3.264	0.931	1.942	3.378	5.320	3.650
2009	1.133	1.249	2.383	0.788	2.023	2.734	4.758	3.650
2010	0.885	1.086	1.971	0.788	1.587	2.698	4.285	3.650
2011	0.685	0.344	1.029	0.788	1.615	2.793	4.408	3.650
2012	0.977	0.605	1.583	0.931	1.341	2.284	3.626	3.103
2013	1.361	0.762	2.123	0.788	1.452	2.514	3.966	2.734
2014	1.171	0.783	1.954	0.761	1.533	2.034	3.567	1.782
2015	1.327	0.768	2.095	0.851	1.646	2.067	3.683	1.890
2016	1.308	0.792	2.100	0.906	1.528	1.964	3.492	1.814

<sup>a</sup> Charter estimates are based on the ADF&G mail survey before 2014, and on logbook data since 2014

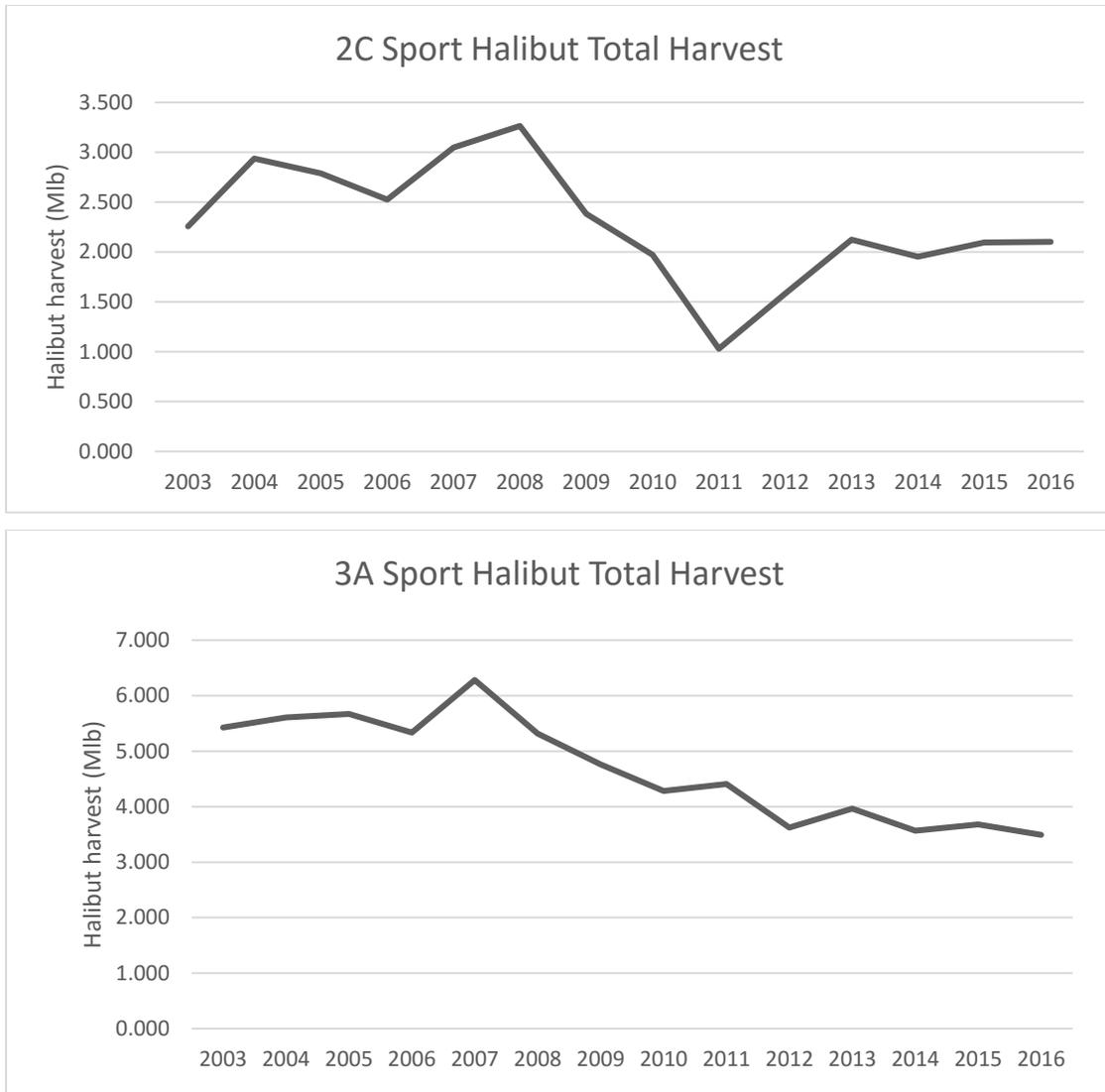


Figure 1. Total sport halibut harvest in Area 2C (top) and 3A (bottom) from 2003 – 2016

Figure 2 highlights changes in charter and non-charter harvest in Area 2C and Area 3A. The non-charter harvest of halibut in Area 2C has been variable from 2003 – 2016, but does not show any apparent trend. However, starting in 2011, the non-charter sport halibut harvest has been higher than the charter harvest. Non-charter harvest in 3A has been generally unchanged since 2003, and remains below charter harvest. The decline in charter harvest in Area 2C from 2008 to 2011 could be the result of a number of factors, including a reduction in effort, a reduction in the GHL, and implementation of more restrictive bag and size limits to keep the fishery within its GHL. The decline in effort was likely linked to economic factors as well as some diversion of charter effort to the non-charter sector to avoid restrictions. The amount of effort diverted to the non-charter sector cannot be estimated with available information.

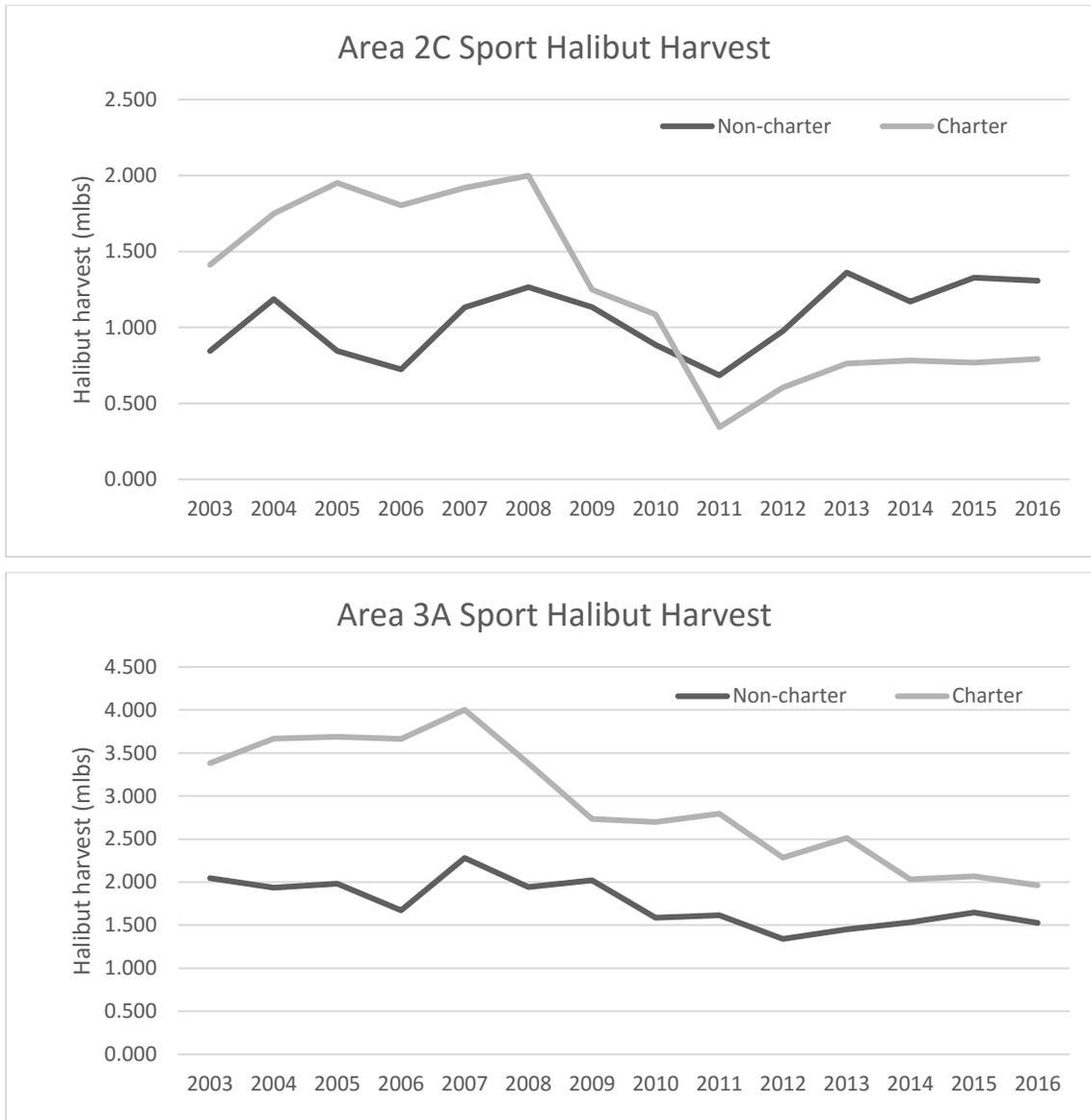


Figure 2. Non-charter and charter halibut harvest in Area 2C (top) and 3A (bottom) from 2003 - 2016

### 3.1 Regulatory definitions of charter halibut fishing

In February 2014, the Council defined guided sport fishing services, incorporating recommendations developed cooperatively by State and Federal enforcement and management staffs, as follows:

*Sport fishing guide services, for purposes of §§300.65(d) and 300.67, means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take fish by being on board a vessel with such person, accompanying, or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member.*

In the same action, the Council defined compensation as follows:

*Compensation means direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; in this paragraph, “benefits” includes*

*wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the reasonable daily expenses for fuel, food, or bait.*

### **3.2 Unguided rental boats**

Under the definitions of guided sport fishing and compensation, an unknown number of entities began to legally offer anglers the opportunity to rent vessels without a guide onboard and without any physical direction from a guide during any portion of the fishing trip. Some operators may be offering these rental vessels in addition to offering guided fishing opportunities. Under these definitions, those anglers utilizing rental boats without a guide aboard are considered non-charter or “unguided” for the purposes of halibut fishing, which allows them to legally access the unguided daily bag limits of two fish of any size, rather than being held to the more restrictive charter angler daily bag limits. There are no data on the number of boats available for rent, or the number of halibut caught from such boats.

### **3.3 Licensing of sport fishing services and sport fishing guides**

State of Alaska regulation 5 AAC 75.075 (a) requires the owner of a business to obtain a current annual saltwater sport fishing operator license from the department before the business conducts saltwater sport fishing services. Alaska Statute 16.05.940 defines “sport fishing” as:

*the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries.*

State of Alaska regulation 5 AAC 75.075 (b) requires a person to obtain an annual salt water sport fishing guide license from the ADF&G before that person conducts salt water sport fishing guide services. The State of Alaska and Federal definitions of a sport fishing guide are identical (see §3.1 above).

## **4 Vessel registrations**

Because the State of Alaska DMV registers vessels less than 5 net tons (see §4.2), and ADF&G registers all vessels used to provide sport fishing guide services, any program to define and register self-guided halibut rental boats may require close coordination with the ADF&G, and any regulations may require commensurate regulations approved by the State of Alaska Board of Fisheries (BOF).

### **4.1 Federal registry**

The US Coast Guard (USCG) documents vessels that are at least 5 net tons and used in fishing activities on navigable waters of the U.S. or the Exclusive Economic Zone (EEZ). The USCG National Vessel Documentation Center (<http://www.dco.uscg.mil/Our-Organization/Deputy-for-Operations-Policy-and-Capabilities-DCO-D/National-Vessel-Documentation-Center/>) notes that vessels more than 25 feet are likely to measure five net tons or more under the Simplified Measurement System. It is likely that many boats that could be used in Area 2C or Area 3A, intended to harvest halibut, would be less than five net tons, and therefore exempt from USCG documentation. There are no Federal programs to register or document vessels less than 5 net tons.

#### 4.2 State of Alaska Division of Motor Vehicles

Motorized boats less than 5 net tons in Alaska are registered by the State of Alaska, Department of Administration, Division of Motor Vehicles (DMV). The registration application includes information about whether the boat will be used as a rental boat (Figure 3). There is, however, not currently a way to identify whether the boats intended for rental are owned by an entity that provides sport fishing services, but these data may be available in separate datasets. There are also no data currently collected to identify whether the boat intended for rental is also intended to be operated in Area 2C or Area 3A, although the address of the registering entity may provide some information. There are also no data collected to indicate whether the rental boat is intended to be used to harvest halibut, as per the assumed Council definition of a self-guided halibut rental boat. If the Council chooses to evaluate the potential of the AK DMV registration to identify and track rental boats in Area 2C and Area 3A intended to harvest halibut, additional data will be necessary.

STATE OF ALASKA DIVISION OF MOTOR VEHICLES BOAT REGISTRATION APPLICATION				
<i>Notice: A copy of this application may be used as a temporary registration for up to 60 days. The temporary registration becomes invalid when a certificate of number is issued by DMV.</i>				
BASIC BOAT INFORMATION - MUST BE COMPLETED IN FULL ON ALL APPLICATIONS				
PRESENT AK BOAT NUMBER <b>AK</b>	REASON FOR APPLICATION <input type="checkbox"/> NEW <input type="checkbox"/> TRANSFER OF OWNERSHIP <input type="checkbox"/> DUPLICATE DECAL (\$5) <input type="checkbox"/> RENEWAL <input type="checkbox"/> DUPLICATE CERTIFICATE (\$5)			
BOAT NAME (IF APPLICABLE)	CLASS OF BOAT	<input type="checkbox"/> POWER BOAT (B1) \$24	<input type="checkbox"/> NON-POWER BOAT (B2) \$10 (Registration is optional for non-powered)	
COMPLETE FOR NEW BOATS, TRANSFERS, OR WHEN INFORMATION HAS CHANGED				
HULL IDENTIFICATION NUMBER (HIN)	ADF&G # (IF ANY)	LENGTH (FT)	YEAR	MAKE/BUILDER OF BOAT
BOAT TYPE <input type="checkbox"/> A. RUNABOUT/SKIFF <input type="checkbox"/> B. CABIN CRUISER <input type="checkbox"/> C. PWC (i.e. JET SKI) <input type="checkbox"/> D. HOUSEBOAT <input type="checkbox"/> E. SAILBOAT <input type="checkbox"/> F. OTHER _____	PROPULSION <input type="checkbox"/> A. OUTBOARD <input type="checkbox"/> B. INBOARD <input type="checkbox"/> C. INBOARD/OUTDRIVE <input type="checkbox"/> D. SAIL ONLY <input type="checkbox"/> E. OARS/PADDLES	USE <input type="checkbox"/> A. PLEASURE <input type="checkbox"/> B. COMMERCIAL PASSENGER <input type="checkbox"/> C. COMMERCIAL FISHING <input type="checkbox"/> D. RENTAL <input type="checkbox"/> E. OTHER _____	FUEL TYPE <input type="checkbox"/> A. GAS <input type="checkbox"/> B. DIESEL <input type="checkbox"/> C. OTHER <input type="checkbox"/> D. NONE	HULL MATERIAL <input type="checkbox"/> A. ALUMINUM/METAL <input type="checkbox"/> B. FIBERGLASS/PLASTIC <input type="checkbox"/> C. WOOD <input type="checkbox"/> D. INFLATABLE <input type="checkbox"/> E. OTHER _____

Figure 3. Part of State of Alaska Division of Motor Vehicles Boat Registration Application.

#### 4.3 Alaska Department of Fish and Game vessel registration

In addition to the DMV vessel registration described above, the State of Alaska in AS 16.05.395 requires vessels used to provide sport fishing services to be registered with ADF&G, and display proof of registration when the vessel is used to provide sport fishing services. To implement the statute, the Alaska Administrative Code, 5 AAC 75.077 (a), requires that all vessels being used to provide sport fishing *guide* services (emphasis added) be registered annually with the department and outlines procedures related to the registration process and proof of registration. This was intended to focus the registration requirement on guide services, because there are many businesses that rent boats that do not provide sport fishing services or guide services (e.g, kayak rental, motor boat rental, river raft rental, etc.). Without this clarification, any vessel available for rent that could, potentially, be used for sport fishing would be required to be registered with ADF&G.

The State of Alaska also requires businesses that conduct saltwater sport fishing services to obtain a saltwater sportfishing operator license (see §3.3). It might be possible to require all businesses with saltwater sportfishing operator licenses to register all motorized boats owned by that business, but this would require a modification to the Alaska Administrative Code, and additional analysis. It is also likely that many of the boats that would then be required to be registered would not be intended for rental, or not intended to harvest halibut. Additionally, it is possible that many of the boats available for rental would

be owned by a business other than the holder of the saltwater sportfishing services registration. This may create enforcement or other concerns that would be examined in an analysis of alternatives, should the Council choose to proceed with an analysis.

## **5 Next Steps**

If the Council wishes to proceed with an analysis of mechanisms to develop a registry for rental boats, staff recommends that the Council identify a problem statement and purpose and need statement from which alternatives can be developed. A problem statement and purpose and need statement would identify the Council's objectives for a registration, and provide guidance for the utility of the registry, allowing development of alternatives that would meet Council objectives and minimize enforcement and other potential difficulties. A problem statement and purpose and need statement may also help identify approaches other than vessel registration that may provide the Council with information it can use to address the problem.

Because the State of Alaska DMV registers vessels less than 5 net tons (see §4.2), and ADF&G registers all vessels used to provide sport fishing guide services, any program to define and register rental boats intended to be used for unguided halibut fishing may require close coordination with the State of Alaska, and any Federal regulations may require commensurate regulations approved by the State of Alaska Board of Fisheries (BOF). If the Council chooses to proceed with an analysis, staff would coordinate closely with State of Alaska staff to develop and analyze alternatives.

## **6 People Consulted**

Mr. Scott Meyer, Alaska Department of Fish and Game, Sportfish Division  
Mr. Kurt Iverson, NOAA Fisheries, AKR, Sustainable Fisheries Division  
Mr. Trent Hartill, Alaska Department of Fish and Game