

Public Testimony Sign-Up Sheet

Agenda Item C-1(a) Halibut Management Issues ^{GENERAL}

	NAME (PLEASE PRINT)	AFFILIATION
1	Sean Martin Rick Bierman	North Country Charters
2	Erri Martin	North Country Charters
3	Joe Szymberski	self
4	Gary Ault	self
5	Mike Swan Roark Brown	self Homer Ocean
→ 6	Bob Alverson	I-VOA-WAST.
→ 7	Dan Hull	GDFU
8	Ret. Murphy <u>Donna BONDIOZI</u>	Self
→ 9	Oystein Lowe	Deep Sea Fishermen's Union
10	Wally Martin <u>Rhonda Hubbard</u>	self (comp fisher Ex krud of)
11	Barry Wright	Self
12	Mel Erickson	Self
13	Rod Van Saun	Self
14	Mike Patterson	Self
15	Tom Mahoney	Self
16	Marc Smith	Self
17	Lynn Keogh	Self
18	TIM EVERS	DeepCreek Charterboat Assoc.
19	TIM ERION	Self
20	Robert Ward	Homer Charter Assoc
21	Donald Westlund	Silver King Charters
22	Patrick Bosley	Club of the Irish Charters
23	Ken Lyle	Waterfall Resort
24	Seth Bone	Sitka Charter Boat Operators Association
→ 25	Stan Malcom	Petersburg Charterboat assoc

NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

Public Testimony Sign-Up Sheet

Agenda Item General (a-e) Halibut Mgmt. Issues

	NAME (PLEASE PRINT)	AFFILIATION
1	Scott Glosser	CAPTAIN SCOTTS
2	NIKLAS RANTA	CAPT. NIKS SPORTFISHING
3	MIKE COATES	ALASKA ADVENTURES
4	Jenni Hawkes	Puffin Fishing Charters
5	Bob Howard	Self
6	FRANK CASEY	Self
7	Al Novell	Self Al Novell Ak. Fishing
8	DAN FALCAY	HALIBUT Coalition
9	Tory O'Connell	FLV Cherokee
10	David Pinguoch	AK Good Time Charters
11	Kev L Larson	PWSCBA (ORGANIZN SEC)
12	Rick Bierman	Juniata Charter Boat Owners
13	Chuck Collins	TAIL TAILS CHARTERS
14	TOM McLAUGHLIN	SEAFOOD PRODUCERS POOL
15	DANIEL DONICOFF	DANIEL'S PERE GUIDE SEAFISH
16	ROARKE BROWN	HOMER OCEAN CHARTERS
17	JEFF FARVOUR	Commercial Fisherman
18	Erik Bahnsen	Self Charter Fisherman
19	GREG SUTTER	ALASKA CHARTER ASSOC.
20	Rhonda Hubbard	Commercial Fisherman
21	Anne Williams	SELF
22	Audra Pederson	SELF / COMMERCIAL FISHERMAN
23	MARIL MILLER	ALASKA TRAVEL INDUSTRY ASSOC.
24	James Sofft	Commercial Fisherman
25	Steve Zernia	ProFish-n-Sea Charters

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Public Testimony Sign-Up Sheet

Agenda Item C-1 (a-e) General Halibut

	NAME (PLEASE PRINT)	AFFILIATION
1	JOEL HANSON	THE BOAT COMPANY
2	KEN NEUMAN	KACO
3	Roland man	Harvest Time Charters
4	LEW SHELTON	SEA HALIBUT COALITION
5	Shawn Rhodes	Self
6	JEFF FARVOR	Commercial Fisherman
7	Ann Bayas	Self
8	CHRIS FRALTA	KACO Kodiak Is. Charters
9	Ken Neuman	
10	John Baker	self
11	TINA MCANANEE	181aldrich Resort
12	Cora Crone	Petersburg Vessel Owners
13	Kathy Hansen	SE AK Fishermens Alliance
14	Dave Bisegger	Self
15	LINDA BEHNKEN	ALFA
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MEMORANDUM

TO: Council, SSC and AP Members
FROM: 
Chris Oliver
Executive Director
DATE: March 21, 2007
SUBJECT: Charter Halibut Management

ESTIMATED TIME 16 HOURS (all C-1 items)

ACTION REQUIRED

- (a) NMFS report on IPHC action and subsequent Secretarial action
- (b) Receive Stakeholder Committee report; action as necessary.
- (c) State/Federal Management - review discussion paper.
- (d) Review discussion paper on sport fish discard mortality.
- (e) Discussion paper on halibut allocations, action as necessary.

BACKGROUND

(a) Secretarial action

In January 2007, the International Pacific Halibut Commission (IPHC) recommended a regulation for a one-fish halibut bag limit for charter fishing in Area 2C from June 15 - July 31, 2007 and for Area 3A from June 15 - 30, 2007 (Item C-1(a)(1)). On March 1, 2007, the Department of State notified the IPHC that it did not accept those recommendations (Item C-1(a)(2)). Instead, the Department of Commerce would publish regulations that are consistent with those recommendations (Item C-1(a)(3)). The alternatives that are being considered in the NMFS analysis are as follows:

- Alternative 1. No Action
- Alternative 2. Two-fish daily bag limit with at least one fish of a specified minimum length (45, 50, 55, or 60 inches);
- Alternative 3. Two-fish daily bag limit with both fish at least 32 inches in length; and
- Alternative 4. Two-fish daily bag limit with at least one fish of a specified maximum length (30, 32, or 35 inches).

NMFS has identified Alternative 4, with a maximum size of 32 inches for one of the two fish allowed in the daily bag limit, as its preferred alternative. The preferred alternative would maximize the probability of charter vessel anglers being able to retain two fish per day while reducing the estimated charter vessel harvest by about 425,000 pounds. In addition, this alternative would present the least disruption between charter operators in inside waters and those in outside waters. The final rule would be published by June 1, 2007. A letter from NMFS-AKR is under Item C-1(a)(4).

(b) Stakeholder Committee report

The Charter Halibut Stakeholder Committee convened on February 27-28, 2007 to provide recommendations to the Council on: 1) a preferred alternative for the moratorium for charter fisheries in Areas 2C and 3A; 2) alternatives and options to set an allocation and possible share-based systems; and 3) other management issues (Item C-1(b)). The committee will convene again on April 12-13, 2007 to complete its recommendations for allocation and share-based alternatives.

(c) State/Federal Management

In response to a Council request, ADF&G Sport Fish Division staff prepared a discussion paper on a proposed process the State of Alaska would use to implement delegated authority to manage recreational Pacific halibut fisheries (Item C-1(c)(1)). A previous paper by NMFS staff is provided for additional reference (Item C-1(c)(2)).

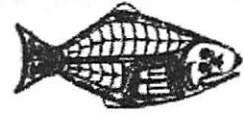
(d) Sport fish discard mortality

In response to a Council request, ADF&G Sport Fish Division staff prepared a discussion paper on sport halibut discard mortality rates. A preliminary study resulted in the application of an average rate of 5 percent in the analysis of Area 2C guideline harvest level management measures. *The requested report will be rescheduled for the October 2007 meeting.*

(e) Halibut allocations

In December 2006, the Council requested a discussion paper which would examine the effects of establishing a stand-alone allocation for the charter halibut fisheries in IPHC Areas 2C and 3A, prior to implementation of a permanent solution. This paper (Item C-1(e)) identifies the trade-offs between setting an allocation as a stand-alone decision or as part of the permanent solution. In summary, an allocation without restrictive measures to limit harvests to that allocation can not be administered by NMFS. An addendum will be provided at the meeting, which will describe the Area 2A catch sharing plan and how the approach may be adapted to for Areas 2C and 3A.

If a separate analysis to set an allocation for the charter sector is initiated by the Council, it should also decide whether to limit the analysis to the allocation and the overage/underage allowances or address all aspects of the proposed allocation alternative (including five proposed funding mechanisms to increase the allocations).

INTERNATIONAL PACIFIC HALIBUT COMMISSION*News Release*

January 22, 2007

HALIBUT COMMISSION COMPLETES 2007 ANNUAL MEETING

The International Pacific Halibut Commission completed its Eighty-third Annual Meeting in Victoria, B.C., with Dr. Laura J. Richards of Nanaimo, B.C. presiding as Chair. The Commission is recommending to the governments of Canada and the United States, catch limits for 2007 totaling 65,170,000 pounds, a 6.7% decrease from the 2006 catch limit of 69,860,000 pounds.

The Commission staff reported on the 2006 Pacific halibut stock assessment which implemented a coastwide estimation of biomass, compared with previous assessments which assessed stock biomass for each individual IPHC regulatory area. The total stock biomass identified by the coastwide assessment is approximately the same as the sum of that from the regulatory area assessments. However, the Commission believed that further examination of options for partitioning the coastwide biomass estimate into estimates of biomass for each regulatory area was required before it adopted the new approach. Accordingly, the Commission relied on the previous methodology of separate regulatory area assessments as the basis for determining catch limits. Lower catch rates in the eastern area of the halibut stock prompted the Commission to recommend more restrictive catch limits for this portion of the stock. Pending recruitment from the 1994 and 1995 year classes appears to be relatively strong in most areas, although Area 4B is showing a notably lower level of recruitment of these same year classes compared with other regulatory areas.

For 2007, the Commission continued with a 22.5% harvest rate for use in Areas 2A through 3A and a rate of 20% for Areas 3B through 4E. Low levels of recruitment and lower estimated levels of productivity in Areas 4B and 4CDE continued to support harvest rates lower than 20% for these areas. Accordingly, the Commission adopted catch limits based on a harvest rate of 15% for Areas 4B and 4CDE. The IPHC conducted additional research projects in Areas 4CDE during 2006 and the results provided an improved assessment base for these areas, however the survey catch rate on the eastern Bering Sea shelf is still estimated to be low, compared with other commercial fishing areas.

Seasons and Catch Limits

The Commission received regulatory proposals for 2007 from the scientific staff,

Canadian and United States harvesters and processors, and other fishery agencies. The Commission will recommend to the governments the following catch limits for 2007 in Area 2A (California, Oregon, and Washington), Area 2B (British Columbia), Area 2C (southeastern Alaska), Area 3A (central Gulf), Area 3B (western Gulf), Area 4A (eastern Aleutians), Area 4B (western Aleutians), Area 4C (Pribilof Islands), Area 4D (northwestern Bering Sea), and Area 4E (Bering Sea flats):

2007 Catch Limits

Regulatory Area	Catch Limit (pounds)
Area 2A	
Non-treaty directed commercial (south of Pt. Chehalis)	227,955
Non-treaty incidental catch in salmon troll fishery	40,227
Non-treaty incidental catch in sablefish longline fishery (north of Pt. Chehalis)	70,000
Treaty Indian commercial	461,000
Treaty Indian ceremonial and subsistence (year-round)	33,000
Sport – North of Columbia River	239,636
<u>Sport – South of Columbia River</u>	<u>268,182</u>
Area 2A total	1,340,000
Area 2B (includes sport catch allocation)	11,470,000
Area 2C	8,510,000
Area 3A	26,200,000
Area 3B	9,220,000
Area 4A	2,890,000
Area 4B	1,440,000
Area 4C	1,866,500

Area 4D	1,866,500
Area 4E	<u>367,000</u>
Area 4 total	8,430,000
Total	<u>65,170,000</u>

The Department of Fisheries and Oceans, Canada (DFO) will allocate the adopted Area 2B catch limit between sport and commercial fisheries.

The IPHC sets biologically-based catch limits for Areas 4A, 4B, and a combined Area 4CDE. The catch limits for Regulatory Areas 4C, 4D, and 4E reflect the catch-sharing plan implemented by the North Pacific Fishery Management Council (NPFMC). The catch-sharing plan allows Area 4D Community Development Quota (CDQ) harvest to be taken in Area 4E.

The catch-sharing plan implemented by the Pacific Fishery Management Council (PFMC) for Area 2A was adopted by the Commission and is reflected in the catch limits adopted for the Area 2A fisheries. In Area 2A, seven 10-hour fishing periods for the non-treaty directed commercial fishery are recommended: June 27, July 11, July 25, August 8, August 22, September 5, and September 19, 2007. All fishing periods will begin at 8:00 a.m. and end at 6:00 p.m. local time, and will be further restricted by fishing period limits announced at a later date.

Area 2A fishing dates for an incidental commercial halibut fishery concurrent with salmon troll fishing seasons, and the incidental commercial halibut fishery during the sablefish fishery north of Point Chehalis, will be established under United States domestic regulations by the National Marine Fisheries Service (NMFS). The remainder of the Area 2A catch-sharing plan, including sport fishing seasons and depth restrictions, will be determined under regulations promulgated by NMFS. For further information of the depth restrictions in the commercial directed halibut fishery, incidental halibut during the sablefish fishery, and the sport fisheries, call the NMFS hotline (1-800-662-9825).

After reviewing staff information and proposals from the harvesting and processing sector, the Commission approved a season opening date of March 10. The Saturday opening date is to facilitate marketing. Therefore, seasons will commence at 12 noon local time on March 10 and terminate at 12 noon local time on November 15, 2007 for the following fisheries and areas: the Canadian Individual Vessel Quota (IVQ) fishery in Area 2B, and the United States Individual Fishing Quota (IFQ) and CDQ fisheries in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E. All Area 2A commercial fishing including the treaty Indian commercial fishery will fall within March 10 – November 15, 2007.

Regulatory Changes and Issues

The Commission approved regulations to change the California sport fishery possession limit as part of the catch sharing plan. The sport fishery possession limit on

land and on the water in California will be one daily bag limit.

For Area 2B, the Commission adopted a regulation to allow the retention of halibut in sablefish trap gear during the halibut IQ season, provided that harvesters had obtained halibut quota shares for the mortality and retention of halibut. This was passed to assist DFO with the Integrated Groundfish Fisheries Plan, which is a three-year pilot program. The regulation will be reviewed at the 2009 IPHC Annual Meeting to determine if retention of halibut in sablefish traps should continue to be allowed.

For Alaska, the Commission agreed to revise the regulation which prohibits the processing or mutilation of sport caught halibut that prevents the determination of the minimum size or number of fish. The regulation change limits the application to on board the catcher vessels only, so that halibut may be subsequently cut up as necessary off of the vessel.

The Commission agreed to change the recording date from December 1 to November 1 for the CDQ managers to report the amount of sublegal-sized halibut retained in Area 4E and 4D CDQ fisheries.

IPHC regulations require that halibut caught in the commercial fishery that are not retained shall be immediately released outboard of the roller and returned to the sea with minimum of injury. The Commission agreed to revise the regulation to allow halibut to be measured on board the vessel to determine if they meet the legal-size limit and to then be returned to the sea with minimal injury.

The Commission noted that Guideline Harvest Levels (GHL) approved by the NPFMC for the charter/guided recreational halibut fishery in Areas 2C (southeast Alaska) and 3A (central Gulf of Alaska) were exceeded in recent years, substantially so in Area 2C (over 40% higher than the GHL in 2006). Commission staff initiated dialogue with the NPFMC to determine what control measures would be enacted by the Council to constrain harvest to the GHLs in 2007. The NPFMC indicated that, although it is committed to management of this fishery to the GHL limits, it would not be able to complete analyses and develop a regulatory framework to effect control of this fishery until 2008. The Commission, with the support of its advisory bodies, therefore passed a regulation for a one-fish halibut bag limit for sport guided charter fishing in Area 2C from June 15 - July 31, 2007 and for Area 3A from June 15 - 30, 2007. These bag limit regulations will be effective until the implementation by the U.S. government of domestic regulations to achieve halibut mortality reductions consistent with those that would be achieved by the IPHC recommendations. The Commission takes this action with some reluctance but believes the action to be necessary, given the magnitude by which the charter/guided catches exceeded the GHL limits and the belief that such overharvesting puts at risk the achievement of IPHC management goals for the halibut stock.

Other Actions

The Commission spent considerable time discussing migration, coastwide stock assessment versus closed-area stock assessment, and apportionment among regulatory

areas. The Conference Board and Commission staff recommended a workshop be held to allow the industry and agencies to better understand the coastwide stock assessment model. The Commission staff was tasked with determining the best method for the workshop and review, in consultation with the respective agencies.

In addition, the Conference Board requested a report on the effects of hook straightening and careful release in relation to halibut viability. The Commission staff will complete a report prior to next year's Annual Meeting. The Commission will continue its research in Areas 4B and 4CDE, which was also highlighted by the Conference Board.

The Commission honoured Mr. Dylan Hardie of Courtenay, B.C. as the fifth recipient of the IPHC Merit Scholarship. Mr. Hardie was presented with a certificate and plaque, as well as the scholarship of \$2,000 (U.S.). The Commissioners expressed their continued support for the scholarship program and commended the Scholarship Committee for their efforts in assessing the candidates.

The recommended regulations for the 2007 halibut fishery will become official as soon as they are approved by the Canadian and United States Governments. The Commission will publish and distribute regulation pamphlets.

The next Annual Meeting of the Commission is planned for Oregon, at or near Portland, from January 22 to 25, 2008. The United States Government Commissioner, Dr. James W. Balsiger of Juneau AK, was elected Chair for the coming year. The Canadian Government Commissioner, Dr. Laura J. Richards of Nanaimo B.C., was elected Vice-Chair. Other Canadian Commissioners are Clifford Atleo (Port Alberni, B.C.) and Gary Robinson (Vancouver, B.C.). The other United States Commissioners are Ralph Hoard (Seattle, WA) and Phillip Lestenkof (St. Paul, AK). Dr. Bruce M. Leaman is the Executive Director of the Commission.

- END -

Bruce M. Leaman, Executive Director
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United States Department of State

*Assistant Secretary of State for Oceans and
International Environmental and Scientific Affairs*

Washington, D.C. 20520

Dr. James W. Balsiger
Chairman
International Pacific Halibut Commission
P.O. Box 95009
Seattle, WA 98145-2009

MAR - 1 2007

Dear Dr. Balsiger:

On behalf of the Secretary of State, after consulting with and obtaining the concurrence of the Department of Commerce, I accept on behalf of the United States all but one of the recommendations proposed by the International Pacific Halibut Commission (IPHC) for the 2007 Pacific halibut fishery, pursuant to Section 4 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. § 773b), and in accordance with Article III of the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, March 2, 1953 (the "Convention"). The United States does not accept Regulation 25(2)(b)(i) and (ii), which concerns a reduction of daily bag limits for halibut caught from sport charter vessels in Regulatory Areas 2C and 3A.

The Convention establishes a procedure under which the Commission is to conserve and manage the halibut resource in part through the promulgation of regulatory recommendations to the United States and Canada. The Governments of the two Parties must then determine whether to approve those recommendations.

This year, the IPHC – acting within its mandate to conserve the halibut resource – recommended to the United States that restrictions be imposed on the sport charter fleet operating off the coast of Alaska so that IPHC management objectives could be achieved in Areas 2C and 3A for the 2007 fishing season. For the last several years, the Alaskan sport charter fleet has exceeded the recommended guideline harvest levels (GHLs) established by the North Pacific Fishery Management Council process in those two areas, and domestic management agencies have not yet implemented regulations designed to effectively bring the harvest within the GHLs.

The Departments of State and Commerce share with the IPHC the goal of effective, long-term conservation of the halibut resource, and we commend the IPHC for its regulatory recommendations designed to achieve this objective. We understand that the North Pacific Council also has been engaged in a process to secure effective management of the Alaskan sport charter fleet in the long-term. The Departments therefore undertook consultations to determine how best to manage the Alaskan sport charter fleet for the 2007 fishing season, pending a comprehensive resolution of this issue through the Council process.

For the 2007 fishing season, we have received assurances that the State of Alaska will exercise its regulatory authority to restrict retention of halibut by charter skippers and crew in both Areas 2C and 3A. Additionally, the Secretary of Commerce has embarked on a process for the development of regulations with a view to imposing in Area 2C regulations that would reduce halibut mortality to levels comparable to those that would be achieved through implementation of the proposed IPHC sport charter regulation for the 2007 season. The Department of Commerce is also actively working with the State of Alaska to enhance monitoring and compliance of charter regulations.

The Department of State appreciates that this approach for the 2007 season will not fully satisfy all interested people or organizations. The Department notes with disappointment that the IPHC recommendation in question arose in part due to the inability of domestic processes in the United States to resolve this matter previously. We therefore strongly encourage the North Pacific Council, the State of Alaska, and all affected agencies and stakeholders to develop comprehensive measures to resolve this issue for 2008 and beyond. The long-term interests of the resource demand such a result.

The Department of State commends the IPHC for its stewardship of the Pacific halibut resource and its leadership in effective bilateral fisheries management. Throughout the 80 years of its existence, the IPHC has facilitated unprecedented cooperation between the United States and Canada and has successfully managed the shared halibut stock to historically high biomass levels. The entire regulatory package proposed by the IPHC for the 2007 halibut fishery is consistent with the IPHC's tradition of conserving the valuable Pacific halibut resource. We are pleased to accept all of the IPHC recommendations, except Regulation 25(2)(b)(i) and (ii). The Department of Commerce will shortly publish regulations consistent with these recommendations in order to provide public notice of their effectiveness.

Sincerely,

A handwritten signature in black ink, appearing to read "Reno L. Harnish". The signature is written in a cursive style with a horizontal line at the end.

Reno L. Harnish, Acting

cc: Mr. Bruce Leaman, Executive Director, International Pacific Halibut
Commission



Contact: Sheela McLean
(907) 586-7032

FOR IMMEDIATE RELEASE
March 6, 2007

NOAA FISHERIES BEGINS RULEMAKING FOR CHARTER HALIBUT FISHING IN SOUTHEAST ALASKA

Despite recent rejections of new restrictions to the Alaska halibut charter boat fleet, NOAA Fisheries Service and the state Department of Fish and Game are working to develop new management measures to help fishers avoid exceeding harvest levels.

NOAA Fisheries Service Alaska Region has initiated a rule-making process that will make changes in regulations for fishing for the charter halibut industry in southeast Alaska (area 2C).

This year, the International Pacific Halibut Commission (IPHC) recommended that the United States impose bag limit reductions on the sport charter fleet operating in south central (area 3A) and southeast Alaska. The IPHC recommendation came in response to the sport charter fleet having exceeded guideline harvest levels established by the North Pacific Fishery Management Council.

On March 1, 2007, the U.S. Department of State informed the IPHC that the United States did not accept the IPHC recommendation that concerned the reduction of daily bag limits for halibut caught from sport charter vessels in areas 2C and 3A. NOAA Fisheries Service is concerned that with the rejection of restrictions on the charter halibut boat fishing, recommended harvest limits will be exceeded.

"The specifics of the new restrictions will obviously need to be resolved through analysis of available biological, catch, and effort data as well as evaluation of public comments obtained during the rule making process. It is our intention to have the new rule in effect by June 1, 2007," said Doug Mecum, acting Alaska regional administrator for NOAA Fisheries.

"We believe it is appropriate to focus our efforts on analysis of alternatives for area 2C that include a two-halibut bag limit, with one of those halibut required to be of a certain size, for example a 32-inch minimum size or a trophy minimum size," Mecum added.

All of the other recommendations proposed by the IPHC were accepted.

The Alaska region of NOAA Fisheries is working with the state Department of Fish and Game to identify and discuss management measures other than a one-fish bag limit that could achieve halibut mortality reductions consistent with the goals of the IPHC recommendations. For example, in area 3A, a department of fish and game emergency order will restrict fishing for charter halibut skippers and crew in order to reduce halibut mortality by an amount comparable to the June 15 to June 30 one-fish bag limit proposed by the IPHC. This action will eliminate the need for federal rule making for the area 3A charter fishery.

Because the skipper and crew restriction alone is not adequate to reduce charter halibut mortality in area 2C to desired levels, NOAA Fisheries has initiated the separate regulatory action to address this issue. In addition to halibut mortality savings, the objective of NOAA Fisheries in implementing the substitute restrictions for area 2C are to minimize negative impacts on the charter fishery and its sport fishing clients, the coastal communities that serve as home ports for this fishery, and on fisheries for other species.

NOAA Fisheries Service is dedicated to protecting and preserving our nation's living marine resources through scientific research, management, enforcement, and the conservation of marine mammals and other protected marine species and their habitat. To learn more about NOAA Fisheries in Alaska, please visit our websites at www.fakr.noaa.gov or at www.afsc.noaa.gov

The National Oceanic and Atmospheric Administration, an agency of the U.S. Commerce Department, is celebrating 200 years of science and service to the nation. From the establishment of the Survey of the Coast in 1807 by Thomas Jefferson to the formation of the Weather Bureau and the Commission of Fish and Fisheries in the 1870s, much of America's scientific heritage is rooted in NOAA.

NOAA is dedicated to enhancing economic security and national safety through the prediction and research of weather and climate-related events and information service delivery for transportation, and by providing environmental stewardship of our nation's coastal and marine resources. Through the emerging Global Earth Observation System of Systems (GEOSS), NOAA is working with its federal partners, more than 60 countries and the European Commission to develop a global monitoring network that is as integrated as the planet it observes, predicts and protects.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

March 22, 2007

RECEIVED
MAR 22 2007
N.P.F.M.C.

Stephanie Madsen, Chair
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Dear Madam Chair:

In January 2007, the International Pacific Halibut Commission (IPHC) acted to recommend commercial fishery catch limits and other regulatory changes for 2007 to the Secretary of State for review and approval. These IPHC recommendations were designed, as they have been for more than eight decades, to achieve effective, long-term conservation and management of the Pacific halibut resource in the waters of the U.S. and Canada from Alaska to California. We share this goal, of course, for all of our marine fishery resources.

Among the regulatory recommendations by the IPHC for 2007, however, was one to reduce the sport fishing daily bag limit for anglers fishing from charter vessels in IPHC Regulatory Areas 2C and 3A for certain periods. Specifically, the IPHC recommended reducing the existing daily bag limit from two halibut per person to one halibut per person in Area 2C during the period June 15 through July 31, 2007, and in Area 3A during the period June 15 through June 30, 2007. The IPHC took this action because of the magnitude by which the charter fishery's harvest of halibut has exceeded the Council's guideline harvest level (GHL) in each area in recent years, and the IPHC's belief that "...such overharvesting puts at risk the achievement of IPHC management goals for the halibut stock" (IPHC news release January 22, 2007). The IPHC delayed the effectiveness of its action until June 15, however, to afford the U.S. opportunity to resolve the issue with domestic regulations that would achieve comparable reductions in halibut catch mortality in these two areas.

Agency Response

While the Council and NMFS also share the IPHC's concern about the growing harvests by the charter vessel sector, it is this agency's opinion that domestic regulatory and fisheries management processes are more appropriate for management of the harvest by this sector than is an international organization. We determined that, through a combination of Alaska Department of Fish and Game (ADF&G) and Secretary of Commerce (Secretary) regulatory authority, we could achieve a reduction in the charter vessel sector's harvest that would be comparable to that of the IPHC-recommended bag limit. Consequently, on March 1, 2007, the Secretary of State informed the IPHC that all of its regulatory recommendations were accepted, except for the reduction of the daily bag limit from two halibut to one halibut per person. The annual management measures for halibut were published subsequently on March 14, 2007 (72 FR 11792), reflecting all of the IPHC recommendations except for its bag limit reductions for



anglers fishing from charter vessels. Hence, the current sport fishing regulation for halibut in all waters off Alaska includes a bag limit of two halibut of any size per day per person (sec. 25(2)(b)).

The authority to reject an IPHC recommendation is contained in the Northern Pacific Halibut Act of 1982 (Halibut Act). Section 773b of this statute states that "the Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission...." The Department of State's action to reject the IPHC-recommended bag limit reduction for charter vessel anglers fishing for halibut in Areas 2C and 3A was predicated, however, on an understanding that the harvest of halibut by sport charter vessel fleet in these areas should be controlled in 2007 and future years. The fact that the Council is actively working on management measures for the charter vessel fleet for 2008 and beyond was acknowledged and supported by the Department of State. For 2007, NMFS assured the Department of State that, in cooperation with ADF&G and using the Federal regulatory process, we could achieve comparable reductions in the charter vessel harvest of halibut in a manner that would be less damaging to the charter vessel industry.

Area 3A

For Area 3A, the Commissioner, ADF&G, issued an emergency order on January 26, 2007 (No. 2-R-3-02-07), prohibiting a sport fishing guide and a sport fishing crewmember working on a charter vessel in salt waters of Southcentral Alaska from retaining fish while clients are onboard the vessel. Also, the emergency order limits the maximum number of lines that may be fished from a charter vessel to the number of paying clients onboard the vessel. This emergency order will be effective from May 1, 2007, through December 31, 2007. ADF&G estimates that this action will reduce the harvest of halibut on charter vessels in Area 3A by 7.7 percent to 10.6 percent of the 2006 harvest or 306,000 lb (138.8 mt) to 421,000 lb (191.0 mt). Assuming the charter halibut fishery in Area 3A in 2007 is similar to the fishery in 2006, this reduction in the charter halibut harvest is expected to produce a total charter halibut harvest of about 3.662 million lb (1,661.1 mt) to 3.547 million pounds (1,609.3 mt), a volume range that brackets the GHL for Area 3A. Hence, we will rely on the effectiveness of ADF&G's emergency order by itself to make comparable reductions in the charter vessel halibut harvests in Area 3A. No further regulatory action by NMFS is considered necessary to manage the 2007 charter vessel halibut fishery in Area 3A.

Area 2C

In Area 2C, an emergency order to prohibit retention of fish by charter vessel guides and crewmembers in Area 2C also was issued by ADF&G in 2006, and again in 2007 (No. 1-R-02-07). This action alone, however, is not expected to reduce the 2007 charter vessel harvest of halibut to levels comparable to the IPHC-recommended bag limit reduction, an amount estimated to range from 397,000 lb (180.1 mt) to 432,000 lb (195.9 mt). Regulatory action to remedy this problem by June 2007 would require the Secretary to develop regulations independent of the Council process.

We have started this regulatory process and expect a proposed rule to be published in early April with an abbreviated public comment period of two weeks. We are attempting to have a final rule in effect by June 1, 2007. No effective period ending date is proposed. If approved and implemented, our regulation for the Area 2C charter vessel fishery would remain in effect until replaced or superseded by subsequent Council and Secretarial action.

We developed a suite of alternative management measures for analysis in an environmental assessment/regulatory impact review/initial regulatory flexibility analysis. Our goal in selecting and assessing alternative management measures was to reduce sport fishing mortality of halibut in the charter vessel sector in Area 2C to a level comparable to the level that would be achieved by the IPHC-recommended regulations and in a manner that would reduce adverse impacts on the charter fishery, its sport fishing clients, the coastal communities that serve as home ports for this fishery, and on fisheries for other species.

The one-fish bag limit recommended by the IPHC would have had negative economic impacts on the charter vessel industry in Area 2C. Comments from charter vessel guides before, during, and after the IPHC meeting in January 2007, indicated that changing the bag limit for anglers on charter vessels from two fish to one fish per day for a six-week period from June 15 to July 31 would have an adverse impact on charter vessel bookings that had already been, or were in the process of being, made for the 2007 season. This change was perceived by the affected public as adversely affecting demand for guided charter services during that period. Charter vessel operators and representatives stated that the ability to offer an opportunity to harvest more than one fish was important for their charter business. Hence, we considered but rejected a one-fish daily bag limit as recommended by the IPHC because it would not preserve a two-fish bag limit and limit adverse impacts on the guided sport industry. Other alternatives considered and fully analyzed in the analysis include:

- (1) No action—the daily bag limit would be two halibut per day;
- (2) A two-halibut daily bag limit but require at least one of the retained fish to have a minimum size of four optional lengths—45 in (114 cm), 50 in (127 cm), 55 in (140 cm), or 60 in (152 cm);
- (3) A two-halibut daily bag limit but require both retained fish to be at least 32 in (81.3 cm) long; and
- (4) Preferred—a two-halibut daily bag but require at least one of the retained fish to have a maximum size of no more than three optional lengths—30 in (76 cm), 32 in (81 cm) (Preferred), or 35 in (90 cm).

The Proposed Action

Our preferred alternative, as indicated above, would allow an angler fishing from a charter vessel in Area 2C to harvest one halibut of any length but require that another halibut be no longer than 32 in (81.3 cm) with its head on. If only one halibut is retained by a sport charter vessel client, it could be of any length. ADF&G has estimated that this maximum size restriction for one of two potential fish taken by charter vessel clients would reduce the overall harvest in Area 2C by the charter vessel sector by about 425,000 lb (192.8 mt). This poundage reduction would be about 98 percent of the maximum amount of the poundage range that could be reduced as a result of the IPHC-recommended one-fish bag limit during the six-week period, June 15 - July 31. This

alternative would provide an appropriate reduction in charter vessel harvest in Area 2C while also reducing the potential difficulties with a minimum size limit. Specifically, charter operators fishing in waters where small halibut are typically caught would likely be able to provide their clients with a good chance of harvesting two fish. This maximum size limit also would likely reduce the bycatch and catch-and-release mortality that would be expected from searching for a "trophy" fish of larger than the minimum size limit.

The status quo alternative of allowing a two-fish bag limit without further restriction would not reduce the charter vessel halibut harvest below what it was in 2006. This alternative also would be counter to our commitment to substitute a regulation for the IPHC-recommended bag limit reduction that would result in a comparable reduction in charter vessel harvest of halibut.

Alternative 2 could reduce the charter vessel sector harvest in Area 2C by an estimated 434,000 lb (196.9 mt). Anecdotal information suggests, however, that a minimum size limit may disadvantage charter businesses operating in areas where small halibut are more predominate than large halibut. This restriction could be a de facto one-fish bag limit for operators in areas with fewer large halibut. In addition, a minimum size limit would stimulate searching for big halibut which could result in increased catch-and-release mortality of smaller fish. The increased search for the "trophy" sized fish also could increase the bycatch of other species such as rockfish, which typically do not survive being caught and released, or lingcod.

Alternative 3, would not result in a reduction of poundage taken by the charter vessel sector, and could have the reverse effect.

We look forward to working with the Council as it considers management measures for the charter halibut fishery for implementation in 2008 and beyond.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

CHARTER IFQ STAKEHOLDER COMMITTEE
Draft Minutes
Anchorage Alaska
February 27-28, 2007

Dr. Dave Hanson, Chair

Seth Bone

Bob Candopoulos

Ricky Gease

John Goodhand

Kathy Hansen

Kelly Hepler (1 day)

Dan Hull (absent)

Joe Kyle (absent)

Larry McQuarrie

Rex Murphy

Chaco Pearman

Greg Sutter

Staff Jane DiCosimo, Nicole Kimball, Darrell Brannan, Doug Vincent-Lang, Sue Aspelund, Scott Meyer, Mike Jaenicke, Jay Ginter, John Lepore, Jonathan King

Public Bob Ward, Donna Bondioli, Bob Howard, Ed Hansen, Dan Falvey, Rhonda Hubbard, Ken Dole

Agenda The committee adopted the draft agenda after rescheduling its discussion of the permanent solution alternatives to the first day of the meeting.

Moratorium/Limited Entry Analysis The committee supports final action by the Council to implement a moratorium on entry into the charter halibut fisheries in Area 2C and Area 3A. The draft of the committee's recommendations is attached (Appendix I). Inclusion of part time operators in the program is critical to its approval, but could markedly increase latent capacity if those permits are transferred to full time operators. The committee recommended that the limited entry program should be viewed as the first step in rationalizing the fleets, with the permanent solution including a mechanism to limit the use of the permits. Alternatives are being examined which would award a share of a future allocation to the charter sectors to be based on either pounds harvested or client days. The committee urges the Council to begin such an analysis, once the committee completes its recommendations at its next meeting. Specific recommendations to the Council on features of the moratorium program follow.

The committee recommended that the Council exclude military vessels (which occur in Area 3A only) from the limited entry program and from the GHL (harvests would be accounted with non-guided sport harvests). The motion passed with some abstentions.

The footnote to the proposed program under Alternative 2 notes that "Military (Morale, Welfare, and Recreational) boats would not be required to meet the qualification requirements of the program, and harvests will not count against the halibut charter GHL." The committee recommended that the following language to the committee recommendations be added: "However, if the Council chooses to continue to allow harvest from these military boats to count against the GHL, then the moratorium permits issued to the military should be limited similarly to the CQE program. For example, the permits issued to the military should be non-transferable and capped at 4 permits total."

The committee noted that a number of fishing clubs that provide corporate entertainment (i.e., fishing trips) may continue to harvest halibut, as draft Senate Bill 12 may exempt them from state licensing requirements.

The committee had no comment on Issues 1, 3, 4, and 8.

Issue 2 (area designations for permits) The Committee recommended that **permit holders, who have history in both areas, may be issued two permits, but only one can be used on any given trip.** Upon initial issuance, the recipient will select which permit is transferable, and which permit is non-transferable.

Issues 5 (permit transfers) and **10** (eligibility) Staff clarified that a permit would be issued to the business owner. While history is earned based on evidence of participation on a particular vessel, the issued permit would not be linked to any vessel. The committee recommended a **two tier approach, with a lower threshold for permit eligibility (5 trips) and a higher threshold for permit transfers (20 trips).** Issue 5, Suboption 1 would prohibit transfers of issued permits for individual vessels that qualified at trip levels less than 20 trips, as reported in the ADF&G logbook. This recommendation is linked to Issue 10, Option 1: Each licensed guide business owner(s) who reported a minimum of 5 trips during 2004 or 2005 and year prior to implementation would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period. A motion was made that if the Council did not take the committee's recommendation of a low threshold combined with the higher threshold for permit transfers, then the committee recommends a higher threshold for permit eligibility. [A motion failed, which would have set the minimum threshold under Issue 5 at 1 trip. Another motion failed, which would have required participation in all years prior to implementation (not just one year prior).]

The committee noted that the Council could specify that the minimum threshold for the "year prior to implementation" could be tied to logbooks that reported halibut effort instead of bottomfish effort because ADF&G began collecting halibut data in the logbook program in 2006. This could be part of the implementation plan by NMFS, and should be adopted by the Council.

The committee also noted that a potential permit applicant could meet the activity requirement for the year prior to implementation by leasing seats on other charter boats and filing logbooks during that critical year to qualify to receive an additional permit. This could result in increased latent capacity that might otherwise have dropped out of the fishery. The committee did not identify a solution.

The committee did not recommend any action for the Council to take to prohibit leasing; therefore **Issue 6 could be deleted by the Council.** It noted that leasing in the charter fisheries is probably impossible to define, with many ways to circumvent any definition.

The committee discussed footnote 7 to **Issue 6**, which states: "*Halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. The permit number must be recorded on the logbook for each trip.*" After learning that the language was proposed by the State of Alaska and adopted by the Council, it suggested that linking a permit to a vessel through the logbook would be an unnecessary constraint. The committee recommended **allowing the use of a permit on more than one boat, but no more than one boat per day.**

Issue 7 (client endorsement) The committee recommended that **permits be issued with an endorsement equal to the highest number of clients on board** that was recorded on the logbook in 2004 or 2005. This is consistent with the committee's previous recommendation. [A previous motion in support of Suboption 2 (Council's preliminary preferred alternative that added an upper limit to the endorsement of 8 clients in Area 2C and 20 clients in Area 3A) failed.]

Issue 9 (evidence of participation). The committee recommended that **evidence of participation in “the year prior to implementation” be required to be for halibut, instead of bottomfish**, since ADF&G began collecting such data again in 2006. This is consistent with the committee recommendation under Issue 5. However, the committee noted that ADF&G can not accurately identify what species was the target of a trip, as many trips target multiple species.

Issue 11 (use caps) The committee recommended **no more than 5 permits per business owner**. The committee recommended a clarification of the footnote for this issue, *“A business whose permit is endorsed in excess of the use cap maintains that exemption for those permits that remain in its control after other permits are sold, but those sold permits lose that grandfather status in perpetuity. Grandfathered permits that are sold in total when a business owner sells his entire business/fleet maintain that grandfathered status. Grandfathered status refers to permits, not to vessels,”* such that a permit holder can split off a permit(s) and the remainder would stay grandfathered with the sale of the entire business.

Issue 12 (communities) The committee discussed the Council’s preferred Option (#2) which would set a use cap of twice the cap selected under Issue 11, but recommended that no more than 4 permits to a Community Quota Entity (CQE), representing a community in which **5 or fewer** active charter businesses terminated trips in the community in each of the years 2004 and 2005. This was intended to reinforce that the CQE program is for the community and should not impact other charter halibut businesses already in those communities.

State of Alaska reports Kelly Hepler reported that a State limited entry program for the Alaskan sport fishing guide industry would not occur in 2007. A State limited entry stakeholder group, which supported introducing such legislation, continues to meet. Proposed legislation to allow sharing of State data with Federal enforcement agencies (necessary for the moratorium program) may be passed in 2007. **The committee recommended that the Council send a letter supporting the proposed legislation to the State.**

The committee next reviewed a draft paper on State management of the charter halibut sector under delegated authority to the State of Alaska. It discussed the timeline for implementation of Council action and noted that the Council may resolve management issues before the State has regulatory authority. The committee did not support proposed State management, but did not vote on the issue.

Permanent solution alternatives As adopted by the Council in December 2006, there are two actions in the Council’s suite of alternatives for a permanent solution. The first action is to set an allocation, with seven options for the formula to determine the allocation and several options to determine a mechanism to increase the charter sector above that new allocation by allowing the transfer of commercial quota for use in the charter sector. This assumes that the limited entry program would continue, and that restrictive measures would be implemented (perhaps separately under an annual process through either the Council or the State, if the Halibut Act is amended and the Council recommends changes to the Federal regulations to delegate limited authority to the State of Alaska) to keep harvests from exceeding the allocation. The second action would issue shares of the charter sector’s allocations to individual operators, either as “transferable seats” (also called “angler days”) or as IFQs (numbers of fish) or further refine the limited entry program.

A discussion paper on the long term solutions was prepared by Kathy Hansen and is posted on the Council’s halibut website¹. Elements of each proposed alternative are listed. The last section includes a discussion of mechanisms to finance a compensated reallocation of commercial quota to the charter

¹ http://www.fakr.noaa.gov/npfmc/current_issues/halibut_issues/halibut.htm

sector. These mechanisms would be included in an appendix to the analysis of permanent solution alternatives, but would not be subject to Council action or federal regulations. Some committee members planned to meet in March with State and Federal staff to identify viable financing options to purchase commercial QS for reallocation to the charter sector.

The committee worked from an edited version of the Council's Allocation/Share-based Alternatives and Options provided by Kathy Hansen. The draft that was adopted by the committee is attached (Appendix II). Specific issues that were discussed in more detail are provided below.

The committee began its review of proposed alternatives and options with the charter quota share alternative. A new issue was raised by Rex Murphy. He asserted that some charter operators intentionally target smaller halibut or catch and release fish, and any allocation that uses weight instead of numbers as part of the allocation formula would not be fair to that business model. This ended up being addressed under issue 7.

Under Issue 2, John Goodhand suggested that the initial issuance could be ground truthed by using the success rate from the 2006 logbooks. The success rate for each individual operator would be figured by taking the number of halibut harvested by the number of clients. The intent of using the success rate is to more closely match the bottomfish effort in the earlier logbooks with the poundage harvested. The success rate (lb fish/angler) be factored in to the Quota Share Alternative for initial issuance. The committee recommended that a correction factor be considered for initial issuance, and would be further developed by ADF&G staff if the Council concurred with this approach.

The committee recommended changing Issue 2 option 2 to be the best 3 out of the most current 6 years.

On **Issue 7** (numbers of fish), the committee recommended a **new option to issue Charter IFQs in pounds**. Because some operators target smaller fish, it would cost more to purchase an equivalent amount in pounds for those operators. For those that target bigger fish, they can purchase their needed amount of QS cheaper.

Issue 9 (community set aside) The committee discussed the two options to fund the community allocation: 1) split equally between the commercial and charter sectors; and 2) proportional to allocation between sectors. The committee recommended that **proportional contributions to the set aside be preferred alternative**. The motion was not unanimous.

Under the Alternative for an allocation to the charter sector, the committee deferred discussion on Issue 1 (allocation formula) to a later agenda item to review a staff discussion paper.

Issue 2 (overage/underage) The committee recommended a new option for separate accountability for each sector (see True Accountability proposal on the Council website). The committee recommended that **Issue 1 be annotated to explain that allowing overage and underages to be transferred across commercial and charter sectors (as proposed under Issue 2, Option 1) is needed for compensated reallocation funding mechanisms**.

The committee discussed an eligibility suboption and recommended that it be rewritten. Staff recalled that it was written specifically to allow only those charter operators who also met commercial eligibility requirements to transfer the use of charter QS for commercial use. No ownership change would occur; the same charter operator could use the QS in either fishery. No change was made to the suboption, but the committee felt that the suboption was too limited in its application.

The committee noted that previous staff objections to using the 10 percent overage/underage provisions to fund the compensated reallocation was not part of a current proposal to allow 10 % of a commercial QS holder's IFQs to be leased to the charter sector annually. The 10 % limit is intended to limit leasing and not significantly change the commercial QS program by allowing investors to purchase and hold QS for the purpose of leasing.

The committee recommended that a **revised suite of alternatives should include a limited entry alternative that allows for state delegation**, although some identified it the least desirable approach. It was also identified by some as another interim approach to the long term solution. Staff recommended that the committee not recommend a suite of management tools in the permanent solution analysis, based on previous legal guidance.

The committee recommended to **not require renewal of the limited entry permit**. It recommended **adding options to require the vessel name on the permit**. It recommended **adding suboptions for a minimum threshold of 20, 40, 60, 80 client days be required for the permit to be eligible to be transferred**. It recommended **developing a sub-option that the limited entry permits be split into sub-classes of permits** with an A class permits for those boat that qualify with over 80 trips; B class 60-79 trips; C class 40-59 trips and D class permits 20 -39. It recommended **adding a suboption to allow a permit to be leased for 2 out of 5 years**. The committee discussed including a decision point on which agency would actively manage the charter sector (Option 1 - NPFMC; Option 2 - ADF&G under delegated authority; and Option 3 - NPFMC under a catch sharing plan). Staff recommended that these options not be included in the permanent solution analysis, but be decided by the Council before the analysis begins. The issue of who would manage could be addressed by staff in the cumulative effects section of the environmental assessment as potential future actions, but would complicate the analysis immensely if they were included as action items.

Rex Murphy introduced a motion in support of his **Harvest Tickets/Murphy Plan**, which would issue harvest tickets to the charter client on a first come, first serve basis. The motion failed after committee discussion.

Under a revised Transferable Seat Alternative, the committee recommended **adding permit renewal options** (these were not adopted into the limited entry with allocation alternative). It recommended that the analysis describe how the number of angler days would be determined each year. It recommended a **new suboption under Option 3** for a correction factor to initial allocation. To ground truth past logbook data, an operator's success rate for 2006 (total number of halibut divided by the total number of clients) would be multiplied by his/her total client days and the average weight of the fish. This would reward operators who targeted halibut rather than operators who target other (rockfish and lingcod) species. As with all logbook data issues, staff noted that they can not estimate effort based on what species were being targeted, but only on halibut harvests due to the multi-species nature of most charter operations.

The committee recommended adding a **new option for determining of angler days**. The committee recommended that "seats" float with abundance (and catch rates). An operator's share would be issued as a percentage of the total pool of angler days. That share would be divided into the charter sector's allocation (assuming that the allocation is a percentage) to determine an individual's number of seats for that season. Under a fixed poundage allocation, those angler days would be fixed. The committee was interested in applying different catch rates by subarea, but the subareas have yet to be recommended by the State. The committee discussed that a smoothing of the total pool could be used, instead of the previous year's success rate. *ADF&G staff was asked to develop an approach for consideration at the next committee meeting, if the Council concurred with this approach.*

The committee briefly discussed how to set endorsements for limited entry permits issued to communities, since there is no harvest history associated with those permits. The committee suggested 25, 50, or 75 client days to begin the analysis.

One committee member noted that if charter QS cannot transfer to the commercial, then there needs to be cap on the amount of commercial QS that can be transferred to the charter sector to provide entry opportunities in the commercial sector.

Allocation discussion paper The committee briefly reviewed the Council's allocation paper. The committee identified potential benefits of separating the allocation and management measure decisions, but recommended that both actions be linked for simultaneous implementation to avoid the pitfalls identified in the paper.

Council policy The committee recommended that the Council consider setting a policy to maintain the traditional (2-fish) bag limit, preserve historical length of the charter season, and as much as possible, prevent any in-season management measures. This motion passed, with 1 objection.

Allocation option corrections The committee recommended that the Council correct the options listed under the Allocation alternative, based on revised data by ADF&G staff. These corrections are noted below:

formula	Area 2C	Area 3A
a. 125% of average harvest of 2000-2004, translated to percentage	16%	15 15%
b. equal to the 1995-99 GHY, translated to percentage	13%	14%
c. percentage of combined 2004 commercial/charter catch	14 14%	13%
d. convert current GHY into percentage based on 2004	12%	13%
e. equal to 2005 charter harvest, translated to a percentage	15 15%	13%

Sport bycatch mortality Scott Meyer (ADF&G) presented information on Area 2C sport halibut bycatch mortality. These results will be used in the Area 2C GHY analysis and in a forthcoming discussion paper that was requested by the Council for the March 2007 meeting. He reported that fish caught on circle hooks tend to be lip hooked, while fish caught on baited J hooks are hooked deeper more often.

Using ADF&G logbook data, he separated data into bottomfish or salmon-targeted trips, or both. He made assumptions about the proportions of halibut released on circle hooks versus other hook types when bottomfish or salmon are targeted. A release mortality rate of 3.5 % was assumed for halibut released from circle hooks. This is the same rate assumed by the IPHC for halibut caught on longline gear in the commercial fishery and released in excellent condition. A lower rate could have been assumed, based on a 1969 IPHC study, but not all sport-caught fish are released in excellent condition. All other hook types were assumed to have a 10% rate based on other studies of release mortality in marine recreational fisheries. Weighting the numbers of fish released in each target category by the hook types used and their assumed mortality rates resulted in an overall release mortality rate of about 5%.

A motion to request that the Council recommend that J hooks be required when targeting halibut with bait in the charter fisheries failed, after staff reviewed the recent discussion by the IPHC for a similar proposal. The IPHC rejected it because a requirement to use J hooks when a vessel intends to harvest halibut is not enforceable. Also, charter fisheries target multiple species and anglers catch halibut when salmon fishing using J-hooks. For the same reason, the committee was generally opposed to mandatory requirements to use circle hooks.

New business Council member Ed Rasmuson presented a draft proposal for resolving the long term issues. Under the **Rasmuson proposal**, the GHYs would be reset as a (hard) allocation that reflects

current harvests. It would allow the GHL to grow to meet future market conditions by compensating the commercial sector for the reallocation. It would amend the commercial halibut IFQ program to allow the State of Alaska to purchase quota shares and increase the charter sector's allocation and lease unused IFQs back to the commercial sector. A number of details are yet to be identified, such as the funding mechanism. The committee asked a few questions on the details of the proposal but declined to comment further because members had not had sufficient opportunity to study the proposal and it lacked key detail. The committee noted that it contained elements from many of the options currently in the suite of permanent solution alternatives. A working group on funding mechanisms will add a review of the proposal to its agenda.

New business A motion failed, which recommended that the Council initiate a new analysis for a **Crossover Proposal**. The intent of the proposal was to allow transfers between individuals of the commercial and charter sectors to allow exemptions from the 1-fish bag limit or similar management measures. Instead, the proposal will be reviewed by the working group on funding mechanisms.

New business The committee recommended a "**grandfather clause acquisition exemption**" under the IFQ alternative in the permanent solution analysis. If the CEY decreases from the CEY at initial issuance in the charter QS holder's area, the QS holder could acquire additional shares to compensate for such decline. The charter QS holder could only use such additional shares in any year to the extent those shares are required to bring the QS holder's number of fish back up to the number of fish at initial issuance.

Next Meeting The committee will convene on April 12-13, 2007 to complete its recommendations on the suite of alternatives and options for a permanent solution for the charter halibut fisheries in Areas 2C and 3A and other business.

Discussion Paper
**Proposed process the State of Alaska would use to implement a
delegated authority to manage recreational Pacific halibut fisheries**

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Alaska Department of Fish and Game
Anchorage, Alaska

Unlike the fisheries for many other marine species in the United States, Pacific halibut (*Hippoglossus stenolepis*) are currently managed exclusively under Federal regulations. Although this species is commonly found within the boundaries of Alaska, Washington, Oregon, and California (States), State responsibility and authority to manage Pacific halibut fisheries is virtually non-existent. This, coupled with a prolonged federal regulatory process, has caused difficulty in managing recreational halibut charter fishery within existing allocations. The benefits of integrating regulations for the recreational halibut charter fishery with existing State regulatory regimes for recreational fisheries has raised the idea of changing the existing Federal statutory authority to allow for greater authority for the States. A discussion paper prepared by the National Marine Fisheries Service (NMFS) discusses the potential regulatory effects of this proposed regulatory change¹. This companion paper discusses the process the State of Alaska would employ under a limited delegated authority.

Proposed Statutory Change

The Alaska Department of Fish and Game has sought to remedy this problem by proposing a change to the Halibut Act that would explicitly provide for a delegation of limited authority to the State of Alaska to regulate recreational fishing for halibut. The proposed change would add a new paragraph (d) to 16 U.S.C. sec. 773c which would read as follows:

(d) Delegation of Authority to States

(1) A state may regulate recreational fishing for halibut in the United State portion of Convention waters in and contiguous to that state, provided that the—

(i) Secretary approves a recommendation by the Regional Fishery Management Council having authority for the geographic area covered to authorize the state to regulate recreational fishing for halibut;

(ii) state's recreational halibut fishing regulations are consistent with the Convention and with regulations adopted by the Commission and that Council; and

(iii) state's recreational halibut fishing regulations do not discriminate against residents of different states.

(2) For purposes of this section, state regulations will be deemed consistent with approved regulations developed by the Commission or the Regional Fishery

¹ Ginter, J. 2006. Providing authority to state governments to manage Pacific halibut resources, discussion paper on the potential effects of amending the Northern Pacific Halibut Act of 1982. National Marine Fisheries Service, Alaska Region, Sustainable Fisheries Division. Juneau, Alaska

Management Council if the state regulations are as restrictive or more restrictive than the approved regulations developed by the Commission or Council or will otherwise restrain catch to a level equal to or lower than that allowed under approved regulations developed by the Commission or Council.

(3) Each state adopting any regulation under this section shall provide a copy of the regulation to the Secretary and the Commission at least 30 days prior to the date the regulation becomes effective. If the Secretary determines that any state regulation is not consistent with the requirements of this section, the Secretary shall promptly notify the Governor of the state, the Commission, and the Council concerned of such determination, and shall provide a reasonable opportunity for the State to correct any inconsistencies identified in the notification. State regulations shall remain in force until changed unless superseded by regulations of the Secretary or withdrawal of the authority delegated by the Secretary. If after notice and opportunity for corrective action, the state does not correct the inconsistencies identified by the Secretary, the Secretary may withdraw the delegation to the state or promulgate regulations explicitly superseding the state regulations, and such regulations shall remain in effect until the Secretary determines that the State has corrected the inconsistencies.

Proposed Process and Elements of a State Delegation

If this amendment is signed into law, the State of Alaska intends to develop a recreational halibut charter fishery management plan utilizing the Alaska Board of Fisheries regulatory process. The Board process will be used to assure a thorough public process in the development of the management plan and its associated management options. Soon after the amendment is signed into law, a proposal will be submitted to the Alaska Board of Fisheries based on the respective authorities described within Table 1. The proposal will be based on the following:

5 AAC 75.XXX. Recreational Halibut Charter Fishery Management Plan.

- (a) The Alaska Board of Fisheries recognizes the respective authorities of the International Pacific Halibut Commission and the North Pacific Fishery Management Council in managing the Pacific halibut resource under the Northern Pacific Halibut Act of 1982 and the Magnuson-Stevens Fishery Conservation and Management Act.**
- (b) To assure established allocations for the recreational halibut charter fishery established by the Council are not exceeded on an annual basis and that management actions taken towards this objective minimize impacts to charter operations and their clients and to state managed species, the Board delegates to the Commissioner the authority to implement on an area or sub-area basis one or more of the following restrictions as appropriate by emergency order to assure the Area 2C and Area 3A charter halibut allocations are not exceeded:**
 - Establishment of annual limits of 4, 5 or 6 halibut;**

- **Reduction of daily bag and possession limits for halibut to 1 daily and 2 in possession for all or part of the open season established by the IPHC;**
 - **Setting a minimum size limit for one halibut in the bag limit from 40 inches to 60 inches;**
 - **Setting of minimum halibut size limit for one or all retained halibut no lower than the minimum size limit for the directed commercial fishery;**
 - **Prohibiting retention of halibut by skipper/crew;**
 - **Limiting the length of open halibut fishing season; and/or**
 - **Limiting to 1 the number of vessel trips allowed daily.**
- (c) The Commissioner may, by emergency order, adopt regulations that establish reporting and landing requirements necessary to obtain information required to implement this management plan.**
- (d) Any sport fishing guide operator reporting retained halibut in a logbook issued to them must allow samplers access to retained halibut and anglers.**

It is expected that it will take between 2 to 6 months to finalize this management plan through the Board of Fisheries.

Immediately upon final adoption of this plan the State will request a delegation from the Secretary of Commerce under the new amendment to the Northern Pacific Halibut Act of 1982 to manage halibut charter fisheries in IPHC Regulatory Areas 2C and 3A under this management plan. This will require the NPFMC to undertake an EA/RIR/IRFA to approve this delegation. It is expected that this process could take between 6 to 12 months. Once completed, the delegation would remain in effect until it is withdrawn by either the State or the Secretary (through the NPFMC).

Once this process is completed, the Department will immediately begin to utilize the management plan to assure charter harvests remain within established allocation guidelines established by the NPFMC according to the timeline depicted in Table 2. To minimize impacts to charter businesses and their clients, the Department will set a pre-season management regime based on the International Pacific Halibut Commission (IPHC) annual catch limit and the NPFMC's allocation (e.g., the existing guideline harvest levels or a future allocation inked to abundance). The Department will select one or more of the tools listed in the management plan that alone or in combination are sufficient to assure the recreational halibut charter fishery in their respective areas (Areas 3A and 2C or sub-areas thereof) remains within its allocation. This process is very similar to the process the Department currently uses to annually set the management regime for Chinook salmon in southeast Alaska. The goal is to minimize inseason adjustment(s) of the fishery. If necessary, the Commissioner may use his/her regulatory authority under AS 16.05.060 to respond to unforeseen events.

DRAFT

January 16, 2007

The Department will utilize its existing logbook and biological assessment programs to monitor the fishery and the success of its regulatory programs. The Department will annually report its success in managing the recreational halibut charter fleet to the Council and IPHC.

Table 1. Levels of authority for management of recreational halibut fisheries.

IPHC authority

- 1) Responsibility for biological assessment
- 2) Responsibility for establishment of annual catch limits that assure for long-term sustainability of halibut resource
- 3) Responsibility for allocation between signatories (i.e., between nations)
- 4) Responsibility for establishment of regulations necessary for resource conservation (e.g., spawning season closures, minimum size limits)
- 5) Responsibility for establishment of regulatory areas

Federal (NPFMC/NMFS) authority

- 1) Responsibility for allocation between sectors in US waters
- 2) Responsibility for establishment and implementation of limited access programs
- 3) Responsibility for oversight for assuring sector allocations are met
- 4) Responsibility for management of IFQ fisheries
- 5) Joint enforcement responsibility with the State, including data sharing.

State authority

- 1) Responsibility for management of guide and charter boat licensing
 - 2) Responsibility for harvest assessment and reporting
 - 3) Joint enforcement responsibility with NMFS, including data sharing
 - 4) Responsibility to manage within established recreational allocations and conservation guidelines. Proposed management tools² include:
 - Establishment of annual limits of 4, 5 or 6 halibut
 - Reduction of daily bag and possession limits to 1 daily and 2 in possession for all or part of the open season established by the IPHC
 - Setting a minimum size limit for one halibut in the bag limit from 40 inches to 60 inches
 - Setting of minimum halibut size limit for one or all retained halibut no lower than the minimum size limit for the directed commercial fishery
 - No retention of halibut by skipper/crew
 - Limit on the length of fishing season
 - Limit to 1 the number of vessel trips allowed daily
-

² If necessary, the Commissioner may use his/her regulatory authority under AS 16.05.060 to respond to unforeseen events.

Table 2. Annual process used to establish pre-season management regime for the halibut charter fishery under the Recreational Halibut Charter Fishery Management Plan.

January	IPHC sets catch limits, determination is made as to what the charter allocation is.
January/ February	ADFG meets with charter industry to set management regime for fishery.
March	Emergency Order establishing current year fishery regime issued.
Fishing Season	Fishery tracked using logbooks and port sampling.
November/ December	Report to NPFMC and IPHC on recreational removals.

* * * * *

Providing Authority to State Governments to Manage Pacific Halibut Fisheries

Discussion Paper on the Potential Effects of Amending the Northern Pacific Halibut Act of 1982

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Unlike the fisheries for many other marine species in the United States, Pacific halibut (*Hippoglossus stenolepis*) are managed exclusively under Federal regulations. Although this species is commonly found within the boundaries of Alaska, Washington, Oregon, and California (States), State responsibility and authority to manage Pacific halibut fisheries is virtually non-existent. This has caused difficulty in managing sport fishing which for all other species is governed typically by State governments. The need to integrate regulations for sport halibut fishing with existing State regulatory regimes for recreational fisheries has raised the prospect of changing the existing Federal statutory authority to allow for greater authority for the States. This paper discusses the effect of such a potential statutory change.

Background

The fisheries for Pacific halibut are governed under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773-773k). For the United States, the Halibut Act gives effect to the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention) signed at Ottawa, Canada on March 2, 1953, as amended by the Protocol Amending the Convention signed at Washington, DC March 29, 1979.

In brief, the Convention is an agreement between Canada and the U.S. concerning the conservation and management of Pacific halibut. The Convention requires that all fishing for Pacific halibut within Convention waters—which include State waters—comply with the Convention and regulations of the International Pacific Halibut Commission (IPHC). The Convention gives the IPHC broad authority to adopt regulations to develop and maintain Pacific halibut abundance. Annually, the IPHC makes regulatory recommendations to Canada and the U.S. which, in the U.S., are published in the *Federal Register* as Federal regulations. Further, the Convention states that Canada and the U.S. may establish additional regulation governing halibut fisheries that are more restrictive than those adopted by the IPHC.

The Halibut Act implements the Convention in the U.S. and gives the Secretary of Commerce (Secretary) general responsibility to carry out the Convention and the Halibut Act. The Halibut Act also provides authority to the Regional Fishery Management Councils, established under Sec. 302(a) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to:

“...develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, regulations adopted by the [IPHC]” (Halibut Act, Sec. 773c(c)).

Pacific halibut are found only within the jurisdictions of the Pacific Fishery Management Council and the North Pacific Fishery Management Council. Hence, this special authority to develop halibut regulations extends only to these Regional Councils. The Halibut Act further requires that any regulations developed by these Regional Councils be implemented only with the approval of the Secretary. This requirement for Secretarial approval of Council-developed regulations is similar to the development of other fishery management policies and regulations that are authorized under the Magnuson-Stevens Act. Under both statutes, the implementation of a Secretary-approved proposal is done by Federal regulations.

Although the Regional Council development of regulations is similar for halibut under the Halibut Act and other species under the Magnuson-Stevens Act, a significant difference between these statutes exists in their treatment of State government authority. The Magnuson-Stevens Act expressly neither extends nor diminishes the jurisdiction of any State government, with certain exceptions (Magnuson-Stevens Act, Sec. 306(a)). The Halibut Act, however, provides no authority to State governments for the direct regulation of halibut. In a memorandum dated December 4, 1995, NOAA General Counsel determined that together, the Convention, the Halibut Act, and the development of Federal regulations developed by the IPHC and Regional Councils constitute “...a comprehensive and pervasive regulatory scheme that completely occupies the field of Pacific halibut fishery regulation...” (page 3). Although States may have some indirect effect on the regulation of halibut fisheries, are represented on both Regional Councils, and may be able to have regulations identical to Federal regulations, the States have no direct regulatory authority over the halibut fisheries.

The Sport Fishing Problem

In Alaska, as in most other states, the State has principal authority and responsibility for the management of sport fisheries. Sport fisheries include recreational guided (including charter boat or for-hire fishing) and non-guided independent angling. Most guided and non-guided sport fishing is done in near-shore waters within State jurisdiction, and therefore is governed by State laws and regulations. Sport fishing for halibut is the only exception for the reasons explained above. The basic sport fishing rules for halibut in Alaska—that limit anglers to using single line gear with no more than two hooks, a daily bag limit of two fish, and an 11 month season from February 1 through December 31—

are regulations developed by the IPHC (Sec. 25(1) and (2)) and published in the *Federal Register* most recently on March 3, 2006 (71 FR 10850). In addition, sport halibut fishing regulations developed by a Regional Council and approved by the Secretary under authority of the Halibut Act would be published as Federal regulations either in the annual management measures published in the *Federal Register* or in the Code of Federal Regulations (CFR). In Convention waters off the States of Washington, Oregon, and California, Federal sport fishing regulations developed by the Pacific Fishery Management Council appear at Sec. 25(4) pursuant to the Catch Sharing Plan for IPHC Area 2A (50 CFR sec. 300.63). For the Convention waters off Alaska, sport halibut fishing regulations developed by the North Pacific Fishery Management Council appear in the CFR at 50 CFR sec. 300.65(c), which currently include only non-restrictive guideline harvest levels for the sport halibut fishery in IPHC areas 2C and 3A.

The State of Alaska, also is involved, and has an interest in the management of sport halibut fisheries, despite having little or no statutory authority. The State requires licenses of sport fishermen (with certain exceptions) and performs the survey work on which estimates of sport halibut fishing mortality are based. These estimates are used by the IPHC as one component of its forecast of halibut stock abundance and estimates of allowable harvests. In addition, the State has authority over the sport harvest of all other species, and fishing for halibut may result in the catching of other species (and vice versa). Finally, the distinction between Federal and State management of sport fishing for halibut is largely transparent to the affected public who is governed by State licensing requirements and, when fishing for virtually all other species, State regulations.

The differences between State and Federal authority over the management of sport halibut fisheries becomes more pronounced when implementing regulatory changes and collecting data necessary for the monitoring and enforcement of Federal regulations. In Alaska, the State's regulatory process is substantially briefer and more quickly concluded than the Federal regulatory process. At the State level, a proposed regulatory change is developed within local citizen advisory committees and brought to the State's Board of Fisheries (Board) which may adopt it after public notice of the proposal and 30-day comment period. After adoption by the Board, a proposal generally is given a technical and legal review by the Alaska Department of Fish and Game and the State's Attorney General and filed with the State's Lieutenant Governor for publication in the State's Administrative Journal, the regulatory change becomes effective 30 days after filing. This process may take as little time as two months. Alternatively, the Board may adopt emergency regulations that are effective immediately upon filing, with an opportunity for public comment provided prior to making the regulation permanent. The Commissioner of Fish and Game also may implement certain temporary changes, including closure of a fishing season, immediately through emergency orders. An emergency regulation usually takes several days because a publicly noticed Board meeting must be arranged, but may take as little as one day if the Board is already scheduled to meet on another matter or if the Board delegates its authority to the Commissioner of Fish and Game. At its quickest, the emergency order process can be accomplished within a matter of hours.

The Federal process by comparison is more cumbersome by design to maximize public involvement and analysis of alternatives to the proposed regulatory change. This process is prescribed by numerous Federal laws and executive orders. It involves Regional Council analysis of the problem to be addressed and alternative solutions that assess and compare potential environmental and socio-economic impacts. Public concerns about the proposed action are addressed to the Regional Council during its review of the draft analysis. A Regional Council recommendation for a regulatory change is then made to the Secretary. After technical review by the National Marine Fisheries Service and legal review by NOAA General Counsel, the proposed change is published for additional public comment. Public comment on the proposed rule is considered before the Secretary will approve (or disapprove) the action and, if approved, publish the change as a final rule. This process may take from one to several years to accomplish.

The significance of these differences between the State and Federal regulatory procedures is that the Council is much more limited in its reaction time to the latest information about sport fishing effort and harvest rates that may be detrimental to other halibut fisheries or the halibut resource. Moreover, the desired Federal policy may have to be implemented by regulations that parallel or duplicate existing or similar State regulations. This is because Federal law enforcement is authorized to prosecute only violations of Federal regulations, and the Secretary can not rely on State regulations to implement a Federal policy that is consistent with all other applicable Federal laws. Hence, although it may be more responsive, the State regulatory process cannot be used to manage sport halibut fisheries because the Federal government "completely occupies the field of Pacific halibut fishery regulation" under the Halibut Act.

Proposed Statutory Change

The Alaska Department of Fish and Game has sought to remedy this problem by proposing a change to the Halibut Act that would explicitly provide for a delegation of limited authority to the State of Alaska to regulate recreational fishing for halibut. The proposed change would add a new paragraph (d) to 16 U.S.C. sec. 773c which would read as follows:

(d) Delegation of Authority to States

- (1) A state may regulate recreational fishing for halibut in the United States portion of Convention waters in and contiguous to that state, provided that the—***
- (i) Secretary approves a recommendation by the Regional Fishery Management Council having authority for the geographic area covered to authorize the state to regulate recreational fishing for halibut;***
 - (ii) state's regulations are consistent with the Convention and with regulations adopted by the Commission and that Council; and***
 - (iii) state's regulations do not discriminate against residents of different states.***

(2) For purposes of this section, state regulations will be deemed consistent with regulations of the Commission and the Regional Fishery Management Council if they are as restrictive or more restrictive than the regulations of the Commission or Council

or will otherwise restrain catch to a level equal to or lower than that allowed under regulations developed by the Commission or Council.

(3) Each state adopting any regulation under this section shall provide a copy of the regulation to the Secretary prior to the date the regulation becomes effective. If the Secretary determines that any state regulation is not consistent with the requirements of this section, the Secretary shall promptly notify the Governor of the state, the Commission, and the Council concerned of such determination, and shall provide a reasonable opportunity for the State to correct any inconsistencies identified in the notification. State regulations shall remain in force until changed unless superseded by regulations of the Secretary. If after notice and opportunity for corrective action, the state does not correct the inconsistencies identified by the Secretary, the Secretary shall promulgate regulations explicitly superseding the state regulations, and such regulations shall remain in effect until the Secretary determines that the State has corrected the inconsistencies.

Discussion of Proposed Change and Suggested Refinements

The draft proposed statutory text above is essentially the same as that discussed by State of Alaska and NOAA staff in June 2006. It appears differently, however, because it is rearranged in separate paragraphs to facilitate this discussion.

The basic design of this statutory change would be to allow a State government to respond quickly and efficiently to changes in the management needs of a recreational fishery for halibut that, except for the Halibut Act, would occur under the State's jurisdiction. The specific authority delegated to the State could be as broadly or as narrowly defined as the appropriate Regional Council and the Secretary specifies. For example, a Regional Council may wish to limit State regulatory authority to, say, sport hook or catch limits in certain areas. Alternatively, a Regional Council may wish to grant broad regulatory authority including time and area closures, gear restrictions, harvest or bag limits, and limited access criteria. A Regional Council also could make no recommendation for delegation of recreational halibut fishing authority to the State.

A critical feature of this proposed statutory language is that delegation of authority would be from the Secretary to a State, based on a recommendation from a Regional Council. Secretarial review and approval of a delegation recommendation is necessary because the Secretary is charged with the general responsibility to carry out the Convention and the Halibut Act under section 773c(a). Because approval of any recommended delegation of authority to a State would be at the discretion of the Secretary, withdrawal of the delegation also would be at the discretion of the Secretary. Secretarial review and approval of a Council recommendation also would be consistent with section 773c(c) of the Halibut Act which authorizes Regional Councils to develop regulations, including limited access regulations, and be implemented only with the approval of the Secretary.

For these and other reasons stated below, the drafted proposed statutory text should be changed as follows:

- In paragraph (d)(1)(ii) and (d)(1)(iii), “state’s regulations” should be more specifically stated as the “state’s recreational halibut fishing regulations.” This additional text would clarify that only a State’s sport halibut fishing regulations; not other types of regulations are pertinent to a delegation of authority.
- In paragraph (d)(2), a consistency determination should be with “...**approved regulations developed by the Commission or the Regional Council...**” The bolded text should be added for consistency with sections 773b and 773c of the Halibut Act which speak to the approval of regulatory recommendations made by either the IPHC or a Regional Council, respectively. Also, this language would clarify that consistency would be required only with approved regulations and not those that may be under development by either the IPHC or a Regional Council. The edited paragraph would read as follows (with added text in **bold** and deleted text in [brackets]): “(2) For purposes of this section, state regulations will be deemed consistent with **approved regulations developed by [of] the Commission or [and] the Regional Fishery Management Council** if [they] **the state regulations are as restrictive or more restrictive than the approved regulations developed by [of] the Commission or Council or will otherwise restrain catch to a level equal to or lower than that allowed under approved regulations developed by the Commission or Council [regulations].**”
- In paragraph (d)(3), a minimal time period should be allowed for Secretarial review of state regulations to make the consistency determination required in the preceding paragraph. Thirty days may be a reasonable review period. Review by the IPHC during this period also would be desirable for biological conservation purposes. Hence, the draft text in this paragraph should be changed to read as follows (with added text in **bold**): “(3) Each state adopting any regulation under this section shall provide a copy of the regulation to the Secretary **and the Commission at least 30 days prior to the date the regulation becomes effective.**”
- Also in paragraph (d)(3), the draft proposed statutory text should include explicit authority for the Secretary to withdraw delegation if a State’s regulation is determined to be not consistent under paragraph (d)(2). This authority may be implied by the initial delegation authority in paragraph (d)(1). However, without an explicit withdrawal authority, one could argue that only a superseding Federal regulation—developed by a Regional Council and approved by the Secretary—could obviate a state regulation from having effect if it is determined to be inconsistent under paragraph (d)(2). Hence, this paragraph should have the bold text added to read as follows: “**State regulations shall remain in force until changed unless superseded by regulations of the Secretary or withdrawal of the authority delegated by the Secretary. If after notice and opportunity for corrective action, the state does not correct the inconsistencies identified by the Secretary, the Secretary may withdraw the delegation to the state or [shall] promulgate regulations explicitly superseding the state regulations, and such**

regulations shall remain in effect until the Secretary determines that the State has corrected the inconsistencies."

The Practical Effects of the Proposed Statutory Change

The overall effect of this proposed change would be to delegate to the States of Alaska, Washington, Oregon or California authority to implement certain regulations to manage the sport halibut fisheries within the respective states without going through the normal Council development and Secretarial review and implementation process currently required by the Halibut Act. If this Halibut Act amendment is adopted by Congress and signed into law by the President, its practical effect would be to allow a Regional Council to recommend broadly or narrowly defined authority to be delegated to one or more specific States.

Presumably, such a delegation action would be initiated at the Regional Council level in the same manner as other regulatory amendments are initiated, at the request of the public or a participating Council member or agency. The action to delegate would be a Federal action for which certain laws would require an analysis of alternatives and a public process for the review and adoption of a Regional Council's recommendation to the Secretary. After the Council submitted such a recommendation to the Secretary for review and approval (or disapproval), NMFS would publish the delegation recommendation in the *Federal Register* for additional public comment. If approved, the delegation recommendation would be codified in Federal regulations at 50 CFR part 300 which would specify the authority delegated to the State. Sections 300.60 through 300.66 of this part currently implement provisions of the Halibut Act.

Although this process would be similar to that used currently to make fishery management plan amendments and regulatory amendments, it would not be governed by the Magnuson-Stevens Act. For the reasons stated above, management of the Pacific halibut resource is governed by the Halibut Act and not the Magnuson-Stevens Act. Hence, the Secretary would not be bound by the procedures and time limits in section 304 of the Magnuson-Stevens Act or other provisions of that statute. A Regional Council recommendation to delegate authority, however, would have to comply with other Federal statutes such as the National Environmental Policy Act, Regulatory Flexibility Act, Executive order 12286 and others that require various analyses or assessments and the Administrative Procedure Act that requires prior notice and opportunity for public comment on Federal regulations.

The specific types of regulations that may be delegated under this authority may be as broadly or as narrowly prescribed as a Regional Council wishes to make them. Delegation of regulatory authority also may stipulate a specific withdrawal or sunset date or it may continue in effect until changed. Sport fishing regulations generally fall into one or more of a few categories of regulations based on the activity being restricted or controlled. Regulations typically control how much fish may be caught and retained, when and where fishing may occur, what types of fishing gear may be used, or who may do the fishing. Recordkeeping and reporting requirements necessary to monitor the

harvest of a recreational fishery also may be delegated to a State, along with any fees that may be necessary to cover administrative costs.

A Council could, for example, recommend delegation of recreational fishing bag limit or gear limit regulations to a State that are applicable to Pacific halibut fishing only in certain IPHC areas or sub-areas thereof. Alternatively, the recommended delegation could be more broad and comprehensive. The only limit to the range of regulatory authority that could be delegated to a State under the proposed statutory change would be that it not conflict with IPHC- or Council-developed and approved regulations. A conflict would occur if a State regulation were less restrictive than IPHC or Council policies. For example, a conflict would occur if a delegation recommendation or a State regulation allowed the use of more than two hooks per angler or, in Alaska, sport fishing in January. Likewise, a delegation recommendation or a State regulation likely would be considered in conflict with an approved Council policy if it substantively changed the Individual Fishing Quota program or charter vessel fishing guideline harvest level. Such changes would have to be developed by the North Pacific Fishery Management Council and not by delegated State regulation. In addition, State delegated regulations would not usurp or conflict with the authority of the IPHC under the Halibut Act provided that a State's regulations served to implement the approved allocation policies of a Regional Council.

The Secretarial and IPHC review of a particular regulatory action by a State is not contemplated by the proposed statutory change to be lengthy or formal. Paragraph (d)(2) of the proposed text would state (including the recommended changes) that:

"...state regulations will be deemed consistent with approved regulations developed by the Commission or the Regional Fishery Management Council if the state regulations are as restrictive or more restrictive than the approved regulations developed by the Commission or Council or will otherwise restrain catch to a level equal to or lower than that allowed under approved regulations developed by the Commission or Council."

The phrase "deemed consistent with" implies that a formal review and approval process by the Secretary and the IPHC of a delegated State regulatory action would not occur unless that action is found to be inconsistent. If an inconsistency were found and, the State was unwilling to make its action consistent, then a formal Federal regulatory process would be required to correct it or the Secretary could rescind the delegated authority. Neither one of those Federal actions would be desirable. Hence a commitment to cooperation among the Regional Council, State, NMFS, and IPHC is necessary. Alternatively, to require a formal Federal review process, including public review, for every State regulatory action could defeat the purpose of a timely response to fishing patterns that the delegation is designed to achieve. Therefore, the formal Secretarial and public review process of the delegation is "frontloaded" by going through the normal Federal rulemaking process in first establishing the delegation. Subsequent actions by the State receiving the delegation would not be encumbered by formal Federal review.

Nothing in the delegation process would prevent a Regional Council from revisiting its delegation to a State from time to time to determine whether any changes to it should be made. Indeed, a Regional Council may require a State to provide regular reports on its management of the recreational halibut fisheries. In addition, a Regional Council should include in its delegation recommendation a system for dealing with public claims of inconsistency between a State regulation and approved regulations developed by the IPHC or the Regional Council.

Conclusion

This discussion of a prospective amendment to the Halibut Act does not argue for or against passage of the proposed statutory change. The potential pros and cons of the statutory proposal also are not addressed. Instead, this paper looks at the proposed amendment (as it currently is worded) from the perspective of the existing Halibut Act and Federal regulatory procedures. In summary, the contemplated amendment would provide authority to delegate management of recreational fishing for halibut to State fishery management agencies, providing State regulations are consistent with existing IPHC- and Council-developed regulations. The intent of this change would be to allow States to more quickly respond to recreational fishing trends and more responsively tailor recreational fishing regulations than currently is possible through the existing process of IPHC or Council development of regulations implemented by the NMFS. This also could allow Councils to more efficiently achieve their allocation policies that divide the halibut resource between the commercial and recreational sectors.

In brief, this discussion finds that the proposed statutory amendment text should be changed slightly to clarify (1) precisely what State and Federal regulations are affected, (2) to provide for a minimum review period of State regulatory changes under the delegation, and (3) to provide explicit authority to withdraw delegation in the event that the potential or actual effects of State regulations are found to be inconsistent with IPHC- and Council-developed regulations.

The discussion also finds that implementation of this delegation would require a Council recommendation to the Secretary to make or change the delegation of regulatory authority to a State. This procedure for making this recommendation would be similar to current procedures for implementing Council-recommended policies. The Secretary's action to approve and implement a Council recommendation to delegate authority to a State would be a Federal action that would require the usual analysis of alternatives and implementation by Federal regulation. Once the delegation is made, however, the State regulatory process would not be further affected by Federal intervention unless a State regulation was found to be inconsistent. Using this procedure, a Council could design its delegation recommendation to be as narrow and focused or as broad and comprehensive as it deems necessary. It could also change the delegation at any time by making a subsequent recommendation to the Secretary.

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**Halibut Allocation between Charter and Commercial Fishery Sectors in Areas 2C and 3A
Discussion Paper, March 2007**

At its December 2006 meeting, the Council requested a discussion paper for the April 2007 Council meeting, which would examine the effects of establishing a stand-alone allocation for the charter halibut fisheries in IPHC Area 2C (Southeast Alaska) and Area 3A (Southcentral Alaska) prior to implementation of a permanent solution (Appendix 1). A "permanent" allocation (hard cap) between the charter and commercial halibut fishery sectors would replace the current guideline harvest levels (GHLs) in Area 2C (1.432 M lb) and Area 3A (3.65 M lb). Seven proposed options for setting an allocation between the sectors, which were adopted for the Council based on recommendations of its Charter Halibut Stakeholder Committee, are listed below. If a separate analysis to set an allocation for the charter sector is initiated by the Council, it should also decide whether to limit the analysis to the allocation and the overage/underage allowances or address all aspects of the proposed allocation alternative (including five proposed funding mechanisms to increase the allocation in each area)¹.

Allocation to the charter halibut sector		
Option 1. Fixed Percentage of combined commercial/charter catch limit		
formula	Area 2C	Area 3A
a. 125% of average harvest of 2000-2004, translated to percentage	16%	16%
b. equal to the 1995-99 GHL, translated to percentage	13%	14%
c. percentage of combined 2004 commercial/charter catch	15%	13%
d. convert current GHL into percentage based on 2004	12%	13%
e. equal to 2005 charter harvest, translated to a percentage	16%	13%
Option 2. Fixed Pounds		
formula	Area 2C	Area 3A
a. date GHL to 2000-2004	1.7 Mlb	4.0 Mlb
b. equal to the 1995-1999 GHL	1.4 Mlb	3.7 Mlb
Suboption 1. Without step up/down		
Suboption 2. With stair step up/down provisions		
Suboption. Suballocate between subareas: (placeholder for State of Alaska recommendations)		

The request for additional discussion arose because the Council adopted the recommendation of its Committee in early 2006 and incorporated the allocation decision point along with the rest of the permanent solution. This decision was intended to schedule a decision on a permanent solution as soon as possible. The Council determined that a separate allocation decision to address the current issues associated with the GHL would increase the level of uncertainty for charter businesses and inhibit their long-term strategic and business planning abilities.

In December 2006, however, frustration was expressed at the pace of separate², and overlapping analyses, and there was discussion of adding an allocation option of 20% for the charter sector in each area and scheduling an analysis and decision in 2007. A number of allocation options to increase the GHL have been proposed to correct what proposers perceive as inequity in the amount of the current GHLs relative to commercial quotas.

However, the Council was concerned about establishing a hard allocation without understanding: 1) whether or not adequate tools are in place for NMFS to enforce the allocation and 2) if the enforcement of the charter sector allocation could be facilitated by management measures that reallocate fish as needed or utilize market forces in

¹ Staff recommends keeping the overage/underage linked to the initial determination of the allocation.

² Area 2C/3A GHL analysis rescinded in December 2006 and scheduled for initial review and final action in March and June 2007 for Area 2C only; implementation could occur for 2008 season (The Council noticed the public that it may schedule action for Area 3A GHL measures in 2007 also.)

(Moratorium) Limited Entry analysis scheduled for initial review and final action in February and March 2007; implementation could occur for 2009 season.

Permanent Solution analysis not yet scheduled for Council action, as alternatives and options are not yet finalized.

the charter industry sector. One concern is that a situation could occur in which NMFS would close the charter fishery in-season because it reached its (hard cap) allocation. *Instead*, the permanent solution couples restrictive management measures (in one of a few proposed share based systems) to the hard allocation to avoid a closure. These measures would empower the industry to maintain its harvest within its allocation and reduce the chance that management measures such as the 1-fish bag limit or in-season closure are implemented to reduce harvest. The industry is also exploring alternative funding mechanisms to allow the purchase of QS that would be held by the State and reallocated to the charter sector and/or leasing of commercial QS by the State, non-profit entities, or individuals for in-season reallocation of the commercial allocation to the charter sector (Appendix 2).

This paper identifies the *trade-offs* between setting an allocation as a stand-alone decision or as part of the permanent solution. However, the Council could initiate an amendment to revise the GHL (i.e., increase it) as a stop-gap measure to address GHL overages. Under a **stand-alone allocation decision**:

Pros:

- 1) The charter industry faces the potential that the Council would select an allocation for the charter sector that is **higher than the current GHL**, but this is not guaranteed.
- 2) Any future Council analysis would have the benefit of **examining the effects against only the allocation preferred alternative** of all remaining program features.
- 3) An allocation would allow for the **development of catch sharing plans** that could provide a formal procedure for determining necessary management measures each year, which are tied to the amount of the allocations. More detail on the Area 2A catch sharing plan (CSP) is provided in an addendum. The process for setting the 12 percent total sport allocation in Canada is described in Appendix 3 (Case Study #3 in Gislason 2006).

Cons:

1. A "hard" allocation assumes that NMFS will manage the fishery to not exceed that limit. The charter industry could be faced with an **in-season closure**, if current management (GHL) measures are insufficient to restrict harvests to the allocation. Or, conversely, if measures are insufficient to restrict the harvest, the GHL will again be exceeded.
2. As the fishery progresses, reliance on **in-season reporting of ADF&G logbooks** is critical to enforcing the allocations. Inseason catch accounting would be required at the time the final rule became effective. It is unclear whether these data issues between the State and Federal governments will be resolved by that time.
3. If current (GHL) measures are not sufficient to manage to the allocation, then additional measures will be required by NMFS before implementing the allocation; such measures are fraught with the **same imprecision as under the GHL program**.
4. Staff effort would be **redirected away from the permanent solution and delay its implementation** (the Council purposefully decided to bypass a separate allocation decision to "fix the GHL to get to a share-based system).
5. Separating the allocation decision point into its own analysis and rulemaking would delay implementation of the permanent solution. Note that while the Council can take action to select preferred alternatives in different charter halibut analytical packages sequentially, bottlenecks at NMFS occur because the same NOAA Enforcement, NMFS Sustainable Fisheries, NMFS Restricted Access Management Division, NMFS Economic Review, and NOAA General Counsel staff would be assigned to all charter halibut management amendments. Stacking up decisions at the Region, could jeopardize some or all of the proposed charter halibut implementation timelines.

Observations:

- 1) Harvests would be tracked using the State of Alaska's revised Sport Charter Vessel Logbook Program. By the time such an allocation would be tracked, the logbook would have been in place for at least three years and should be vetted by State statisticians against the Statewide Harvest Survey, the database upon which the GHLS were selected.
- 2) Depending on the magnitude of the GHL change (if one is selected), less restrictive (or no) measures may be placed on the charter fishery while commercial quota share may be reduced to accommodate the increased sport harvest. This is only a temporary solution until a permanent solution is achieved.

APPENDIX 1.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
ALLOCATION/SHARE-BASED ALTERNATIVES AND OPTIONS
DECEMBER 12, 2006
REVISED

ALTERNATIVE 1. NO ACTION

ALTERNATIVE 2. ALLOCATION TO THE CHARTER HALIBUT SECTOR

Issue 1. Allocation

Option 1. Fixed Percentage of combined commercial/charter catch limit:
formula

	Area 2C	Area 3A
a. 125% of average harvest of 2000-2004, translated to percentage	16%	16%
b. equal to the 1995-99 GHL, translated to percentage	13%	14%
c. percentage of combined 2004 commercial/charter catch	15%	13%
d. convert current GHL into percentage based on 2004	12%	13%
e. equal to 2005 charter harvest, translated to a percentage	16%	13%

Option 2. Fixed Pounds
formula

	Area 2C	Area 3A
a. update GHL to 2000-2004	1.7 Milb	4.0 Milb
b. equal to the 1995-1999 GHL	1.4 Milb	3.7 Milb

Suboption 1. Without step up/down

Suboption 2. With stair step up/down provisions if changed by 5, 10, or 15% of the base years (selected above) of the initial allocation (i.e., if the halibut stock were to change from 15 to 24 percent from its average CEY, then the allocation would be changed by 15 percent. If the stock abundance were to change at least 25 to 34 percent, then the allocation would change by an additional 10 percent. If it continued to change by at least 10 percent increments, the allocation would change by an additional 10 percent.)

Suboption. Suballocate between subareas.³

(placeholder for State of Alaska recommendations)

Issue 2. Overage/Underage

- Option 1. allow overages/underages to be transferred across sectors
- Option 2. 3 or 5 year rolling average of catch to determine if overage/underage occurred in latest year
- Option 3. ± 5 or 10% overage/underage results in no management response and >5 or 10% overage/underage leads to change in measures

Issue 3. Mechanisms to increase charter sector harvest with compensation to the commercial sector; increased fishing opportunity to recreational anglers as demand grows; opportunity for charter sector growth in areas that are currently underdeveloped; and maintain stability in coastal communities.

Option 1. Allow the state to hold commercial QS/IFQ and transfer the poundage/percentage to the charter sector

³ Develop local area management plans (LAMPs) on a separate timeline.

- Suboption 1. By purchase of commercial quota share (permanent)
- Suboption 2. By lease of commercial IFQs (annual)

Option 2. Allow use of commercial QS in the charter sector through permanent transfer (converted to fish) by purchase or conversion between individual commercial QS holders and the charter sector

Eligibility

Suboption 1. Must hold a halibut charter limited entry permit to use commercial halibut QS in the charter fishery

Suboption 2. Must hold a halibut charter limited entry permit and a commercial transfer eligibility certificate to use commercial halibut QS in the charter fishery

Permanent Transferability (Sale)

- Commercial QS is fully transferable across sectors and retains original class designations
- Allow commercial blocks to be split to transfer smaller pieces to the charter sector.
- Split blocks retain original block designations
- Allow transfer of any (A, B, C, or D) vessel class QS for use in charter sector
- Charter business may not hold more than 1 block of Class D QS \geq sweep-up level

Option 3a. Allow use of commercial IFQ in the charter sector through temporary leasing (converted to fish)

- < 10 percent of a commercial QS holder's IFQ may be annually leased to charter sector between private individuals
- Allow commercial blocks to be split to transfer smaller pieces to the charter sector.

Suboption 1. Must hold a halibut charter limited entry permit to use commercial halibut IFQ in the charter fishery

Suboption 2. Must hold a halibut charter limited entry permit and a commercial transfer eligibility certificate to use commercial halibut IFQ in the charter fishery

Option 3b. Allow commercial QS holders to annually lease their 10 percent underage of commercial IFQ (converted to fish) to increase the charter sector allocation. IFQ would be held by a regional charter association, with administration and collection of fees by the State of Alaska.

Option 4. Allow charter halibut limited entry permit holders to convert their permits into increased allocation at initial issuance

Suboption 1. Each charter halibut permit is equal to percentage of charter sector allocation based on total number of charter permits (equal shares)

Suboption 2. Each charter halibut permit is equal to percentage of charter sector allocation based on class or other designation of limited entry permit

**ALTERNATIVE 3. LIMITED ENTRY PROGRAM⁴ with PERMIT ENDORSEMENTS
(Moratorium) Limited Entry Permit would continue, with some proposed changes**

Issue 1. Permits must be renewed annually⁵

Issue 2. Permit endorsements

Option 1. No permit classes

Option 2. Permit class

Class A. Immediately transferable if more than or equal to a) 10; b) 30; or c) 50 days each year

⁴ Military (Morale, Welfare, and Recreational) boats are exempted from QS program. They could be issued limited entry exemption permits

⁵ Permits could not be renewed if allowed to lapse (due to holder's inaction to renew or because minimum activity was not met)

Class B. Non-transferable if less than or equal to preferred alternative above [a) 10; b) 30; or c) 50 days]
(except to underdeveloped communities under Issue 13)
Suboption. By port/subarea (placeholder for State of Alaska)

Issue 3. Permit share-based assignment based on Client-days⁶

Initial issuance - award number of client day units from ADF&G logbooks which correspond to:

Suboption 1. Total client-days during 1998-2005

Suboption 2. Average client-days during best 3 years from 1998 – 2005

Suboption 3. Total client-days during best 3 years from 1998 – 2005

Endorsement leases

Suboption 1. Allow transfers, limited to client day endorsement caps

Suboption 2. Allow unlimited transfers

Transfers

Suboption 1. Client days not transferable

Suboption 2. Client days fully transferable:

1. Permanent: must go through NMFS (RAM division)

2. In-season transfers: allowed between charter businesses

Issue 4. Permit Leases (in-season only; reverts to permit holder at beginning of next season)

Option 1. not allowed, except for “unavoidable circumstance”

Option 2. allowed, limited to use cap

Issue 5. Permit use caps, individually and collectively, with grandfather provision

Same as under 1 program and ½ percent of revised Issue 3. Shared-based assignments

PLACEHOLDER FOR ENDORSEMENTS ON PERMITS HELD BY COMMUNITIES

ALTERNATIVE 4. INCLUDE THE CHARTER SECTOR IN THE HALIBUT IFQ PROGRAM

Issue 1. QS recipients - Issued to (moratorium) limited entry permit holders only

Issue 2. Initial Distribution of QS:

Option 1. Individual allocations shall be divided between two “pools” of recipients. The intent is that once the quota shares are determined for the recipients in “Pool 1” (1998 through 2001 “Pool 1”) those shares are proportionately applied to the initial allocation amount for each area. The remainder of the allocation goes into “Pool 2” for recent participants.

Pool 1 (“Seniority”): Businesses qualified with 1998 through 2001 logbook catch history AND must have business participation in 2005 (or most current year) AND meet the legal qualifying criteria. Individual business owners would be issued QS based on their average effort reported in the ADF&G logbook for 1998 through 2001 for pool 1 (exclude years when not active (do not average 0 years))

Pool 2 (“Recency”): Active businesses (submitted at least one logbook that reported groundfish fishing days) between 2002 and 2005 AND whose business participated in 2005 AND met the legal qualifying criteria.

Suboption 1. A recipient receives 25% of one potential share of this pool for each year of participation during 2002-2005 (four years). For example, a business with participation in all four years would receive a full share (100%). A business with participation in three years would receive 75% of a full share, etc.

⁶ Permit endorsement of an angler day for every client fishing bottomfish/halibut in a day

Suboption 2. Use client/rod days for days fished to reward client effort (6 client rod days v 1 day for the same fishing trip). (Rods(or number of clients logged in, if rods not filled out), (A year with no effort counts as "0") Skipper fish counts toward denominator, but not for numerator for QS and not against IFQs) This might need more explanation if left in without further details or use as a note for yourself on our intent.

Option 2. Businesses qualified with 1998 through 2005 logbook catch history AND must have business participation in 2005 (or most current year) AND meet the legal qualifying criteria. Individuals will pick their best three years during 1998 and 2005 (include "0" for years less than 3) and average their total number of client/rod days for those three years. (groundfish where halibut not available)

Issue 3. Transfer of QS:

Permanent QS transfers

1. Initially issued QS to the charter sector is fully transferable within the charter sector.
2. QS from the commercial sector purchased by charter operators is fully transferable (two-way) across sectors and retains original designations.
3. QS issued to charter sector is non-transferable to the commercial sector
4. IFQs used in charter sector may/not be leased within the sector
5. IFQs from the commercial sector transferred for use in the charter sector could be leased to either sector

Temporary transfers (IN-SEASON IFQ lease):

1. [0, 20, 40, 60, 80, 100%] of a charter operators annual IFQ is leasable within the charter sector for no more than 2 out of 5 years of the program.
2. Leasing is defined as the use of IFQ on a charter vessel on which the owner of the QS has less than a 50% ownership interest.
3. a maximum of 30% of a charter operator's annual IFQ may be leased; up to 10% may be leased to commercial sector after August 15; up to 30% maybe leased to charter sector. (allows mop-up by either sector)

Block restrictions - allow splitting of commercial blocks to transfer a smaller piece to the charter sector - split blocks retain original designations.

Vessel class restrictions - from A, B, C, and/or D commercial vessel category sizes to charter sector, except that no charter business may hold more than 1 "D" category block equal to or above the sweep-up level.

Issue 4. To receive halibut QS and IFQ by transfer:

For the charter sector, must be a permit holder or sign affidavit attesting that all legal requirements were met to participate in the charter fishery.

For the commercial sector, must have a commercial transfer eligibility certificate⁷.

Issue 5. Caps

1. use cap for charter QS holders only of 1 percent of combined charter and commercial QS units in Area 2C and ½ percent of combined QS units in Area 3A (for all entities, individually and collectively) and grandfather initial issues at their initial allocation.
2. use caps for charter QS holders only of ½ percent of combined charter and commercial QS units for combined Areas 2C and 3A (for all entities, individually and collectively) and grandfather initial recipients at their initial allocation

⁷ All commercial rules apply to any provision that may permit the use of commercial QS/IFQ for commercial purposes by any entity in the Charter IFQ sector

Issue 6. Miscellaneous provisions

- A one-year delay between initial issuance of QS and fishing IFQs to allow reaction to initial issuance to match clients to QS prior to first season under program.
- Halibut harvested aboard a charter vessel continues to be the property of the angler who caught the halibut provided the charter owner possesses sufficient IFQ.

Issue 7. IFQs associated with the charter quota shares would be issued in numbers of fish based on 5-year rolling average determined by ADF&G).

Issue 8. Reporting:

Placeholder for NOAA Fisheries Service

Issue 9. Community set-aside

COMMITTEE DEFERRED ACTION

- a. Set aside 1% of the combined commercial and charter halibut quota to communities with ¼ percent annual increases if utilized, to a maximum of 2 percent.
- b. Source of the set-aside: Equal pounds from the commercial and charter sectors.
Option : proportional to split between sectors
- c. Sunset provisions: 10 years (starting in the first year of issuance). Persons currently participating in the set-aside program at the time of sunset would be allowed to operate within the guidelines of the program.

APPENDIX

Mechanisms to finance compensated reallocation to the current charter sector to allow for growth

- Option 1. State charter stamp
- Option 2. Allow private entities to purchase commercial QS/IFQ through fundraising, grants, donations, etc.) and convert to charter allocation; lease back unused allocation at end of year (part of KACO plan)
- Option 3. Business Improvement District (tax on trips dedicated to certain purpose)
- Option 4. Funds from compensated transfer of unused charter allocation back to commercial sector
- Option 5. Allow State to hold IFQs in trust through State bonds (similar to bonds issued recently for construction of State hatchery)
- Option 6. Federal funding/grants/stamp to fund entities to purchase QS and convert to charter allocation

APPENDIX 2.

FUNDING MECHANISMS FOR PURCHASING/LEASING COMMERCIAL QUOTA SHARES

In December, a discussion paper on key aspects of the permanent solution was reviewed by the Council (King 2006). These key aspects included: 1) data quality; 2) **sector allocation formulas**; 3) **sub-area allocations**; 4) **finance mechanisms for a compensated transfer**; 5) Permit classes; and 6) share-based permit systems. The following discussion contains the conclusions in that paper for items #2, #3, and #4.

Sector Allocation Formulas contained within the Council's draft alternatives for a permanent solution proposes to set charter sector allocations based on two main options: a fixed percentage or a fixed amount in pounds. There are six options currently under consideration, of which four are fixed percentage options and two are fixed pound options, with the potential for step-up or step-down provisions of those "fixed" allocations based on halibut biomass. The paper concluded the following.

- Setting the allocation as a fixed percentage would more directly respond to changes in biomass and IPHC CEY allocations more than fixed pounds.
- Some options will allocate more halibut to the charter sector than the sector harvested in 2004. Thus, the Council should consider how this additional halibut could best benefit the charter and commercial sector *if* the charter sector is unable to fully use its allocated halibut in the program's initial years. A fixed percentage also could provide more halibut than the charter sector can reasonably use during times of increasing biomass. An in-season lease mechanism could help ensure that both the charter fleet and the commercial sector benefit from any unused charter allocation.
- An inter-sector exchange mechanism could also buffer the charter sector in times of falling biomass if the sector could enter the market for commercial QS.
- An in-season lease mechanism may need to rely on in-season harvest estimates from the ADF&G logbook in order to determine whether the charter fleet had excess halibut. The previous system of estimating harvests from the Statewide Harvest Survey (SWHS) provides estimates months after the end of the calendar year; a statistical comparison by Alaska Department Fish & Game (ADF&G) Research and Technical Support staff is needed to corroborate the new logbook system with the SWHS. Thus, the previous system would be unable to provide timely enough estimates to manage in-season, inter-sector leasing. Alternatively, charter representatives could recommend an amount needed for the upcoming season before it begins. If the estimated amount is less than the allocated amount the difference could be made available/leased to the commercial sector. These funds could be set aside for future purchases of commercial QS if the charter sector outgrows its allocation.

Sub-Area Allocations would subdivide the allocation set by the Council on a sub-area level. ADF&G staff has circulated data and maps, but these have not yet been endorsed by the charter halibut sector or community interests, or the agency, itself.

Area vs. Sub-Area Management In general, sub-area management will increase the burden on NMFS and ADF&G because enforcement, monitoring, and management must also occur on a sub-area level. The magnitude of the increased burden will depend on factors such as the number of sub-areas, the rules for transferring QS, the system (if any) used for financing reallocation, etc. Additionally, the process of correctly identifying sub-area's and sub-area allocations will involve tremendous pressure from stakeholder groups.

- **Unit Market Effects** – Sub-area allocations could result in management unit (unit, angler days, share-based permits) market effects depending on the rules for transfers within the charter sector. For example, one charter IFQ option would allow transfers to flow freely within the charter industry. If selected, some sub-areas could conceivably watch their sub-allocation transfer to other more profitable areas where demand is higher. Sub-area transfers may encourage fishing pressure to increase in sub-areas that are more economical to fish. This transfer

to fishing effort would increase localized pressure on halibut, rockfish, and lingcod stocks, which may be of biological concern with sufficient fishing pressure. On the other hand, restricting units from sub-area transfers could also have effects. For example, if transfer is restricted to the sub-area to which it is allocated, this requirement could restrict area growth because faster growing areas might not be able to acquire units from sub-areas with excess units. Additionally, such a structure could lead to inefficient market conditions and liquidity problems if there are too few purchasers and sellers within a sub-area to support a healthy market. Obviously, larger sub-areas with many market participants would alleviate this problem.

- **Ports vs. Fishing Areas: Sub-Areas Definitions** – In some locations, operators from different ports fish in the same areas. Thus, whether a sub-area is defined around a port or around a fishing area will have important implications. For example, operators from both Whittier and Seward use the area around Montague Island as well as areas closer to their home ports. If the sub-areas are designated by port then harvest will have to be tracked by port. Assigning fishing areas to ports could be difficult. For example, assigning Montague Island in Prince William Sound to operators from one port, but not another would have negative economic effects for the dispossessed fleet members' homeport. However, defining sub-areas around specific fishing grounds would deny operators the flexibility of going to other areas when halibut is scarce in the traditional region or when the weather is bad. Thus, restricting operators to one sub-area could have significant business effects on operators who use a variety of fishing areas or who work long-range/multi-day trips that cross multiple sub-areas. This problem could be solved if the sub-areas were based on geographic areas and not on home ports, and operators are allowed to hold QS in multiple areas.
- **Sub-Area Growth Rates** – Sub-area allocations can be tailored to their specific growth rates without changing the total area-wide allocation. For example, Kodiak is often discussed as a community with a still-developing charter industry, while Seward and Homer are considered more mature and well-established. One possible aspect of a sub-area allocation scheme is that the Kodiak sub-area could be allocated more shares than more mature markets. This approach would assist the growth in Kodiak. However, under an allocation scheme which was "area neutral" the increase in allocation to Kodiak would be balanced by a lower allocation. On the other hand, a sub-area allocation could also protect areas with lower growth rates. Without sub-area allocations, areas that have stable growth rates would suffer the same as those with higher growth rates. Thus, sub-area allocations will set communities in direct competition with each other for allocated quota. The halibut pie is only so big and changing the way the pie is sliced means that some stakeholders benefit while others lose. Accounting for sub-area growth rates may only be valid in the short-run until the industry grows to fill its "growth allocation" (Gasper, 2006).

Finance Mechanisms A variety of proposed finance mechanisms has been recommended for review by the Charter Halibut Stakeholder Committee. Some were moved to an appendix because they would not be implemented in regulation, and are therefore not subject to an EA/RIR/IRFA. But they could be developed in tandem with the Council's program. Some options represent incomplete financing mechanisms that could be combined with other options to create a more complete mechanism. For example, one option calls for IFQs to be held in trust by the State of Alaska, and financed by state revenue bonds. However, bonds are debt instruments and are repaid through revenue streams. Thus, it is incomplete to talk about bond financing without talking about revenue streams. On the other hand, a proposed state charter stamp provides a revenue stream, but doesn't suggest whether this revenue stream will be used to pay back revenue bonds or generate funds prior to the reallocation. Additionally, the proposed option does not designate who would hold the QS. These options could be restructured as identified below:

Option 1 – A state-run compensation mechanism using revenue bonds.

Sub-option 1- Financing through a charter halibut stamp

Sub-option 2- Financing through a charter license fee or other business tax

Option 2 – An industry-run compensation mechanism using a per-customer, self-taxing mechanism on a:

Sub-option 1- State-Level

Sub-option 2- IPHC Area Level

Sub-option 3- Sub-Area Level

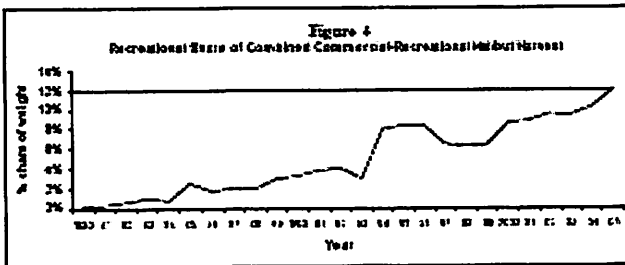
Alternative 2 calls for a **compensated transfer (i.e., leasing)** of unused charter allocation back to the commercial sector. This option would add significantly to either of the options above because it would allow both the commercial and charter sectors to benefit from unused charter allocation. This arrangement allows the sectors access to the natural advantages of a functioning marketplace without unnaturally preventing the flow of unused charter allocation to businesses that could take full advantage of the allocation. Transferable share-based systems also allow members to access the efficiency gains generated by functioning markets much more readily than “fixed” allocation and management measures. Compensated transfers and harvest of unused charter allocations would have to occur in the same commercial halibut season. Thus, a decision-making mechanism must be developed to determine when charter allocation will go unused and then authorize/document that transfer from one party to another. One mechanism would be for charter representatives to recommend, prior to the beginning of a season, whether and how much allocated halibut should be leased back to the commercial sector. However, under this method of pre-season decision making an additional mechanism would likely need to exist to ensure that the sum of the sector’s pre-season lease amounts and in-season harvest did not exceed overall allocation amount.

APPENDIX 3. Gislason excerpt

“CASE STUDY #3 – HALIBUT

There are 50+ groundfish species caught by commercial and sport fishermen – a variety of soles, cod, rockfish, pollock, halibut, sablefish, etc. The main species of common interest to commercial and sport sectors are halibut, a variety of rockfishes, and lingcod. This section focuses on recreational vs commercial allocation of halibut and the innovative allocation process in place today. The total TAC of halibut has been about 6,000 tonnes in recent years – worth about \$50 million CDN to commercial fishermen (\$60 million CDN at the wholesale level) plus an indeterminate amount to the recreational fishery.

ALLOCATION PROCESS



The International Pacific Halibut Commission (IPHC) sets TACs for both the US and Canada for halibut. Prior to 2004, DFO subtracted estimates for Canadian FSC, recreational and bycatch mortality from this TAC to arrive at the commercial sector TAC for Canada. The halibut fleet of 435 licences has had an IQ management program since 1991. In 2000 DFO hired a facilitator to negotiate an allocation agreement between recreational and commercial sector interests,

an agreement that was needed since the recreational halibut catch was growing (see Figure 4 below). The process met an impasse and an independent advisor was retained (Kelleher 2002). The advisor recommended a 9% share for the recreational sector, the current (2001) level.

The Minister subsequently announced late in 2003 a 12% recreational catch ceiling, higher than the 9% level, to allow for some growth in the sports sector (Canada Fisheries & Oceans 2003). He also announced that each sector should develop a suitable market-based mechanism for future allocation adjustments between sectors, and that he would not shut down the recreational sector in-season. These features gave substantial security to both sectors. The commercial sector reports that the announcement appeared to spur a slight increase in the trading (market) value of quotas.

Economic analysis had no influence on the commercial vs recreational allocation decision. The question – is halibut worth more to the recreational or to the commercial fishery – was never asked. One could argue that the commercial salmon sector did not operate under a strong property rights regime and according the best economic value of the resource was a legitimate question in the salmon allocation debate. In contrast, the commercial halibut fishery had much stronger property rights through their IQ management regime and therefore their existing rights trumped any notion that the halibut resource should be reallocated away to another sector, regardless of its value, without compensation. That is, the strength of property/access rights within the commercial sector can affect the allocation outcome.

PERFORMANCE REVIEW, SUSTAINABILITY & EMERGING ISSUES

DFO manages the recreational halibut fishery under the assumption that the catch in the previous year will be realized in the current year i.e., there is a one year lag in management actions. In both 2003 and 2004, the recreational sector was under their 12% allocation. Accordingly, DFO allowed the Pacific Halibut Management Association (PHMA), a nonprofit representing commercial halibut licence holders, to purchase the projected recreational surplus through a bid system to its members in 2004 and 2005. Over the two years the amount transferred was approximately 320 tonnes which generated about \$1.8 million CDN or 60% of the \$3 million CDN landed value of the fish (the commercial sector also paid a per tonne resource royalty to the federal government plus dockside monitoring and other fees).

Since the recreational fishery sector does not have a legal entity to represent itself (the Sport Fish Advisory Board is purely “advisory”), the PHMA set up a separate trust account or endowment fund for the monies collected. The PHMA is awaiting directions from the recreational sector as to how to release the money.

The lack of a legal institutional structure for the sport fish sector is a serious impediment to effecting transfers between the two sectors. Without a legal institution, and if the sport fish sector pushes against the 12% cap, then DFO will be forced to reduce daily limits or to close selected fishing areas and times to constrain the recreational halibut catch.

This day of reckoning is at hand – the recreational sector is estimated to have caught almost exactly 12% of the total TAC in 2005. Accordingly, the 2006 recreational fishery will be managed as if the fishery will catch 12% of TAC, and there will be no surplus for sale to the commercial sector. If the recreational sector catches more than 12% of TAC in 2006, then under the current policy the recreational sector for 2007 will need to: 1) purchase quota from the commercial sector (the “market approach”), or 2) be subject to more stringent bag limits, fishing times and/or fishing areas (the “command and control approach”). But as noted earlier, the present lack of institutional structure for the recreational sector precludes the first approach. We suggest that it would be prudent for DFO to give the recreational sector one year’s notice, prior to enacting regulatory change in April 2007, in order to adjust to the proposed regulations or to suggest alternatives. This would facilitate business planning.

Some elements of the recreational sector think the halibut allocation policy should be revised or abandoned, or that the government should purchase quota from the commercial sector to transfer to the recreational sector i.e., the recreational sector should be allowed to grow with a subsidy from the public purse (Kelleher 2002).

One alternative is to increase recreational licence fees and have the extra monies dedicated to purchasing commercial quota. But the 2004 federal *User Fees Act* prescribes a cumbersome process involving notification, consultation, an independent advisory board, a performance measurement system as well as debate in Parliament to change fee levels – this process likely would take a minimum of three years.

With formal allocation naturally comes increased scrutiny of catch monitoring systems for both commercial and recreational sectors. The commercial halibut sector has one of the best catch monitoring systems in the world with mandatory hail in, hail out of fishing trips, 100% Dockside Monitoring, tagging of all fish landed, and starting in 2006 observers and/or video cameras on all vessels. In contrast, the recreational fishery monitoring program consists of a variety of adhoc creel census, lodge and charter logbooks, and other programs – the recreational sector needs to improve its catch monitoring program substantially.

Many segments of the recreational sector agree and point to increased licence fees dedicated to catch monitoring as a natural way to address this issue - but again the provisions of the federal *User Fees Act* make this option difficult to implement. But apparently active investigation of this and other user pay options are underway.

The fact that now both commercial and recreational sectors are fishing to a prescribed TAC has enhanced sustainability of the resource, and the users dependent on it (see discussion of commercial sector benefits in Gislason 1999). Unlike the salmon situation, the halibut resource and its aggregate TAC does not fluctuate widely from year to year. Therefore it is feasible for the recreational sector to fish to a formal TAC and not incur mid-season closures or dramatic year-to-year regulatory changes. The transfer mechanism inherent in the halibut allocation policy allows for an orderly transfer from one sector to another.

In summary the intersectoral allocation process for halibut is innovative and unique in Canada, and perhaps in the world, as it involves both necessary conditions for efficiency, namely well-defined initial allocations and the ability to transfer these allocations. However, it is premature to ascertain whether or not this allocation process is working.

How the Department of Fisheries and Oceans deals with the need for the sports sector to adhere to the 12% halibut TAC ceiling and the need for better recreational catch monitoring will test its resolve, as well as the efficacy of the halibut allocation process overall.

CONCLUSIONS

The commercial vs recreational allocation question has been settled in different ways in Pacific Canada, depending on the circumstances of both the resource and the fisheries management system in place. The Canadian experience suggests several “lessons learned”.

Lesson #1: Sustainability – biological, economic, social – can be enhanced with each sector having a formal, predetermined share of the allowable catch.

Lesson #2: A transfer mechanism between commercial and recreational sectors will allow fish to go to its highest and best use – but such a possibility requires that both the commercial and recreational sectors have legal entities to represent their constituents and to effect such transfers on behalf of these constituents.

Lesson #3: Formal allocation systems put pressure on the government authority to ensure that appropriate catch monitoring systems are in place, and to enforce any caps or ceilings prescribed in the allocation formula.

Lesson #4: Perhaps the best way for either the commercial or recreational sector to assert their case for greater allocation of a public resource is to increase the value of their own fishery and/or have strong property rights within their own fishery (these two attributes are related).

Lesson #5: The commercial vs recreational allocation debate may be misdirected – there can be bigger issues constraining fishing opportunities and values such as encroachment by other users, habitat degradation and the inability to meet the needs of consumers and anglers.

These lessons are broad and may apply to many other fisheries jurisdictions as well.”

The complete paper can be found at

http://www.fakr.noaa.gov/npfmc/current_issues/halibut_issues/stakeholder/April/CommercialRecreationalCanada.pdf



Region 2-Southcentral News Release

(Released: January 26, 2007)

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SALT WATER SPORT FISHING GUIDES AND CREW PROHIBITED FROM RETAINING FISH IN 2007 IN SOUTHCENTRAL ALASKA

Anchorage – The Alaska Department of Fish and Game announces that salt water sport fishing charter guides and crew are prohibited from retaining any fish species while paying clients are on board the vessel. This prohibition goes into effect at 12:01 a.m., Tuesday, May 1, 2007, and will remain in effect through December 31, 2007.

This prohibition applies to the salt waters of Southcentral Alaska, which are those waters from Cape Suckling east to the southern end of Kodiak Island, specifically:

- All salt waters west of the longitude of Cape Suckling, including Prince William Sound and Cook Inlet, and waters of the Kodiak Island area north of a line running from Cape Aklek on the Alaska Peninsula to Cape Ikolik on the western shore of Kodiak Island; and north and east of a line running from Cape Trinity to Cape Sitkinak.

The specific prohibition is

- A sport fishing guide and sport fishing crew member working on a charter vessel in the salt waters of Southcentral Alaska may not retain fish while clients are on board the vessel. The maximum number of lines that may be fished from a vessel engaged in guided sport fishing in salt waters may not exceed the number of paying clients on board the vessel. A fish when landed and killed becomes a part of the bag limit of the person originally hooking it.

This prohibition is being implemented as a means to curtail halibut harvest from charter vessels. The halibut guideline harvest level (GHL) for Southcentral Alaska was exceeded in 2006 and, based upon preliminary data, will be exceeded again in 2007. This action is being taken under authority granted to the Department by the Board of Fisheries to regulate harvests within established allocation guidelines (5 AAC 75.003).

A similar provision will be in effect for all salt waters of Southeast Alaska as well.

For more information about the sport fisheries in Southcentral Alaska, contact your local ADF&G office or visit: <http://www.sf.adfg.state.ak.us>

For additional information contact [Dan Sharp](#) or [Tom Vania](#), Regional Management Coordinators, (907) 267-2186 or 2131.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 2-R-3-02-07

Issued at: Anchorage, Friday,
January 26, 2007

Effective Date: 12:01 a.m., May 1, 2007

Expiration Date: 11:59 p.m., December
31, 2007, unless superseded by
subsequent emergency order.

EXPLANATION:

Beginning May, 1 2007, a sport fishing guide or sport fishing crew member working on a charter vessel in the salt waters of Southcentral Alaska may not retain fish while clients are on board the vessel. The maximum number of lines that may be fished from a vessel engaged in guided sport fishing in salt waters may not exceed the number of paying clients on board the vessel. This prohibition will be in effect for all salt waters west of the longitude of Cape Suckling, including Prince William Sound and Cook Inlet, and the waters of the Kodiak Island area north of a line running from Cape Aklek on the Alaska Peninsula to Cape Ikolik on the western shore of Kodiak Island; and north and east of a line running from Cape Trinity to Cape Sitkinak.

REGULATION:

The provisions of 5 AAC 55.023 (9), 5 AAC 58.022 (b) (4), 5 AAC 64.022 (b) (7), and 5 AAC 65.022 (d) are added by this emergency order. Under this emergency order, the following provisions are effective beginning 12:01 A.M., May 1, 2007, through 11:59 P.M., December 31, 2007:

5 AAC 55.023 SPECIAL PROVISIONS FOR SEASONS, BAG, POSSESSION, AND SIZE LIMITS, AND METHODS AND MEANS FOR THE PRINCE WILLIAM SOUND AREA

(9) A sport fishing guide and sport fishing crew member working on a charter vessel in salt waters of the Prince William Sound Area may not retain fish while clients are on board the vessel. The maximum number of lines that may be fished from a vessel engaged in guided sport fishing in salt waters may not exceed the number of paying clients on board the vessel.

5 AAC 58.022 WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR COOK INLET — RESURRECTION BAY SALTWATER AREA

(b)(4) A sport fishing guide and sport fishing crew member working on a charter vessel in salt waters of the Cook Inlet – Resurrection Bay Saltwater Area may not retain fish while clients are on board the vessel. The maximum number of lines that may be fished

from a vessel engaged in guided sport fishing in salt waters may not exceed the number of paying clients on board the vessel.

5 AAC 64.022 WATERS; SEASONS; BAG, POSSESSION, AND SIZE LIMITS; AND SPECIAL PROVISIONS FOR THE KODIAK AREA

(b)(7) A sport fishing guide and sport fishing crew member working on a charter vessel in salt waters of the Kodiak Area north of a line running from Cape Aklek on the Alaska Peninsula to Cape Ikolik on the western shore of Kodiak Island; and north and east of a line running from Cape Trinity to Cape Sitkinak may not retain fish while clients are on board the vessel. The maximum number of lines that may be fished from a vessel engaged in guided sport fishing in salt waters may not exceed the number of paying clients on board the vessel.

5 AAC 65.022 SPECIAL PROVISIONS FOR METHODS AND MEANS IN THE ALASKA PENINSULA AND ALEUTIAN ISLANDS AREA

(d) A sport fishing guide and sport fishing crew member working on a charter vessel in salt waters of the Alaska Peninsula and Aleutian Islands Area north of a line running from Cape Aklek on the Alaska Peninsula to Cape Ikolik on the western shore of Kodiak Island may not retain fish while clients are on board the vessel. The maximum number of lines that may be fished from a vessel engaged in guided sport fishing in salt waters may not exceed the number of paying clients on board the vessel.

Denby Lloyd,
Acting Commissioner

By delegation to:

Daniel Sharp,
Regional Management Biologist

JUSTIFICATION:

The Pacific halibut Guideline Harvest Level for charter boat anglers within Southcentral Alaska was exceeded in 2006 and, based on preliminary information, will again be exceeded in 2007. While discussions are continuing between the Department and the North Pacific Fishery Management Council to seek a long-term solution, it is recognized that federal action will not be soon enough to reduce halibut harvests in 2007. This action is being taken under the authority granted to the Department by the Board of Fisheries to regulate harvests within established allocation guidelines.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 2 Office of Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518, (907) 267-2218; Alaska Department of Fish and Game Kodiak Area Office; and the Alaska Department of Public Safety Fish and Wildlife Protection Kodiak Office.

**Sport Fish**
Division - ADF&G

Region 1-Southeast News Release

(Released: January 26, 2007)

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SPORT FISHING GUIDES AND CREW PROHIBITED FROM RETAINING FISH IN 2007 IN SOUTHEAST ALASKA

Juneau – The Alaska Department of Fish and Game announced today that sport fishing charter guides and crew members are prohibited from retaining any fish species while paying clients are on board the vessel in the saltwaters of Southeast Alaska, including the Yakutat area. This regulation change will become effective at 12:01 A.M. Tuesday May 1, 2007 and will remain in effect for the remainder of the year. The prohibition is:

- A sport fishing guide and sport fishing crew members working on a charter vessel in the salt waters of Southeast Alaska may not retain fish while clients are on board the vessel.

These regulations apply in all marine waters of Southeast Alaska and are being implemented as a means to curtail halibut harvest from charter vessels. The halibut guideline harvest level (GHL) for Southeast Alaska has been exceeded each year since 2004 and is projected to again be exceeded in 2007. This action is being taken under authority granted to the department by the Board of Fisheries to regulate harvests within established allocation guidelines (5 AAC 75.003).

For more information about the sport fisheries in Southeast Alaska, contact the nearest ADF&G office or visit: <http://www.sf.adfg.state.ak.us/statewide/EONR/index.cfm>

END

For additional information contact [Charlie Swanton](#), SE Regional Management Coordinator, (907) 465-4297.

SPORT FISHING

Emergency Order

ALASKA DEPARTMENT
OF FISH & GAME

Under Authority of AS 16.05.060

Emergency Order No. 1-R-02-07

Issued at Juneau, Friday, January 26,
2007.

Effective Date: 12:01 A.M. Tuesday,
May 1, 2007.

Expiration Date: 11:59 P.M. Monday,
December 31, 2007 unless superseded by
subsequent emergency order.

EXPLANATION: This emergency order prohibits charter boat guides and crew members from retaining any species of fish while paying clients are on board the vessel operated in salt water. This action is necessary for curtailing halibut harvests because the guideline harvest level (GHL) in Southeast Alaska has been exceeded.

REGULATION

The provisions of 5 AAC 47.036 (c) are added by this emergency order. Under this emergency order, the following provisions are effective beginning 12:01 A.M. May 1, 2007 through 11:59 P.M. December 31, 2007:

5 AAC 47.036 Prohibitions.

(c) A sport fishing guide and sport fishing guide crew member working on a charter vessel in the salt waters of Southeast Alaska may not retain fish while clients are on board the vessel.

Denby Lloyd
Acting Commissioner

By delegation to:

Charles O. Swanton
Regional Management Supervisor
Division of Sport Fish

JUSTIFICATION:

The pacific halibut GHl for charter boat anglers within Southeast Alaska has been exceeded each year since 2004. While discussions are continuing between the Department and North Pacific Fishery Management Council seeking a long term solution, it is recognized that federal action will not be soon enough to reduce halibut harvests in 2007. This action is being taken under the authority granted to the department by the Board of Fisheries to regulate harvests within established allocation guidelines.

DISTRIBUTION:

The distribution list for this emergency order is on file at the Region 1 Office of Alaska Department of Fish and Game, Division of Sport Fish, P. O. Box 240020, Douglas, AK 99824, (907) 465-4297.


Sport Fish
 Division - ADF&G

SPORT FISH GUIDE, BUSINESS, LOGBOOK, CHARTER REQUIREMENTS

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Special Issues

Division of Sport Fish: Sport fish Guide Industry Limited Entry Program

The Alaska Dept. of Fish and Game, Division of Sport Fish is evaluating the option of recommending the establishment of a sport fish guide limited entry program, and we would like to hear your comments.

The first step in this process would require that limited entry become part of the management "tool box" through legislative action. This is followed by the establishment of a Sport Fish Limited Entry commission or panel through which the details of a sport fish charter/guide "permit" would be outlined. Details and the criteria of a limited entry program may be managed by ADF&G, CFEC or a newly established Sport Fish Entry commission.

ADF&G has established a Limited Entry Task Force represented by both freshwater and saltwater guides from around the state. This group is tasked with working as liaisons between ADF&G and the industry. In an early December meeting, the task force agreed that ADF&G should have limited entry as a management tool and would further assist in drafting the legislative language that would be introduced to the legislature in 2007.

Some considerations to establishing a sport fish guide limited entry program:

1. Preserving the quality experience of the angler.
2. Increase customer (client) confidence in the industry.
3. Help to maintain conservation/sustainability of the resource.
4. Stabilize the sport fish guide industry.
5. Prevent economic distress and over capitalization among guides.
6. Limit effort on stocks already fully utilized.
7. Reduce allocation issues.

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The Dept. of Fish & Game has presented a 'Briefing Paper' to the Governor's office for review and consideration. [View the brief \(80 KB - PDF\)](#)

CHARTER HALIBUT ALLOCATION DISCUSSION PAPER ADDENDUM. SUMMARY OF AREA 2A CATCH SHARING PLAN¹

SUMMARY For years, the public and State of Washington Council delegates have testified to the Council on the benefits of the Pacific Council's Area 2A Pacific halibut catch sharing plan (CSP) to resolve some of the allocation issues between the commercial and charter sector, which are currently facing the North Pacific Council. It has been proposed as a model upon which the Council could develop a similar framework for Areas 2C and 3A. Certain conditions must be in place for a CSP to work in the North Pacific:

- 1) an allocation between the sectors that will be included in the plan; and
- 2) the State of Alaska must have a process in place to develop and recommend annual changes to the plan in cycle with an initial review and final action of proposed North Pacific Council action and the International Pacific Halibut Commission, so that NMFS and IPHC final regulations can be effective by March each year.

BACKGROUND In 1995, NMFS implemented a long term catch sharing plan recommended to it by the Pacific Fishery Management Council (60 FR 14651, March 20, 1995). This Plan constitutes a framework that is be applied to the annual Area 2A total allowable catch (TAC) approved by the International Pacific Halibut Commission (IPHC) each January. This framework is implemented in both IPHC regulations and domestic regulations as published in the *Federal Register*. In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries, even though the 1995 halibut TAC was 520,000 lb and the TAC since 2004 has been about the same as the 2007 TAC of 1,340,000 lb. Sector allocations since 2004 have also been stable.

Annual changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 through 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. Given the TAC, the proposed sport management measures implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The proposed commercial management measures will allow the fishery access to a portion of the Area 2A TAC while protecting overfished rockfish species that co-occur with halibut. The measures will be very similar to last year's management measures. The changes to the Plan and domestic management measures are minor changes and are intended to increase flexibility in management and opportunity to harvest available quota. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the Plan and domestic management measures will have a disproportionate negative effect on small entities versus large entities.

The Plan allocates 35 percent of the Area 2A TAC plus 25,000 lb to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent minus 25,000 lb to non-Indian fisheries in Area 2A. The annual shift of 25,000 lb from the non-tribal to the tribal fisheries has been made in response to a court order; 2007 is the final year that this shift must be made. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb. The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

¹ Adapted from 2007 Proposed Rule for the Area 2A CSP [72FR1690]

Timing

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and tribes consider whether changes to the Plan are needed or desired by their fishery participants.

Before both the September and November Pacific Council meetings: Fishery managers from the states hold public meetings to get public input on revisions to the Plan. At the September 2006 Pacific Council meeting, WDFW recommended several changes to the Plan and ODFW and the tribes announced that they had no proposals for revising the Plan in 2007. Following the meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review by the Pacific Council in November.

At its November 13-17, 2006 meeting, the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan, NMFS-proposed changes to the Plan, and public comments, and made final recommendations for modifications to the Plan as follows:

- (1) Constrain the Washington North Coast subarea June fishery to two specific nearshore areas on the first Tuesday and Thursday following June 17;
- (2) Reopen the Washington North Coast subarea June fishery in the entire north coast subarea on the first Saturday following June 17;
- (3) If sufficient quota remains, reopen the entire Washington North Coast subarea for one day on the first Thursday following June 24, otherwise, reopen the nearshore areas on the first Thursday following June 24 for up to four days per week (Thursday-Sunday) until the quota is taken;
- (4) Set aside 5 percent of the Washington South Coast subarea quota for the nearshore fishery once the primary fishery has closed;
- (5) Set the Washington South Coast subarea nearshore fishery as a 2-day per week fishery, open Fridays and Saturdays;
- (6) Implement additional closed areas (Yelloweye Rockfish Conservation Areas, or YRCAs) off the coast of Washington that would affect commercial and sport halibut fisheries;
- (7) Remove latitude/longitude coordinates from the Plan but refer to the regulations in which they are published to reduce duplication;
- (8) Remove language referring to salmon troll fishery July-September season;
- (9) Add a definition of the Bonilla-Tatoosh line; and
- (10) Decrease the California possession limit on land from two daily limits to one daily limit statewide to conform with state regulation.

November 2006 NMFS prepared a Regulatory Impact Review/Initial Regulatory Flexibility Analysis on the proposed changes to the Plan and annual domestic Area 2A halibut management measures after the Council meeting.

In January 2007, NMFS prepared a Categorical Exclusion memorandum on the proposed changes to the Plan and annual domestic Area 2A halibut management measures, coincident with the proposed rule.

On January 16, 2007, NMFS published a proposed rule for Pacific Council recommendations for the 2007 Area 2A halibut CSP.

On March 14, 2007, NMFS published a final rule that implemented the 2007 Area 2A halibut CSP, coincident with final IPHC regulations.

2007 PACIFIC HALIBUT CATCH SHARING PLAN FOR AREA 2A

(a) FRAMEWORK

This Plan constitutes a framework that shall be applied to the annual Area 2A total allowable catch (TAC) approved by the International Pacific Halibut Commission (IPHC) each January. The framework shall be implemented in both IPHC regulations and domestic regulations (implemented by NMFS) as published in the *Federal Register*.

(b) ALLOCATIONS

(1) Except as provided below under (b)(2), this Plan allocates 35 percent of the Area 2A TAC to U.S. treaty Indian tribes in the State of Washington in subarea 2A-1, and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. Allocations within the non-Indian commercial and sport fisheries are described in sections (e) and (f) of this Plan. These allocations may be changed if new information becomes available that indicates a change is necessary and/or the Pacific Fishery Management Council takes action to reconsider its allocation recommendations. Such changes will be made after appropriate rulemaking is completed and published in the *Federal Register*.

(2) To meet the requirements of U.S. District Court Stipulation and Order (*U.S., et al. v. State of Washington, et al.* Case No. 9213 Phase I, Subproceeding No. 92-1, Stipulation and Order, July 7, 1999), 25,000 lb (11.3 mt) dressed weight of halibut will be transferred from the non-treaty Area 2A halibut allocation to the treaty allocation in Area 2A-1 each year for eight years commencing in the year 2000 and ending in the year 2007, for a total transfer of 200,000 lb (90.7 mt). To accelerate the total transfer, more than 25,000 lb (11.3 mt) may be transferred in any year upon prior written agreement of the parties to the stipulation.

(c) SUBQUOTAS

The allocations in this Plan are distributed as subquotas to ensure that any overage or underage by any one group will not affect achievement of an allocation set aside for another group. The specific allocative measures in the treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A are described in paragraphs (d) through (f) of this Plan.

(d) TREATY INDIAN FISHERIES

Except as provided above in (b)(2), 35 percent of the Area 2A TAC is allocated to 12 treaty Indian tribes in subarea 2A-1, which includes that portion of Area 2A north of Point Chehalis, WA (46°53.30' N. lat.) and east of 125°44.00' W. long. The treaty Indian allocation is to provide for a tribal commercial fishery and a ceremonial and subsistence

fishery. These two fisheries are managed separately; any overages in the commercial fishery do not affect the ceremonial and subsistence fishery. The commercial fishery is managed to achieve an established subquota, while the ceremonial and subsistence fishery is managed for a year-round season. The tribes will estimate the ceremonial and subsistence harvest expectations in January of each year, and the remainder of the allocation will be for the tribal commercial fishery.

- (1) The tribal ceremonial and subsistence fishery begins on January 1 and continues through December 31. No size or bag limits will apply to the ceremonial and subsistence fishery, except that when the tribal commercial fishery is closed, treaty Indians may take and retain not more than two halibut per day per person for subsistence purposes. Ceremonial fisheries shall be managed by tribal regulations promulgated inseason to meet the needs of specific ceremonial events. Halibut taken for ceremonial and subsistence purposes may not be offered for sale or sold.
- (2) The tribal commercial fishery season dates will be set within the season dates determined by the IPHC and implemented in IPHC regulations. The tribal commercial fishery will close when the subquota is taken. Any halibut sold by treaty Indians during the commercial fishing season must comply with IPHC regulations on size limits for the non-Indian fishery.

(e) **NON-INDIAN COMMERCIAL FISHERIES**

The non-Indian commercial fishery is allocated 31.7 percent of the non-Indian share of the Area 2A TAC for a directed halibut fishery and an incidental catch fishery during the salmon troll fishery. The non-Indian commercial allocation is approximately 20.6 percent of the Area 2A TAC. Incidental catch of halibut in the primary directed sablefish fishery north of Point Chehalis, WA will be authorized if the Washington sport allocation exceeds 224,110 lb (101.7 mt) as described in section (e)(3) of this Plan. The structuring and management of these three fisheries is as follows.

(1) Incidental halibut catch in the salmon troll fishery.

Fifteen percent of the non-Indian commercial fishery allocation is allocated to the salmon troll fishery in Area 2A as an incidental catch during salmon fisheries. The quota for this incidental catch fishery is approximately 3.1 percent of the Area 2A TAC. The primary management objective for this fishery is to harvest the troll quota as an incidental catch during the May/June salmon troll fishery. The secondary management objective is to harvest the remaining troll quota as an incidental catch during the remainder of the salmon troll fishery.

- (i) The Council will recommend landing restrictions at its spring public meeting each year to control the amount of halibut caught incidentally in the troll fishery. The landing restrictions will be based on the number of incidental harvest license applications submitted to the IPHC, halibut

catch rates, the amount of allocation, and other pertinent factors, and may include catch or landing ratios, landing limits, or other means to control the rate of halibut harvest. NMFS will publish the landing restrictions annually in the *Federal Register*, along with the salmon management measures.

(ii) **Inseason adjustments to the incidental halibut catch fishery.**

(A) NMFS may make inseason adjustments to the landing restrictions, if requested by the Council Chairman, as necessary to assure that the incidental harvest rate is appropriate for salmon and halibut availability, does not encourage target fishing on halibut, and does not increase the likelihood of exceeding the quota for this fishery. In determining whether to make such inseason adjustments, NMFS will consult with the applicable state representative(s), a representative of the Council's Salmon Advisory Sub-Panel, and Council staff.

(B) Notice and effectiveness of inseason adjustments will be made by NMFS in accordance with paragraph (f)(5) of this Plan.

(iii) **If the overall quota for the non-Indian, incidental commercial troll fishery has not been harvested by salmon trollers during the May/June fishery, additional landings of halibut caught incidentally during salmon troll fisheries will be allowed in July and will continue until the amount of halibut that was initially available as quota for the troll fishery is taken or until the end of the season date for commercial halibut fishing determined by the IPHC and implemented in IPHC regulation. Landing restrictions implemented for the May/June salmon troll fishery will apply for as long as this fishery is open. Notice of the July opening of this fishery will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. Halibut retention in the salmon troll fishery will be allowed after June only if the opening has been announced on the NMFS hotline.**

(iv) **A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not in both.**

(v) **Under the Pacific Coast groundfish regulations at 50 CFR 660.383, fishing with salmon troll gear is prohibited within the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA). The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.390 and in salmon regulations at 50 CFR 660.405.**

(2) **Directed fishery targeting halibut.**

Eighty-five percent of the non-Indian commercial fishery allocation is allocated to the directed fishery targeting halibut (e.g., longline fishery) in southern Washington, Oregon, and California. The allocation for this directed catch fishery is approximately 17.5 percent of the Area 2A TAC. This fishery is confined to the area south of Subarea 2A-1 (south of Point Chehalis, WA; 46° 53.30' N. lat.). This fishery may also be managed with closed areas designed to protect overfished groundfish species. Any such closed areas will be described annually in federal halibut regulations published in the *Federal Register* and specifically defined at 50 CFR 300.63(e). The commercial fishery opening date(s), duration, and vessel trip limits, as necessary to ensure that the quota for the non-Indian commercial fisheries is not exceeded, will be determined by the IPHC and implemented in IPHC regulations. If the IPHC determines that poundage remaining in the quota for the non-Indian commercial fisheries is insufficient to allow an additional day of directed halibut fishing, the remaining halibut will be made available for incidental catch of halibut in the fall salmon troll fisheries (independent of the incidental harvest allocation).

(3) Incidental catch in the sablefish fishery north of Point Chehalis.

If the Area 2A TAC is greater than 900,000 lb (408.2 mt), the primary directed sablefish fishery north of Point Chehalis will be allocated the Washington sport allocation that is in excess of 214,110 lb (97.1 mt), provided a minimum of 10,000 lb (4.5 mt) is available (i.e., the Washington sport allocation is 224,110 lb (101.7 mt) or greater). If the amount above 214,110 lb (97.1 mt) is less than 10,000 lb (4.5 mt), then the excess will be allocated to the Washington sport subareas according to section (f) of this Plan. The amount of halibut allocated to the sablefish fishery will be shared as follows: up to 70,000 lb of halibut to the primary sablefish fishery north of Pt. Chehalis. Any remaining allocation will be distributed to the Washington sport fishery among the four subareas according to the sharing described in the Plan, Section (f)(1).

The Council will recommend landing restrictions at its spring public meeting each year to control the amount of halibut caught incidentally in this fishery. The landing restrictions will be based on the amount of the allocation and other pertinent factors, and may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings. NMFS will publish the landing restrictions annually in the Federal Register.

Under Pacific Coast groundfish regulations at 50 CFR 660.382, fishing with limited entry fixed gear is prohibited within the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) and the Non-Trawl Rockfish Conservation Area (RCA). The North Coast Commercial Yelloweye Rockfish Conservation Area YRCA is an area off the northern Washington coast, overlapping the northern part of North Coast Recreational YRCA. The Non-Trawl RCA is an area off the Washington coast. These closed areas are defined by straight lines connecting latitude and longitude coordinates. Coordinates for

the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.390. Coordinates for the Non-Trawl RCA are specified in groundfish regulations at 50 CFR 660.393.

(4) Commercial license restrictions/declarations.

Commercial fishers must choose either (1) to operate in the directed commercial fishery in Area 2A and/or retain halibut caught incidentally in the primary directed sablefish fishery north of Point Chehalis, WA or (2) to retain halibut caught incidentally during the salmon troll fishery. Commercial fishers operating in the directed halibut fishery and/or retaining halibut incidentally caught in the primary directed sablefish fishery must send their license application to the IPHC postmarked no later than April 30, or the first weekday in May, if April 30 falls on a weekend, in order to obtain a license to fish for halibut in Area 2A. Commercial fishers operating in the salmon troll fishery who seek to retain incidentally caught halibut must send their application for a license to the IPHC for the incidental catch of halibut in Area 2A postmarked no later than March 31, or the first weekday in April, if March 31 falls on a weekend. Fishing vessels licensed by IPHC to fish commercially in Area 2A are prohibited from operating in the sport fisheries in Area 2A.

(f) SPORT FISHERIES

The non-Indian sport fisheries are allocated 68.3 percent of the non-Indian share, which is approximately 44.4 percent of the Area 2A TAC. The allocation is further divided as subquotas among seven geographic subareas.

- (1) Subarea management. The sport fishery is divided into seven sport fishery subareas, each having separate allocations and management measures as follows.

(i) Washington inside waters (Puget Sound) subarea.

This sport fishery subarea is allocated 23.5 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea is defined as all U.S. waters east of the mouth of the Sekiu River, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., including Puget Sound. The structuring objective for this subarea is to provide a stable sport fishing opportunity and maximize the season length. To that end, the Puget Sound subarea may be divided into two regions with separate seasons to achieve a fair harvest opportunity within the subarea. Due to inability to monitor the catch in this area inseason, fixed seasons, which may vary and apply to different regions within the subarea, will be established preseason based on projected catch per day and number of days to achievement of the quota. Inseason adjustments may be made, and estimates of actual catch will be made

postseason. The fishery will open in April or May and continue until a date established pre-season (and published in the sport fishery regulations) when the quota is predicted to be taken, or until September 30, whichever is earlier. The Washington Department of Fish and Wildlife will develop recommendations to NMFS on the opening date and weekly structure of the fishery each year. The daily bag limit is one fish per person, with no size limit.

(ii) Washington north coast subarea.

This sport fishery subarea is allocated 62.2 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea is defined as all U.S. waters west of the mouth of the Sekiu River, as defined above in paragraph (f)(1)(i), and north of the Queets River (47°31.70' N. lat.). The management objective for this subarea is to provide a quality recreational fishing opportunity during May and the latter part of June. To meet this objective, the north coast subarea quota will be allocated as follows: 72% for the month of May and 28% for the latter part of June. The fishery will open on the first Tuesday between May 9 and 15, and continue 3 days per week (Tuesday, Thursday, and Saturday) until the May allocation is projected to be taken. The fishery will then reopen for two days on the first Tuesday and Thursday following June 17, in the following nearshore areas only:

- A. WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.
- B. Shoreward of the recreational halibut 30-fm boundary line, a modified line approximating the 30 fm depth contour from the Bonilla-Tatoosh line south to the Queets River. Coordinates for the closed area will be specifically defined annually in federal halibut regulations published in the *Federal Register*.

The fishery will reopen for one day on the first Saturday following June 17 in the entire north coast subarea. If sufficient quota remains, the fishery would reopen, as a first priority, in the entire north coast subarea for one day on the first Thursday following June 24. If there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described above would reopen on the first Thursday following June 24, up to four days per

week (Thursday-Sunday), until the remaining subarea quota is projected to be taken. No sport fishing for halibut is allowed after September 30. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the nearshore areas for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit in all fisheries is one halibut per person with no size limit.

Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Recreational YRCA are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in federal halibut regulations published in the *Federal Register*.

(iii) Washington south coast subarea.

This sport fishery is allocated 12.3 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea is defined as waters south of the Queets River (47°31.70' N. lat.) and north of Leadbetter Point (46°38.17' N. lat.). The structuring objective for this subarea is to maximize the season length, while maintaining a quality fishing experience. The south coast subarea quota will be allocated as follows: 95% for the primary fishery, and 5% for the nearshore fishery, once the primary fishery has closed. The fishery will open on May 1. If May 1 falls on a Friday or Saturday, the fishery will open on the following Sunday. The primary fishery will be open Sunday through Thursday in all areas, except where prohibited, and the nearshore fishery will be open 7 days per week in the area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. The primary fishery will continue until September 30, or until 95% of the quota is achieved, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining to reopen the primary fishery for another fishing day, then any remaining quota may be used to accommodate incidental catch in the nearshore area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. on Fridays, and Saturdays, until the remaining quota is projected to be taken. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the nearshore areas for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, with no size limit.

Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. The South Coast Recreational YRCA is an area off

the southern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the South Coast Recreational YRCA are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in federal halibut regulations published in the *Federal Register*.

(iv) Columbia River subarea.

This sport fishery subarea is allocated 2.0 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 4.0 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea is also allocated 5.0 percent of the Oregon/California sport allocation or an amount equal to the contribution from the Washington sport allocation, whichever is greater. This subarea is defined as waters south of Leadbetter Point, WA (46°38.17' N. lat.) and north of Cape Falcon, OR (45°46.00' N. lat.). The fishery will open on May 1, and continue 7 days per week until 70 percent of the subarea allocation is taken or until the third Sunday in July, whichever is earlier. The fishery will reopen on the first Friday in August and continue 3 days per week, Friday-Sunday until the remainder of the subarea quota has been taken, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution. The daily bag limit is one halibut per person, with no size limit. No groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by groundfish regulations, if halibut are on board the vessel.

(v) Oregon central coast subarea.

This subarea extends from Cape Falcon (45°46.00' N. lat.) to Humbug Mountain, Oregon (42°40.50' N. lat.) and is allocated 92.0 percent of the Oregon/California sport allocation minus any amount of pounds needed to contribute to the Oregon portion of the Columbia River subarea quota. The structuring objectives for this subarea are to provide two periods of fishing opportunity in Spring and in Summer in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers. Any poundage remaining unharvested in the Spring all-depth subquota will be added to the Summer all-depth sub-quota. Any poundage that is not needed to extend the inside 40-fathom (73 m) fishery through October 31 will be added to the Summer all-depth season if it can be used, and any poundage remaining unharvested from the Summer all-depth fishery will be added to the inside 40-fathom (73 m) fishery subquota, if it can be used. If inseason it is determined via joint consultation between IPHC, NMFS and ODFW, that the combined all-depth and inside 40-fathom (73 m) fisheries will not harvest the entire quota to the

subarea, quota may be transferred inseason to another subarea south of Leadbetter Point, WA by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, unless otherwise specified, with no size limit. During days open to all-depth halibut fishing, no groundfish may be taken and retained, possessed or landed, except sablefish when allowed by groundfish regulations, if halibut are on board the vessel.

Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Stonewall Bank YRCA are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in federal halibut regulations published in the *Federal Register*.

ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each year. The three seasons for this subarea are as follows.

A. The first season opens on May 1, only in waters inside the 40-fathom (73 m) curve, and continues daily until the subquota (8 percent of the subarea quota) is taken, or until October 31, whichever is earlier. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 40-fathom (73 m) curve fishery.

B. The second season is an all-depth fishery with two potential openings and is allocated 69 percent of the subarea quota. Fixed season dates will be established preseason for the first Spring opening and will not be modified inseason except if the combined Oregon all-depth Spring and Summer season total quotas are estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the Spring fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea subquota for this season. The first opening will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days. The fixed season dates will occur in consecutive weeks starting the second Thursday in May (if the season is 5 or more fishing days) or second Friday in May (if the season is 4 or fewer fishing days), with possible exceptions to avoid adverse tidal conditions. If, following the "fixed" dates, quota for this season remains unharvested, a second opening will be held. If it is determined appropriate through joint consultation between IPHC, NMFS and ODFW, fishing may be allowed on one or more additional days. Notice of the opening(s) will be announced by NMFS via an update to the recreational halibut hotline. The fishery will be open every other week on Thursday through Saturday except that week(s) may be skipped to avoid

adverse tidal conditions. The potential open Thursdays through Saturdays will be identified preseason. The fishery will continue until there is insufficient quota for an additional day of fishing or July 31, whichever is earlier.

C. The last season is an all-depth fishery that begins on the first Friday in August and is allocated 23 percent of the subarea quota. The fishery will be structured to be open every other week on Friday through Sunday except that week(s) may be skipped to avoid adverse tidal conditions. The fishery will continue until there is insufficient quota remaining to reopen for another fishing day or October 31, whichever is earlier. The potential open Fridays through Sundays will be identified preseason. If after the first scheduled open period, the remaining Cape Falcon to Humbug Mountain entire season quota (combined all-depth and inside 40-fathom (73 m) quotas) is 60,000 lb (27.2 mt) or more, the fishery will re-open on every Friday through Sunday (versus every other Friday through Sunday), if determined to be appropriate through joint consultation between IPHC, NMFS, and ODFW. The inseason action will be announced by NMFS via an update to the recreational halibut hotline. If after the Labor Day weekend, the remaining Cape Falcon to Humbug Mountain entire season quota (combined all-depth and inside 40-fathom (73 m) quotas) is 30,000 lb (13.6 mt) or more and the fishery is not already open every Friday through Sunday, the fishery will re-open on every Friday through Sunday (versus every other Friday through Sunday), if determined to be appropriate through joint consultation between IPHC, NMFS, and ODFW. After the Labor Day weekend, the IPHC, NMFS, and ODFW will consult to determine whether increasing the Oregon Central Coast bag limit to two fish is warranted with the intent that the quota for the subarea is taken by September 30. If the quota is not taken by September 30, the season will remain open, maintaining the bag limit in effect at that time, through October 31 or quota attainment, whichever is earlier. The inseason action will be announced by NMFS via an update to the recreational halibut hotline.

(vi) South of Humbug Mountain subarea.

This sport fishery subarea is allocated 3.0 percent of the Oregon/California subquota, which is approximately 0.62 percent of the Area 2A TAC. This area is defined as the area south of Humbug Mountain, OR (42°40.50' N. lat.), including California waters. The structuring objective for this subarea is to provide anglers the opportunity to fish in a continuous, fixed season that is open from May 1 through October 31. The daily bag limit is one halibut per person, with no size limit. Due to inability to monitor the catch in this area inseason, a fixed season will be established preseason by NMFS based on projected catch per day and number of days to achievement of the subquota; no inseason adjustments will be made, and estimates of actual catch will be made post season.

- (2) **Port of landing management.** All sport fishing in Area 2A will be managed on a "port of landing" basis, whereby any halibut landed into a port will count toward the quota for the subarea in which that port is located, and the regulations governing the subarea of landing apply, regardless of the specific area of catch.
- (3) **Possession limits.** The sport possession limit on land in Washington is two daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The sport possession limit on land in Oregon is three daily bag limits, regardless of condition, but only one daily bag limit may be possessed on the vessel. The sport possession limit on land in California and on the vessel is one daily bag limit, regardless of condition.
- (4) **Ban on sport vessels in the commercial fishery.** Vessels operating in the sport fishery for halibut in Area 2A are prohibited from operating in the commercial halibut fishery in Area 2A. Sport fishers and charterboat operators must determine, prior to May 1 of each year, whether they will operate in the commercial halibut fisheries in Area 2A which requires a commercial fishing license from the IPHC. Sport fishing for halibut in Area 2A is prohibited from a vessel licensed to fish commercially for halibut in Area 2A.
- (5) **Flexible inseason management provisions.**
 - (i) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the IPHC Executive Director, and the Fisheries Director(s) of the affected state(s), or their designees, is authorized to modify regulations during the season after making the following determinations.
 - (A) The action is necessary to allow allocation objectives to be met.
 - (B) The action will not result in exceeding the catch limit for the area.
 - (C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to another Washington sport subarea.
 - (D) If any of the sport fishery subareas south of Leadbetter Point, WA are not projected to utilize their respective quotas by their season ending dates, NMFS may take inseason action to transfer any projected unused quota to another Oregon sport subarea.
 - (ii) Flexible inseason management provisions include, but are not limited to, the following:

- (A) Modification of sport fishing periods;
 - (B) Modification of sport fishing bag limits;
 - (C) Modification of sport fishing size limits;
 - (D) Modification of sport fishing days per calendar week; and
 - (E) Modification of subarea quotas north of Cape Falcon, OR.
- (iii) Notice procedures.
- (A) Inseason actions taken by NMFS will be published in the *Federal Register*.
 - (B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206-526-6667 or 800-662-9825 (May through October) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishermen should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.
- (iv) Effective dates.
- (A) Inseason actions will be effective on the date specified in the Federal Register notice or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.
 - (B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the *Federal Register*. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after of the action in the *Federal Register*.
 - (C) Inseason actions will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

- (v) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

(6) Sport fishery closure provisions.

The IPHC shall determine and announce closing dates to the public for any subarea in which a subquota is estimated to have been taken. When the IPHC has determined that a subquota has been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled by NMFS as an inseason action, or announced by the IPHC.

(g) PROCEDURES FOR IMPLEMENTATION

Each year, NMFS will publish a proposed rule with any regulatory modifications necessary to implement the Plan for the following year, with a request for public comments. The comment period will extend until after the IPHC annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments. After the Area 2A TAC is known, and after NMFS reviews public comments, NMFS will implement final rules governing the sport fisheries. The final ratio of halibut to chinook to be allowed as incidental catch in the salmon troll fishery will be published with the annual salmon management measures.

Sources: 72 FR 11792 (March 14, 2007)
71 FR 10850 (March 3, 2006)
70 FR 20304 (April 19, 2005)
69 FR 24524 (May 4, 2004)
68 FR 10989 (March 7, 2003)
67 FR 12885 (March 20, 2002)
66 FR 15801 (March 21, 2001)
65 FR 14909 (March 20, 2000)
64 FR 13519 (March 19, 1999)
63 FR 13000 (March 17, 1998)
62 FR 12759 (March 18, 1997)
61 FR 11337 (March 20, 1996)
60 FR 14651 (March 20, 1995)
59 FR 22522 (May 2, 1994)
58 FR 17791 (April 6, 1993)

Commercial/Charter Working Group Recommendations on Compensated Reallocation
March 31, 2007

The working group consisted of four commercial (Kathy Hansen, Dan Falvey, Cora Crome, and Dan Hull) and four charter (Larry McQuarrie, Bob Ward, Greg Sutter, and Andy Mezirow) representatives.

Using the AP motion as the basis for discussion, the group fleshed out Elements 2 and 3 of the AP motion as a starting point for further discussion by the Council, the Stakeholder Group, the AP, and the public. Once the allocation is set, anything above the allocation must be compensated reallocation. Therefore, the issues of allocation and compensated reallocation are linked.

The working group recommends that the Council provide direction to the Stakeholder Committee that its work should focus on further development of Elements 2 through 7, recognizing that the composition of the Stakeholder Committee makes it incapable of addressing the allocation contained in Element 1. Determining the allocation options is the responsibility of the Council.

Element 2 Entity/Structures to provide for compensated reallocation

- Option 1. government - common pool
 - Suboption 1. state
 - Suboption 2. federal
- Option 2. regional (2C or 3A) private non-profit (PNP) charter associations/entities - common pool
- Option 3. individual - private
 - Suboption 1. persons holding a sport fishing guide business license from the state
 - Suboption 2. persons holding a guided sport halibut moratorium license (upon implementation)

Element 3 Method for Purchase

- Option 1. state – common pool
 - Suboption 1. loan
 - Suboption 2. bonding
- Option 2. federal – common pool
 - Suboption 1. loan
 - Suboption 2. buyout program (similar to SE seine buyback program)
- Option 3. regional private non-profit – common pool
 - Suboption 1. loan
 - Suboption 2. commercial bond
- Option 4. individual - private
 - Suboption 1. loan

Element 4 Revenue Stream

Non-self assessment revenue streams will be for a defined period and end after the loan or bond is paid off, i.e. continuous open-ended revenue streams are to be avoided.

There needs to be a link between the charter business operators and the cost of increasing the charter pool. (If the charter business operators do not experience the cost of increasing the charter pool, there will not be a feedback loop to balance the market system.)

- Option 1. state
 - Suboption 1. charter stamp
 - Suboption 2. self-assessment
 - option 1. fee is based on number of clients
 - option 2. fee is based on number of fish
 - Suboption 3. business license fee/surcharge
- Option 2. federal
 - Suboption 1. federal halibut stamp
 - Suboption 2. moratorium permit fee
 - Suboption 3. self-assessment
 - option 1. Fee is based on number of clients
 - option 2. Fee is based on number of fish
- Option 3. regional private non-profit – self assessment
 - Suboption 1. fee is based on number of clients
 - Suboption 2. fee is based on number of fish

Element 5 Sector Floor Ranges

The percentages are based on the combined commercial and charter catch limit. These are intended to establish a minimum amount that will always be available to each sector.

- A. commercial: 60 – 75%
- B. charter:
 - 2C: 12 – 16%
 - 3A: 13 – 15%

Note: These ranges should not be construed as endorsement of allocation ranges.

Element 6 Restrictions on transferability of commercial quota share

- Option 1. Limits on purchase
 - A. entities purchasing for a common pool:
 - Suboption 1. limited annually to a percentage of the amount of QS transferred during the previous year
 - option 1. during the first 3 years: 30 – 50%
 - option 2. after the first 3 years: 20 – 50%
 - Suboption 2. limitation would be based on block size. Block size restrictions may vary based on vessel size class
 - (These suboptions are not intended to be mutually exclusive.)
 - B. individual: subject to the current ownership cap and block restrictions associated with commercial quota share
- Option 2. Limits on leasing
 - A. individual:
 - Suboption 1. an individual may not own or control more than the amount equal to the current setline ownership cap converted to the number of fish in each area (currently 1% of the setline catch limit in 2C or ½% in 3A)
 - Suboption 2. an individual may not own or control more than 2,000, 5,000, or 10,000 fish. (Note: examine this as a percentage of the catch limit once allocations are established.)

Element 7 Mechanics for converting commercial quota share into Guided Angler Fish (GAF)

1. An entity must meet the eligibility requirement under element 2 to participate in the Guided Angler Fish (GAF) program. (i.e., an entity must have a sport fishing guide business license and/or a halibut moratorium license, or be a designated charter association/entity or branch of the government, to participate in the GAF program.)
2. These qualifying entities may purchase commercial QS and request NMFS to issue annual IFQs generated by these shares as Guided Angler Fish.
3. Qualified entities harvesting GAF while participating in the guided sport halibut fishery are exempt from landing and use restrictions associated with commercial IFQ fishery, but subject to the landing and use provisions detailed below.
4. GAF would be issued in numbers of fish. The conversion between annual IFQ and GAF would be based on average weight of halibut landed in each region's charter halibut fishery (2C or 3A) during the previous year as determined by ADF&G. The long-term plan may require further conversion to some other form (e.g., angler days).
5. Commercial fishermen who do not hold a sport fishing guide business license and/or moratorium permit may lease up to 10% of their annual IFQs for use as GAF.
6. Commercial fishermen who hold QS and a sport fishing guide business license and/or a halibut moratorium license may convert all or a portion of their commercial QS to GAF on a yearly basis if they own and fish it themselves on their own vessel. Commercial and charter fishing may not be conducted during the same trip.
7. Subleasing of GAF would be prohibited.
8. GAF holders may request NMFS convert unused GAF into IFQ pounds for harvest in compliance with commercial fishing regulations provided the GAF holder qualifies under the commercial IFQ regulations.
9. Unused GAF would revert back to pounds of IFQ at the end of the year and be subject to the underage provisions applicable to their underlying commercial QS.
10. All compensated reallocation would be voluntary based using willing seller and willing buyer.
11. Guided angler fish derived from commercial QS may not be sold into commerce, i.e., all sport regulations remain in effect.
12. Guided angler fish derived from commercial QS may not be used to harvest fish in excess of a 2 fish total bag limit on any given day.

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 - Suboption 1. limited annually to a percentage of the amount of QS transferred during the previous year
 - option 1. during the first 3 years: 30 – 50%
 - option 2. after the first 3 years: 20 – 50%
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(These suboptions are not intended to be mutually exclusive.)
 - B. individual: subject to the current ownership cap and block restrictions associated with commercial quota share
- Option 2. Limits on leasing
 - A. individual:
 - Suboption 1. an individual may not own or control more than the amount equal to the current setline ownership cap converted to the number of fish in each area (currently 1% of the setline catch limit in 2C or ½% in 3A)
 - Suboption 2. an individual may not own or control more than 2,000, 5,000, or 10,000 fish. (Note: examine this as a percentage of the catch limit once allocations are established.)

Element 7 Mechanics for converting commercial quota share into Guided Angler Fish (GAF)

1. An entity must meet the eligibility requirement under element 2 to participate in the Guided Angler Fish (GAF) program. (i.e., an entity must have a sport fishing guide business license and/or a halibut moratorium license, or be a designated charter association/entity or branch of the government, to participate in the GAF program.)
2. These qualifying entities may purchase commercial QS and request NMFS the issue annual IFQs generated by these shares as Guided Angler Fish.
3. Qualified entities harvesting GAF while participating in the guided sport halibut fishery are exempt from landing and use restrictions associated with commercial IFQ fishery, but subject to the landing and use provisions detailed below.
4. GAF would be issued in numbers of fish. The conversion between annual IFQ and GAF would be based on average weight of halibut landed in each region's charter halibut fishery (2C or 3A) during the previous year as determined by ADF&G. The long-term plan may require further conversion to some other form (e.g., angler days).
5. Commercial fishermen who do not hold a sport fishing guide business license and/or moratorium permit may lease up to 10% of their annual IFQs for use as GAF.
6. Commercial fishermen who hold QS and a sport fishing guide business license and/or a halibut moratorium license may convert all or a portion of their commercial QS to GAF on a yearly basis if they own and fish it themselves on their own vessel. Commercial and charter fishing may not be conducted during the same trip.
7. Subleasing of GAF would be prohibited.
8. GAF holders may request NMFS convert unused GAF into IFQ pounds for harvest in compliance with commercial fishing regulations provided the GAF holder qualifies under the commercial IFQ regulations.
9. Unused GAF would revert back to pounds of IFQ at the end of the year and be subject to the underage provisions applicable to their underlying commercial QS.
10. All compensated reallocation would be voluntary based using willing seller and willing buyer.
11. Guided angler fish derived from commercial QS may not be sold into commerce, i.e., all sport regulations remain in effect.
12. Guided angler fish derived from commercial QS may not be used to harvest fish in excess of a 2 fish total bag limit on any given day.