

Public Testimony Sign-Up Sheet

Agenda Item C-1(F) Halibut Charter MORATORIUM

	NAME (PLEASE PRINT)	AFFILIATION
1	Ret. Murphy, Donna Bon	Self Self
2	Bob Howard	Self
3	Hill Norvell	Self
4	CHUCK COLLINS	TAIL TALKERS CHARTERS
5	DANIEL DANICH	DANIEL'S PEAS. GUIDE SERV.
6	ROARKE BROWN	HOMER OCEAN CHARTERS
7	Donald E Westlund	Silver King CHARTERS
8	Nenni Hawks	Puffin Fishing Charters
9	Steve Zernia	ProFish-n-Sea
10	Seth Bone	Sitka Charter Boat Operators Association
11	Stew Malcom	Petersburg Charter Assoc
12	Patrick Booky	Luck of the Irish Charters
13	David Pinquich	AK Good Time Charters
14	Tina McNamee	Island View Resort & Charters
15	Mike Coates	Self
16	TIM ERION	Self
17	MEL ERICKSON	Self
18	Mike Patterson	Self
19	Tom Mahoney	Self
20	Marc Smith	Self
21	Barry Wright	Self
22	Lynn Keogh	Self
23	George Patterson	Self
24	TIM EVERS	Deep Creek Charterboat Assoc
25	Sean Martin	North Country Charters

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 C-1 (f) Halibut charter Moratorium

	NAME (PLEASE PRINT)		AFFILIATION
1	Gerri Martin	MRS	North Country Charters
2	Joe Summersky		Self
3	Gary Oult		Self
4	Mila Swan		Self
5	Robert Ward		Home Charters Assoc
6	Rick Bierman		Jouerau Charterboats Assn
7	Ken Dole		Waterfall Lodge
8	LARRY McDONNELL		HALIBUT CHARTER COALITION OF AK
9	KEN L. LARSON	6	PWSCBA (ORGANIZ. SEC.)
10	Dan Hull	6	CDFW
11	Ronald ...		Home time charters
12	Oystein Lone	6	Deep Sea Fishermens Union
13	KEN NEUMAN	6	KODIAK ASSOC. CHARTER BOAT OWNERS
14	CHRIS FIALA	6	KOD. Assoc. of charter boat owners
15	JEFF Peterson		
16	JOEL THANSON		THE BOAT COMPANY
17	Robert sanderson		Goac3 Tinget HADA TRIBES OF AK
18	chuck mcgallan		GOAC3
19
20	Brennan Eagle		Self
21	Kathy Hansen		SE AK Fishermens Alliance
22	Barbara - Fleet		Ch Phoga
23	...		Self
24	GREG SUTER		Alaska Charter Assoc
25	ANN BAYES		Self

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Public Testimony Sign-Up Sheet

Agenda Item C-1(f) Halibut Charter Moratorium

	NAME (PLEASE PRINT)	AFFILIATION
1	Freddie Christiansen	GOAC3
2	BURNIS w Sims	R.S.F.A.
3	DEBORAH SIMS	SELF
4	RICHARD West	SELF
5	Scott Glosier	self / ACA
6	MARIL MILLER	ALASKA TRAVEL INDUSTRY ASSOC.
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MEMORANDUM

TO: Council, SSC and AP Members
FROM: ^{DO FOR} Chris Oliver
Executive Director
DATE: March 19, 2007
SUBJECT: Charter Halibut Management

ESTIMATED TIME 16 HOURS (all C-1 items)

ACTION REQUIRED

Final Action on Moratorium Analysis

BACKGROUND

The Council is scheduled to select a preferred alternative to limit entry into the charter halibut fisheries in Areas 2C and 3A, based on a revised analysis that was mailed to the Council on March 5, 2007. The analysis includes a preliminary preferred alternative (Item C-1(f)(1)) from among an expanded suite of alternatives and options (Item C-1(f)(2)). One alternative would take no action. The second alternative would implement a moratorium on entry into the charter sector, as of December 9, 2005. Permits would be issued to persons based on minimum threshold levels of participation, and to certain eligible communities based on maximum threshold levels of charter halibut participation in those communities. Both types of entities would be subject to use caps and other restrictions. An executive summary of the analysis is attached as Item C-1(f)(3). If approved by the Secretary, limited entry permits would be issued for the 2009 season, at the earliest, due to the necessary rulemaking and application/appeals process.

MOTION 2 (approved 11-0):

The Council adopts the following as its preliminary preferred alternative:

Alternative 2. Implement a moratorium on entry into the charter halibut fisheries in Areas 2C and 3A using a control date of December 9, 2005.

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

Issue 1. Permits² may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership of the business. Businesses³ may receive multiple permits due to charter halibut activity by vessels reported by the businesses in ADF&G logbooks. Initial permit recipients may be "grandfathered" below the U.S. ownership level and above proposed use caps until any change in ownership of the business occurs.⁴

Issue 2. Permit would be designated for Area 2C and/or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip.

Issue 3. Permit would be issued to an ADF&G licensed fishing guide business owner.

Issue 4. Permit applicant would be required to sign an affidavit attesting that all legal requirements were met.⁵

Issue 5. Transfers of permits (permanent) would be allowed up to use caps.

Issue 6. Leasing of permits would not be allowed.⁶

Issue 7. Permit Endorsement for Number of Clients on Board

Highest number on any trip in 2004 or 2005, but:

Area 3A: Minimum endorsement is 4, maximum endorsement is 20

Area 2C: Minimum endorsement is 4, maximum endorsement is 8

Suboption 2: Permit holders can be issued a permit endorsement for the number of clients on board equal to the highest number on any trip in 2004 or 2005. Permits above the cap are grandfathered at that level until a permanent transfer⁷ of the permit occurs; the permit is then subject to the cap on client endorsements in Suboption 1.

¹ Military (Morale, Welfare, and Recreational) boats are not required to meet the qualification requirements of the program, but harvests still count against the GHF.

² Through initial issuance and transfers.

³ A business means a business licensed by the State of Alaska as a sport fish guide operator.

⁴ Transferred permits would not be grandfathered below the US ownership cap, even upon sale of a business, but would be grandfathered above the use cap upon sale of the entire business (see Issue 11).

⁵ The only tangible evidence is the ADF&G logbook, which requires meeting all State legal requirements.

⁶ 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.

⁷ A permanent transfer is defined as either a transfer of the permit through NMFS RAM Division to an unrelated entity or when persons are added to an existing entity. Removing a person from a corporation or partnership would not be considered a permanent transfer.

Issue 8. Permits may be stacked up to use caps.⁸

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

Issue 10. Qualification period

Option 10.1. Each licensed guide business owner(s) who reported a minimum of [10 or 15] bottomfish logbook trips during 2004 or 2005 and year prior to implementation⁹ would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance¹⁰ occurred. 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.

Example: a business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum ($24/20 = 1$); 2 permits under a 10 trip minimum ($24/10 = 2$); or 3 permits under a 5 trip minimum ($24/5 = 4$, but the maximum number of vessels in that year is 3).

Issue 11. Use caps, with grandfather¹¹ provision. The AFA 10% ownership rule for affiliation¹² will be applied to determine the number of permits associated with an entity under the use cap.

Option 2. 5 permits

Issue 12. Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66

A Community Quota Entity (CQE), representing a community in which 10 or fewer active¹³ charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits.

Area 2C – use cap of 4 or 5 requested permits per eligible community.

Area 3A – use cap of 4, 5, 7, or 10 requested permits per eligible community.

Overall use caps for CQEs are 2 times those selected for the CQE requested permit use cap for each area. Different use caps may be selected for CQEs representing communities in Area 2C and 3A.

Provisions for CQE requested permits:

- Designated for the area in which the community represented by the CQE is located
- Endorsed for 6 clients
- Not allowed to be sold (i.e., transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

⁸ A business can use, for example, two licenses (each endorsed for 6 clients) on one vessel.

⁹ “Year prior to implementation” could also mean two years prior to implementation, depending on the starting date of the application period for permits; e.g., the threshold would also need to be met in either 2007 or 2008, for implementation in 2009.

¹⁰ Acceptable circumstances will be adjudicated on a case by case basis through the NMFS Appeals Division, but includes medical emergencies, military exemptions, constructive losses. An individual who was assigned to active military duty during 2004 or 2005 and who qualifies as “active” during the year prior to implementation⁷ and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A (prior to the qualifying period) shall be eligible for a moratorium permit.

¹¹ 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.

¹² Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

¹³ “Active” is defined as it is under Issue 10 (e.g., either 10 or 15 bottomfish trips).

NORTH PACIFIC COUNCIL HALIBUT CHARTER MORATORIUM ALTERNATIVES
Revised as of February 9, 2007

Problem Statement. The Pacific halibut resource is fully utilized and harvest by the charter sector is demonstrating steady growth. To provide long term stability of the charter sector and lessen the need for regulatory adjustments, which destabilize the sector, the Council is embarking on development of a new management framework. In the interim, to address allocation issues between the charter and commercial sectors, the former is operating under a guideline harvest level (GHL). Harvest data since 2004 indicate that the GHLs in Area 2C have been exceeded and are near levels established for Area 3A. This has resulted in a renewed effort to find a long-term solution. To that end, the Council formed a stakeholder committee of affected charter and commercial user groups to consider management options and formulate recommendations for Council consideration in developing a management plan for the charter sector. Some of the options previously considered include limiting entry or awarding quota share based on past participation in the fishery. To address the potential against the rush of new entrants into the charter fishery, the Council is considering establishing a moratorium on the charter sector. The moratorium is to provide an interim measure of stability in the guided sport halibut sector during the step-wise process toward a long-term solution. In doing so, however, the Council is also concerned with maintaining access to the halibut charter fishery by small, rural, coastal communities. To address this, the Council is considering establishing a separate program to allow these communities to enter the halibut charter fishery.

ALTERNATIVE 1. No action

ALTERNATIVE 2. Implement a moratorium on entry into the charter halibut fisheries in Areas 2C and 3A using a control date of December 9, 2005 (*Council preliminary preferred alternative*).¹

Features of the proposed moratorium (limited entry) program:²

Issue 1. Permits³ may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership of the business. Businesses⁴ may receive multiple permits due to charter halibut activity by vessels reported by the businesses in ADF&G logbooks. Initial permit recipients may be "grandfathered" below the U.S. ownership level and above proposed use caps until any change in ownership of the business occurs.⁵

Issue 2. Permit would be designated for Area 2C and/or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip.

Issue 3. Permit would be issued to an ADF&G licensed fishing guide business owner.

Issue 4. Permit applicant would be required to sign an affidavit attesting that all legal requirements were met.⁶

¹The Council's preliminary preferred alternative (selected in February 2007) includes Issues 1 – 12. If there are options identified under an issue, those that are part of the Council's preliminary preferred alternative are marked with an asterisk (*).

² Military (Morale, Welfare, and Recreational) boats are not required to meet the qualification requirements of the program, but harvests still count against the GHL.

³ Through initial issuance and transfers.

⁴ A business means a business licensed by the State of Alaska as a sport fish guide operator.

⁵ Transferred permits would not be grandfathered below the US ownership cap, even upon sale of a business, but would be grandfathered above the use cap upon sale of the entire business (see Issue 11).

⁶ The only tangible evidence is the ADF&G logbook, which requires meeting all State legal requirements.

Issue 5. Transfers of permits (permanent) would be allowed up to use caps.

Suboption 1: Prohibit transfers of issued permits for individual vessels that qualified at trip levels less than 10, 15, or 20 trips as reported in the ADF&G logbook.

Issue 6. Leasing of permits would not be allowed.⁷

Issue 7. Permit Endorsement for Number of Clients on Board

*Highest number on any trip in 2004 or 2005, but not less than 4.

Suboption 1: Area 2C: cap maximum endorsements at 6, 8, 10, or 15
Area 3A: cap maximum endorsements at 10, 15, 20*, or 25

*Suboption 2: Permit holders can be issued a permit endorsement for the number of clients on board equal to the highest number on any trip in 2004 or 2005. Permits above the cap are grandfathered at that level until a permanent transfer⁸ of the permit occurs; the permit is then subject to the cap on client endorsements in Suboption 1.

Issue 8. Permits may be stacked up to use caps.⁹

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

Issue 10. Qualification period

Option 10.1: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15*, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation¹⁰ would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance¹¹ occurred. 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.

Example: a business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum (24/20 = 1); 2 permits under a 10 trip minimum (24/10 = 2); or 3 permits under a 5 trip minimum (24/5 = 4, but the maximum number of vessels in that year is 3).

⁷ 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.

⁸ A permanent transfer is defined as either a transfer of the permit through NMFS RAM Division to an unrelated entity or when persons are added to an existing entity. Removing a person from a corporation or partnership would not be considered a permanent transfer.

⁹ A business can use, for example, two licenses (each endorsed for 6 clients) on one vessel.

¹⁰ "Year prior to implementation" could also mean two years prior to implementation, depending on the starting date of the application period for permits; e.g., the threshold would also need to be met in either 2007 or 2008, for implementation in 2009.

¹¹ Acceptable circumstances will be adjudicated on a case by case basis through the National Marine Fisheries Appeals Division, but includes medical emergencies, military exemptions, constructive losses. An individual who was assigned to active military duty during 2004 or 2005 and who qualifies as "active" during the year prior to implementation⁷ and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A.(prior to the qualifying period) shall be eligible for a moratorium permit.

Option 10.2: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation⁷ would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance⁸ occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. 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.

Example: Under a 5 trip threshold, a vessel with 10 trips generates 1 permit; second and third vessels with 3 trips each earn 1 permit by combining their trips.

Issue 11. Use caps, with grandfather¹² provision. The AFA 10% ownership rule for affiliation¹³ will be applied to determine the number of permits associated with an entity under the use cap.

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

Issue 12. Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66

A Community Quota Entity (CQE), representing a community in which [5 or fewer or *10 or fewer] active¹⁴ charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits.

Area 2C – use cap of 3, 4*, 5*, or 7 requested permits per eligible community.

Area 3A – use cap of 4*, 5*, 7*, 10*, or 15 requested permits per eligible community.

Overall use caps for CQEs (different use caps may be selected for CQEs representing communities in Area 2C and 3A):

Option 1: 1, 3, or 5 times those selected for permits holders under Issue 11.

*Option 2: 2 times those selected for the CQE requested permit use cap for each area.

*Provisions for CQE requested permits:

- Designated for the area in which the community represented by the CQE is located
- Endorsed for 6 clients
- Not allowed to be sold (i.e., transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

¹² 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.

¹³ Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

¹⁴ "Active" is defined as it is under Issue 10 (e.g., either at least 1, 5, 10, 15, or 20 bottomfish trips).

March 9, 2007

Executive Summary

The Council is considering implementing a moratorium on new entry for halibut charter operators in IPHC Areas 2C and 3A. If implemented, halibut guide business operators will be required to hold a permit for each vessel they use to provide their halibut charter clients with fishing trips. The permits would be issued based on historic participation in the halibut charter fishery and endorsed for the IPHC area they may fish and the maximum number of clients they may carry. The permits will be transferable to persons meeting the U.S. ownership requirements that are under the maximum permit use cap. Eligible GOA Amendment 66 communities, through a Community Quota Entity (CQE) representing their community, could apply for additional permits, if they meet criteria for limited participation in the halibut charter fishery. The purpose of issuing permits to these communities is to provide them the opportunity to derive economic benefits from the halibut charter industry.

Problem Statement

The Pacific halibut resource is fully utilized and harvest by the charter sector is demonstrating steady growth. To provide long term stability of the charter sector and lessen the need for regulatory adjustments, which destabilize the sector, the Council is embarking on development of a new management framework. In the interim, to address allocation issues between the charter and commercial sectors, the former is operating under a guideline harvest level (GHL). Harvest data since 2004 indicate that the GHLs in Area 2C have been exceeded and are near levels established for Area 3A. This has resulted in a renewed effort to find a long-term solution. To that end, the Council formed a stakeholder committee of affected charter and commercial user groups to consider management options and formulate recommendations for Council consideration in developing a management plan for the charter sector. Some of the options previously considered include limiting entry or awarding quota share based on past participation in the fishery. To address the potential against the rush of new entrants into the charter fishery, the Council is considering establishing a moratorium on the charter sector. The moratorium is to provide an interim measure of stability in the guided sport halibut sector during the step-wise process toward a long-term solution. In doing so, however, the Council is also concerned with maintaining access to the halibut charter fishery by small, rural, coastal communities. To address this, the Council is considering establishing a separate program to allow these communities to enter the halibut charter fishery.

Proposed Alternatives

There are two primary alternatives for consideration, with several options included within Alternative 2. Alternative 1 is the no action alternative; Alternative 2 would implement a moratorium on entry into the halibut charter sector in Areas 2C and 3A. **In February 2007, the Council selected Alternative 2 as its preliminary preferred alternative, which currently includes Issues 1 – 12.** Several of these issues are presented as provisions, and the Council has selected the entire provision by selecting Alternative 2.¹ Other issues include options for consideration. The Council's preliminary preferred alternative is identified below. If there are options identified under an issue, those that are part of the Council's preliminary preferred alternative are identified with an asterisk (*).

Alternative 1. No action

***Alternative 2. Implement a moratorium on entry into the charter halibut fisheries in Areas 2C and 3A using a control date of December 9, 2005 (*Council preliminary preferred alternative**)**

¹Issues 1 – 4, 6, 8, and 9 are provisions, and they are all currently part of the Council's preliminary preferred alternative. Issues 5, 7, and 10 – 12 contain options. The options comprising the Council's preliminary preferred alternative are identified (*).

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Example: a business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum (24/20 = 1); 2 permits under a 10 trip minimum (24/10 = 2); or 3 permits under a 5 trip minimum (24/5 = 4, but the maximum number of vessels in that year is 3).

Option 10.2: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation⁷ would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance⁸ occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. 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.

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¹⁴ "Active" is defined as it is under Issue 10 (e.g., either at least 1, 5, 10, 15, or 20 bottomfish trips).

Area 2C – use cap of 3, 4*, 5*, or 7 requested permits per eligible community.

Area 3A – use cap of 4*, 5*, 7*, 10*, or 15 requested permits per eligible community.

Overall use caps for CQEs (different use caps may be selected for CQEs representing communities in Area 2C and 3A):

Option 1: 1, 3, or 5 times those selected for permits holders under Issue 11.

*Option 2: 2 times those selected for the CQE requested permit use cap for each area.

*Provisions for CQE requested permits:

- Designated for the area in which the community represented by the CQE is located
- Endorsed for 6 clients
- Not allowed to be sold (i.e., transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

Description of Alternative 1

Status quo in the halibut charter fishery is constructed from all of the current regulations. The GHL for the charter halibut fishery sets a target charter harvest level of 1.432 M lb net weight in Area 2C and 3.65 M lb net weight in Area 3A. Removal estimates for Area 2C were 1.95 M lbs and 3A 3.69 M lbs in 2005. Landings in 2005 were 36% and 1% over the 2C and 3A GHs, respectively. Other management measures currently in place include a two fish bag limit, 2-hook gear limit, guide registration requirements, limits on captain and crew harvests (they were prohibited from retaining halibut during part of 2006 in Area 2C), and other State and Federal management and safety requirements. Based on recent harvest amounts, the GHL has not constrained charter catches to their target level.

Continuing the status quo would allow the amount of halibut caught and retained on charter vessels to increase. The number of clients who take charter trips is a primary factor in determining the number of halibut retained. Clients decide whether to take a trip after considering the price of the trip, their income, the cost of other available activities that could substitute for a charter trip, and preferences for charter trips relative to other activities. Since the number of people in Alaska during the summer months has increased (both residents and non-residents) in recent years, it is likely that the demand¹⁵ for charter trips will continue to increase.

If charter harvests increase, the amount of halibut available to the Area 2C and 3A commercial halibut IFQ fisheries would be expected to decline when the CEY is constant or declining. Whether the decrease in the amount of halibut available to the IFQ fishery decreases their revenue depends on the elasticities of supply and demand. Recent studies have found that the ex-vessel price of halibut is not very responsive to changes in quantity. In terms of total revenue, decreases in the quantity harvested will not be offset by increases in price. Members of the commercial IFQ fleet continue to express concerns about the impact that a declining share of the fishery will have on their businesses, both in terms of Area 2C and 3A QS value and profitability. Post-harvest surplus will also decline with less Alaskan halibut in the market.

Continuing the status quo will likely continue the patterns of net benefit changes derived from the fishery by commercial charter operations and the clients that take trips in the future. Charter operators will make

¹⁵ If other factors such as income and preferences to take charter trips are unchanged.

normal profits and the total compensating variation derived by clients will increase. Entry and exit in the fishery will redistribute regional economic impacts but are not expected to change total net benefits. A competitive market will continue to determine the price of trips. Those charter operators willing to accept the market price will provide trips and clients willing to accept that price will take trips.

Description of Alternative 2

The moratorium is intended to stabilize the number of charter vessels that may operate at one time while the Council considers if a more comprehensive effort limitation program is necessary. The effect of the moratorium is to limit the number of vessels to those "active" during the qualifying period. The proposed moratorium by itself will not fully control fishing effort because the permitted fleet may react by increasing the annual number of trips per vessel or by taking more clients per trip on average.

A large segment of the current charter fleet operators and commercial IFQ fishermen support implementing some form of moratorium. The Council is considering whether more comprehensive limited entry actions are needed in a follow-up amendment. Participants in the commercial IFQ fishery, as a whole, appear to be proponents of implementing stronger effort controls under future actions. Recreational fishermen and persons just entering (or wishing to enter) the charter fishery, often oppose or are less supportive of the moratorium and future actions. Winners in future allocation decisions are likely the persons that hold permits allocated under this action.

Impact of Alternative 2

Permits. The proposed moratorium would allow permits to only be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership. Currently there is no U.S. ownership requirement for businesses operating halibut charter businesses. Requiring 75 percent U.S. ownership will help ensure that producer surplus generated from the halibut charter fishery will accrue to U.S. businesses. The only exception to this rule is that initial permit recipients may be "grandfathered" below the U.S. ownership level. Any transfers will need to be sold to persons meeting the U.S. ownership requirements. This rule will insure that over time the percentage of the halibut charter industry owned by U.S. businesses will increase, if permits are initially allocated to persons not meeting the U.S. ownership requirement.

The action also allows businesses to receive multiple permits if they submitted ADF&G logbooks for more than one qualifying vessel. Allowing businesses to be initially allocated multiple permits will allow those businesses to continue their historic participation patterns.

Permit would be designated for Area 2C and/or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip. Only a couple of vessels potentially qualify for a permit in both areas based on the history of a single vessel. Designating the IPHC area where a permit may be used will restrict movement of permits from one IPHC area to another and maintain the number of permits that may operate in an area. In the near term, limiting moratorium permits to a specific IPHC area is not expected to have a substantial impact on charter businesses or guided anglers. If conditions change in the fishery and clients want to take more trips in an area, the restrictions could impact the availability and price of trips. The action will not constrain effort in specific ports. Movement of permits into specific ports could increase competition at that port. Increased competition for clients could benefit guided anglers through lower prices, but increased fishing effort could impact catch rates if localized depletion of halibut results from effort increases.

Permit would be issued to an ADF&G licensed fishing guide business owner. The initial allocation of transferable fishing privileges is typically one of the most scrutinized and contentious aspects of a limited

entry program's design. Recipients of the initial allocation, in cases where the privilege is gifted or a small fee is charged, are considered the winners of the allocation process. Those that do not qualify for the initial allocation are considered the losers. The initial allocation is important because subsequent purchasers of the privilege would be required to pay the market price (when freely transferable); that price represents an increase in profits to initial recipients because they were not required to pay for the fishing privilege.

There are at least four different methods that could be used to initially allocate moratorium permits. The first method would be to allocate permits based on historic participation in the fishery. The time it takes to develop a limited entry program through the Council process creates opportunities for persons to enter the fishery or increase their historic participation to obtain permits. This rent-seeking behavior results in economically wasteful activities (Criddle, 2006). Trends in the number of businesses and vessels participating in the 2C and 3A charter fishery seem to reflect that notion.

A lottery could also be used to initially issue permits. Lotteries typically issue the permit to a person at no charge and have been used to allocate hunting and fishing licenses in the U.S. If a lottery was used to allocate charter permits at no charge, the economic impacts for the winners and losers would be similar to those under allocations based on historic participation.

Auctions have been discussed in recent years as a method to create an efficient initial allocation (Morgan, 1995) and as a mechanism for the government to better control the use of the public resource while providing financial return to public owners of the resource (Macinko, 2002). From an economic perspective, auctions would provide an efficient method of allocating fishing privileges because they allocate permits to those persons who place the greatest value on them. Auctions could determine the market value of the permits and allow the Council and NMFS to determine the number of permits they want to issue and auction only that amount. Auctions that sell to the highest bidder would generate the greatest revenue for the government, but other types of auctions could also be developed that allow the government to meet the needs of persons without the financial resources to successfully bid (Macinko, 2002). Currently, the MSA does not give the Council the authority to auction limited entry permits to the highest bidder.¹⁶

The final method would have the government sell permits for a fixed price. Setting the sale price is problematic. Setting the price too high could prevent persons from buying all the permits. Too low of a price would create excess demand and persons would engage in behavior to collect rents from the fishery. Like with auctions, NMFS currently does not have the authority to sell permits.

Given the current regulatory restrictions, the Council's preference is to issue the permits to licensed sport fishing businesses based on historic participation in the charter fishery. Because the allocation is not market based, the initial distribution of permits will likely not be as economically optimal as a market based system. Permit transfers after the initial will help redistribute the permits to those persons who value them the most.

Permit applicant would be required to sign affidavit attesting that all legal requirements were met. The goal is to encourage permit applicants to provide true and accurate information on their permit application. Additional requirements to qualify for a permit are discussed under the recordkeeping and enforcement section of this amendment. Any additional recordkeeping and reporting requirements will increase the cost of doing business for the charter operators. However, the additional costs associated with signing an affidavit should be minimal. NMFS will also incur costs associated with developing,

¹⁶Personal comm., NOAA GC, John Lepore, 2/20/07.

distributing, and verifying information submitted on the affidavit. Those costs are also expected to be relatively small.

Transfers of permits (permanent) would be allowed up to use caps. An option is also proposed to make a subset of the permits non-transferable (Table E - 1), based on a minimum trip threshold. Transferability facilitates the development of a market in which permits are traded. After the initial allocation of permits, market forces would determine access to the fishery. Newcomers would buy permits to enter the fishery, and retirees would be paid to leave. Competition in the market for permits ensures that those most willing or able to buy permits would eventually acquire them. For an industry such as the for-hire charter sector that is characterized by a high turnover rate, transferability of permits assumes particular importance. It would allow the more efficient operators to remain or enter the fishery while the less efficient ones would be compensated for leaving the fishery.

Because of the structure of the halibut charter fishery, limiting the use of non-transferable permits by persons other than the owner will be difficult. Allowing others to use the permit (see the permit leasing section) could, at least temporary, increase effort associated with non-transferable permits.

Table E - 1 Number of businesses issued transferable and/or non-transferable permits

Min. # of trips	Permit type(s) issued to business	Option 10.1					Option 10.2				
		1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
10	Both	68	65	62	45	39	68	39	18	13	8
	Transferable only	668	671	674	627	573	668	697	718	659	603
	Non-trans. only	224	112	14	5	1	224	111	14	4	1
10 Total		960	848	750	677	613	960	847	750	676	612
15	Both	83	80	79	62	54	83	57	41	23	15
	Transferable only	587	590	591	608	556	587	613	629	647	594
	Non-trans. only	290	178	80	7	3	290	177	80	6	3
15 Total		960	848	750	677	613	960	847	750	676	612
20	Both	84	81	81	72	64	84	62	51	38	21
	Transferable only	516	519	519	528	536	516	538	549	562	578
	Non-trans. only	360	248	150	77	13	360	247	150	76	13
20 Total		960	848	750	677	613	960	847	750	676	612

Source: ADF&G Saltwater Logbook data for 2004 and 2005.

Permit prices reflect the profits generated from its use. Public testimony at recent Council meetings indicated that charter operators anticipate that permits will initially sell for about \$5,000. Until a competitive market for those permits is established, the actual price will be unknown. The value of permits that allow a person to carry more clients is expected to sell for a higher price than a permit endorsed for fewer clients. The difference in permit prices should reflect the change in profits that can be generated by the two permits.

Leasing of permits (annual) would not be allowed. Prohibitions on leasing stem from a desire to keep persons from holding permits for the sole purpose of generating income from active participants. Tracking whether halibut charter moratorium permits are being leased may be difficult without a provision such as owner-on-board. Those requirements may not be practical because of the structure of the halibut charter fishery.

Business arrangements used in the fishery may make it difficult to determine with certainty whether permits are being leased to a captain for a year or if the captain is working as an employee of the owner. Given the structure of business arrangements within the halibut charter industry, enforcing a prohibition

on permit leases may be difficult without additional requirements. The Council included some restrictions under this issue with the intent of deterring leasing: halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G logbook that is assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they first must obtain an ADF&G logbook for the new vessel. The permit number must be recorded on the logbook for each trip.

Permit endorsement for number of clients on board would be set equal to the highest number of clients on any trip in 2004 or 2005, but not less than four. Options to cap the number of clients at a fixed number are also proposed for each area. Another option is proposed to allow permit holders to be grandfathered above the cap until such time that a permanent transfer of the permit occurs. Upon transfer, the permit would be subject to the fixed cap on the number of clients. The intent of this provision is to limit effort increases by restricting the number of clients a vessel may carry.

In Area 2C, only 6 rods are allowed to be fished at any given time on halibut charter vessels but more than 6 clients may be on the vessel if the vessel is permitted to carry them. ADF&G staff notes that some vessels carry more than 6 clients when only six lines are fished at one time. Limiting the number of clients that a vessel may carry could reduce revenues for owners that base their business plan on carrying more than 6 clients but allowing only 6 to fish at one time. Table E - 2 provides a summary of the number of clients that each permit allows to fish.

Table E - 2 Number of clients endorsed to fish by permit

IPHC Area	Maximum Clients	Option 10.1					Option 10.2				
		1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
2C	4	319	266	225	197	173	319	245	193	164	143
	5	187	176	163	150	140	187	172	158	147	137
	6	233	228	214	201	183	233	225	209	196	178
	7+	22	19	17	14	13	22	19	18	14	13
2C Total		761	689	619	562	509	761	661	578	521	471
3A	4	144	107	84	63	47	144	98	75	59	41
	5	68	64	56	48	43	68	60	51	42	37
	6	346	337	321	306	293	346	335	316	299	281
	7+	104	103	100	98	98	104	103	99	97	96
3A Total		662	611	561	515	481	662	596	541	497	455

Wilen (2006) has indicated that in sport charters there are likely too many boats, taking trips at less than full capacity. This practice could result in too much effort being expended finding and catching fish. The result is that trip prices are higher than they would need to be if trips were taken at full capacity. Client anglers must then pay higher trip prices to cover those costs. The reduced "efficiency" resulting from limiting the number of clients that may be carried is borne through reductions in revenue by the holders of permits endorsed for fewer clients than they can carry.

Permits may be stacked up to the use caps. Permits may be stacked or unstacked at any time. Assigning more than one permit to a vessel increases the number of clients the vessel may carry. The number of clients the vessel may carry is equal to the aggregate number of clients endorsed on the permits assigned to the vessel. The ability to stack permits provides operators the freedom to increase the number of clients carried on one vessel. Unstacking permits allows operators to increase the number of vessels they operate but vessels on average will carry fewer clients. There may be efficiency reasons to increase the number of clients a vessel may carry. Charter business operators operating at an economic

disadvantage as a result of limits on the number of clients they may carry could stack Permits to spread the trip costs over more clients. Efficiency gains could benefit guided anglers and charter operators.

Evidence of participation is based on ADF&G saltwater logbook entry with bottomfish statistical area, rods, or boat hours. Because the initial allocation of permits is based on historic participation, a data set that contains participation history of the vessels and businesses in the charter fleet is needed. After considering all data sources available, the Council concluded the best source of participation data for the halibut charter fishery is ADF&G saltwater logbooks with bottomfish activity. While ADF&G saltwater logbooks are not designed to allow halibut data to be separated from other bottomfish data, they represent the most complete and accurate data available for recent participation.

Qualification period defines the participation requirements for a permit. The Council is currently considering two options. Both options are based on the catch history of vessels operating in the saltwater bottomfish fishery as reported in ADF&G saltwater logbooks. Both options require a minimum number of trips during 2004 or 2005 and in the year prior to implementation of the program. The minimum trip requirements under consideration are 1, 5, 10, 15, or 20 trips. The two options differ in how the number of trips is calculated for businesses with multiple vessels that individually do not meet the minimum trip requirement. Option 10.1 allows all the trips by vessels for which the business submitted logbooks to be included in the number of trips calculation; while Option 10.2 separates the trips of vessels that qualify based on their own activity and those that do not. This calculation would award permits for vessels that individually meet the minimum number of trips and for vessels that collectively meet the minimum requirement.

Option 10.1: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and the 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, unless an unavoidable circumstance occurred. 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.¹⁷

Option 10.2: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and the year prior to implementation would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. 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.¹⁸

Table E - 3 provides an estimate of the number of permits that would be issued to qualified businesses under the two options. Information is also presented for the number of unique logbooks that were submitted in 2005 and the number of businesses that submitted those logbooks, such that the number of permits estimated to be issued to businesses under each of the options can be compared to 2005 participation. The maximum number of permits a business may be issued is equal to the maximum number of logbooks that were submitted in a year (2004 or 2005) by the business.

¹⁷ Example: A business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best qualifying year. He would be issued 1 permit under a 20-trip minimum ($24/20 = 1$); 2 permits under a 10-trip minimum ($24/10 = 2$); or 3 permits under a 5-trip minimum ($24/5 = 4$, but the maximum number of vessels in that year is 3).

¹⁸ Example: Under a 5-trip threshold, a vessel with 10 trips generates 1 permit; second and third vessels with 3 trips combined earn 1 permit by combining their trips.

Table E - 3 Estimated number of permits that would be issued and the number of businesses receiving the permits

Minimum Number of Trips Required to Qualify	Option 10.1		Option 10.2	
	Permits	Businesses	Permits	Businesses
	AREA 2C			
2005 Participation	654	381		
1 or More Trips	761	446	761	446
5 or More Trips	689	380	661	380
10 or More Trips	619	327	578	327
15 or More Trips	562	291	521	291
20 or More Trips	509	255	471	255
	AREA 3A			
2005 Participation	567	450		
1 or More Trips	662	520	662	520
5 or More Trips	611	471	596	471
10 or More Trips	561	426	541	426
15 or More Trips	515	388	497	388
20 or More Trips	481	360	455	360

Source: ADF&G Bottomfish Logbook data, 2004 and 2005.

Note: The numbers reported in this table represent the maximum number that could qualify if everyone represented in this table meets the additional qualification requirement of fishing in the year prior to Council action.

In IPHC Area 2C during 2005, a total of 381 businesses submitted entries from 654 different logbooks. In Area 3A, 450 businesses submitted reports from 567 logbooks. Based on the qualification criterion being considered by the Council, between 471 (at 20 or more trips) and 761 (at 1 or more trips) permits could be issued in Area 2C. Between 455 (at 20 or more trips) and 662 (at 1 or more trips) permits could be issued in Area 3A. These estimates do not take into account the minimum trip requirement in the year prior to implementation of the program, because those data are unavailable. So, these estimates represent the maximum number of permits that would be issued.

More permits would be issued under the 1 or 5 trip alternatives than logbook entries submitted in 2005. Fewer permits would be issued under the 10, 15, and 20 trip requirements. Because the table does not take into account participation in the year prior to implementation, it is possible that a requirement of 5 or more trips could reduce the number of permits below 2005 participation levels. However, it is unlikely that the 1-trip requirement would reduce the number of permits to that level.

The number of businesses does not change under the two options at comparable trip level requirements. More permits are issued under Option 10.1 because all the trips for the business are summed to determine which vessels qualify. Under Option 10.2 only the vessels that do not qualify with their own history may combine their trips to qualify. The additional number of permits issued in Area 2C under Option 10.1 is 28, 41, 41, and 38 at the 5, 10, 15, and 20-trip level, respectively. In Area 3A, the change is smaller. It ranges from 15 at the 5-trip level up to 26 at the 20-trip level.

Under a one-trip requirement for a permit, the difference in the number of permits allocated permits versus fished in 2005 is about 100. A one-trip requirement would allow capacity (in terms of vessels and client trips) to expand over historic levels. A five-trip requirement would allow up to 35 more vessels to operate in Area 2C and 44 more vessels in Area 3A than operated in 2005. A 10-trip, 15-trip, or 20-trip requirement would reduce the number of vessels that could operate in Area 2C and Area 3A below 2005 levels. A 10-trip requirement results in a decrease of 35 to 76 vessels in Area 2C and 6 to 26 vessels in Area 3A compared to 2005 levels; a 15-trip requirement decreases the number of vessels by 92 to 133 in

Area 2C and 52 to 70 vessels in Area 3A compared to 2005 levels. A 20-trip requirement in Area 2C decreases the number of vessels by approximately 145 to 183, depending on the option selected. In Area 3A, the decrease is 86 to 112 vessels, depending on the option selected. A decrease in the number of vessels does not mean the total number of clients would decline. For example, in 2004, the average Area 2C charter carried 3.5 paying clients. In Area 3A, the average charter carried 5.16 clients. Given the number of clients endorsed for permits in those areas, it appears that more clients could be carried at the 10-trip requirement than fished in 2005.

The average number of clients that each qualified vessel would need to carry to reach 2005 participation levels ranges from 27 to 57, depending on the option selected. If a vessel carries an average of 4 clients per trip (a conservative assumption), each qualified vessel would need to take 7 to 15 trips per year to carry the number of clients that took charters in 2005. Since the charter season lasts approximately 100 days, a sufficient number of vessels appear to qualify to meet current client demand. However, there may be specific times of the year when client demand for trips exceed supply at the prevailing trip price.

Information that is currently available does not allow a formal study of the economic impacts that the charter sector has on regions or communities to be conducted. Information on charter operator's expenditures in the various communities and the products purchased, expenditures by clients as a result of taking the charter trip, and the dollars that flow to the community in terms wages and profits would be required. Collecting that information is outside the scope of this analysis.

Charter fisheries impact the economies of communities by providing jobs and increasing sales. The sales generate income for charter operations and secondary businesses and tax revenue for local, State, and Federal governments. The number of jobs and expenditures cannot be estimated in this analysis. However, the communities that have the most active charter industry would be expected to realize the most benefits.

Because the halibut resource is fully utilized, increases in charter harvests decrease the amount of halibut available to the commercial IFQ fishery. Communities that are dependent on the commercial IFQ fishery could be worse off if the charter fishery increased harvests, but the actual impacts cannot be quantified.

Changes in the number of qualified vessels that ended a trip in a specified community seem to indicate that selecting a 20-trip requirement would impact Area 2C more than Area 3A. Auke Bay, Petersburg, Sitka, and Ketchikan would realize substantial reductions in the number of permits landing in their community when compared to the 1-trip option. Many of these same communities are also active in the commercial IFQ fishery. However, because the overall amount of halibut taken by the charter fleet in Area 2C is not expected to decline, these communities could lose jobs and revenues from both the commercial and charter sectors as a result of implementing a more restrictive moratorium.

Use caps are being considered at the 1, 5, and 10 permit levels. A grandfather provision, if selected, would allow the businesses to operate at historic levels. The American Fisheries Act (AFA) 10 percent ownership rule for affiliation will be applied to determine the number of permits associated with an entity under the use cap.

Use caps limit the number of moratorium permits that may be held or used by an eligible halibut charter operator. Use caps may not be exceeded unless the entity subject to the use cap is specifically allowed to exceed a cap according to the criteria established by the grandfather provision. The caps apply to both the number of permits that a person may hold (own, lease, or control through a business arrangement) or use because NMFS will not issue permits in excess of those allowed to be used.

Table E - 4 shows the maximum number of businesses that would be grandfathered under each of the options being considered. These grandfathered businesses would not be allowed to purchase additional permits until they are below the use cap. Restricting these owners from buying permits could reduce the permit price, by eliminating efficient businesses from the market. As the number of trips required increases, the number of entities that would be grandfathered tends to decrease.

Table E - 4 Number of businesses grandfathered at various use caps

Number of Businesses Grandfathered	Option 10.1		Option 10.2	
	2C	3A	2C	3A
	1 Trip			
Option 1 (2+ Permits)	116	85	116	85
Option 2 (6+ Permits)	16	2	16	2
Option 3 (11+ Permits)	5	0	5	0
	5 Trips			
Option 1 (2+ Permits)	112	84	101	78
Option 2 (6+ Permits)	16	2	15	2
Option 3 (11+ Permits)	5	0	5	0
	10 Trips			
Option 1 (2+ Permits)	100	80	84	73
Option 2 (6+ Permits)	16	2	13	2
Option 3 (11+ Permits)	4	0	5	0
	15 Trips			
Option 1 (2+ Permits)	89	75	75	68
Option 2 (6+ Permits)	15	2	12	2
Option 3 (11+ Permits)	3	0	1	0
	20 Trips			
Option 1 (2+ Permits)	81	73	69	63
Option 2 (6+ Permits)	14	2	11	1
Option 3 (11+ Permits)	2	0	1	0

Source: ADF&G Bottomfish Logbooks, 2004 and 2005.

Note: This table represents the maximum number of businesses that could be grandfathered. It assumes all vessels that qualified for a permit based on 2004 or 2005 activity would also have sufficient activity in the year prior to implementation to qualify.

The 10 percent ownership rule was used in the AFA to define an entity. The AFA definition states that any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity they shall be considered to be the same entity. The AFA definition will also be used to determine the permits associated with an entity under the use cap. NMFS will need to collect information to determine the ownership structure of businesses. Businesses will also be required to notify NMFS any time their ownership structure changes. This information will be held by NMFS as confidential information and not released to the general public.

It is assumed that most persons gaining permits through transfer are efficient charter operators. Constraining the most efficient operators' use of permits is expected to reduce producer surplus of charter businesses. Consumer surplus could also be reduced if these operators could have provided trips that generate more client utility than other businesses. However, the Magnuson Stevens Act directs Councils to ensure that entities do not control an excessive share of a fishery. A cost of ensuring that no one entity controls an excessive share of the fishery is the potential of reduced net benefits.

Community provisions are addressed under Issue 12. Issue 12 includes provisions which specifically provide for small, rural community participation in the halibut charter limited entry program. Communities in Area 2C and 3A that meet the criteria selected will be eligible to request a specified number of non-transferable halibut charter limited entry permits from NMFS at no cost, similar to businesses that initially qualify to receive a permit under the general program. The eligibility criteria are designed with the intent of narrowing the eligible communities to those that do not already have a specified minimum level of participation in the halibut charter fisheries in 2004 or 2005.

Recognizing that substantial growth in the charter industry has been limited to relatively few larger, more accessible communities in Area 2C and 3A, businesses in these communities would likely receive the majority of limited entry permits allocated under the proposed moratorium program. The community provisions under Issue 12 are intended to remove a new economic barrier (cost of the halibut charter permit) for small, isolated communities with undeveloped or under-developed charter industries to participate in the halibut charter industry. The intent is to encourage and support existing or new businesses to operate out of small rural communities in Area 2C and 3A that have under-developed halibut charter industries.

The beneficiary of the community provisions (i.e., holder of the charter halibut permit) is the Community Quota Entity (CQE) representing an eligible community. A CQE is a non-profit entity originally established under GOA Amendment 66, formed by the community in order to participate in the commercial halibut and sablefish IFQ program. An eligible community must form a CQE and have it approved by NMFS in order to request halibut charter permits under this program. In effect, the CQE would be issued the permit and would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. Permits requested by CQEs would be subject to additional restrictions that vary from those of other permit holders, primary of which is that the permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

Under the range of options for consideration in Issue 12, depending on the eligibility criteria selected, a range of 13–19 Area 2C communities and 10–14 Area 3A communities could qualify to receive halibut charter permits, for a total of 23–33 communities. (Note that these communities must also form CQEs to participate, only 9 of which have been formed in Area 2C and Area 3A combined to-date.) Depending on the limits (use caps) selected for the number of requested permits, a maximum of 39 – 133 new permits could be issued to CQEs in Area 2C and 40 – 210 new permits in Area 3A.

Council preliminary preferred alternative

In February 2007, the Council identified Alternative 2 as its preliminary preferred alternative. In some cases, the Council did not choose one option under its preliminary preferred alternative, but noted several options under serious consideration. The **Council's preliminary preferred alternative, under Issues 1 through 11**, would issue a maximum of 562 to 619 permits in Area 2C and 515 to 561 permits in Area 3A to fishing guide business owners. The permits would be issued based on bottomfish statistical area, rods, or boat hour activity reported in ADF&G saltwater logbooks. Leasing would not be allowed, but it is recognized that enforcement of the no leasing provision may not be possible and could result in increased usage of a permit.

Permits may be owned by persons meeting a 75 percent U.S. ownership requirement, with persons under the requirement being grandfathered at the time of initial allocation. Requiring U.S. ownership will help ensure that the normal profits earned by the fleet will stay in the U.S. economy.

Permits would be endorsed with the maximum number of clients that could be taken on a halibut charter trip. The endorsement would be determined based on the maximum number of clients the qualifying

vessel carried on any one halibut charter trip in 2004 or 2005. Each permit would be endorsed for a minimum of 4 clients and the Council is considering capping the endorsements at 8 clients in Area 2C and 20 clients in Area 3A. The Council is also considering a suboption that would grandfather persons over the cap at the maximum number of clients carried in 2004 or 2005 until the permit is permanently transferred, at which time the grandfather rights are removed. A maximum of 3 to 4 vessels would be over the proposed Area 2C client endorsement cap and 13 would be over the Area 3A cap. The client endorsement cap is expected to reduce the total number of clients that could be carried in a year by 0.6 percent to 1.3 percent per day in Area 2C and 3.5 percent to 6.4 percent in Area 3A, if all the permits eventually are sold and lose their grandfather privilege. It is unlikely that all of those permits would be sold in the near future.

A use cap of 5 permits would be implemented, meaning no entity (using the 10 percent affiliation rule) would be allowed to control or use more than 5 permits, unless they were issued more than 5 permits at the time of initial allocation. Preliminary data shows that 15 to 16 entities would be over the Area 2C use cap at initial issuance and 2 entities would be over the Area 3A cap. Additional ownership data must be collected by NMFS before actual estimates of the number of entities over the cap, using the 10 percent rule, can be provided. Persons grandfathered in above the cap would be allowed to sell all of their permits, as a package, along with the halibut charter business. Stacking of permits up to the use cap would be allowed. The purpose of stacking a permit would be to increase the number of clients that may be carried on a halibut charter vessel. Implementing a use cap helps ensure that no one entity controls an excessive share of the permits.

The purpose of the proposed moratorium is to provide an interim measure of stability in the guided sport sector in the step-wise process towards a long-term solution. Limiting new entry into the fishery by requiring a moratorium permit should provide some stability for the sector. Identifying participation with a moratorium permit should provide a solid foundation on which to build future management programs. While increased harvests by the guided sport sector are driving the long-term solutions being considered by the Council, the moratorium is not expected to limit charter harvests. The fleet will have room to expand from the current level of harvest by more fully utilizing the qualified vessels and increasing the average number of clients carried (moving the average closer to the endorsement cap). Through these measures alone, the fleet could increase the number of clients they carry (and catch if the mean catch per angler is constant) by a minimum of about 2 times their current levels. If the number of vessels and clients per trip constrain the fleet, they could increase the average number of trips per day through creative marketing or operational structures.

The Council's preferred moratorium structure (or any structure proposed) is expected to allow increased charter harvests over the next several years. Increases in charter harvests will lead to increased total compensating variation earned by charter clients. The fleet should continue to operate as competitors since a large number of fairly homogeneous operators with excess capacity will exist in the fleet. The competition for clients will mean that over the long-term charter operators will earn little or no producer surplus.

All other things being equal, the Area 2C and 3A harvests by the commercial IFQ fishery will decline. Because they operate in a fishery where they are not competing for catch, they will continue to earn some producer surplus, but the total amount will be reduced due the inelastic ex-vessel price of halibut. Because the anticipated revenue stream of IFQs will decline as a result of decreased catch, the value of Area 2C and 3A QS will decline to reflect that reduction. To the limited extent that decreases in Area 2C and 3A catch increases ex-vessel halibut prices, the QS/CDQ values in Areas 3B through 4E should increase to reflect the larger net revenue stream. Post-harvest surplus (consumer surplus) will decline as consumers of commercially caught halibut find less halibut in the market.

Changes in the net National benefit derived from increased charter harvests will depend on the difference between the compensating variation earned by charter clients and the port-harvest surplus earned by consumers of commercially caught halibut. If the change in compensating variation is larger, net National benefits will increase by allowing additional charter harvests. If the change in post-harvest surplus is larger than the change in compensating variation, then net National benefits will decline.

Changing the locations of fishing expenditures will result in shifts in regional benefits. The change in regional benefits cannot be estimated by considering only the charter or the commercial sector, since they tend to operate out of many of the same communities. Increasing the charter harvests is expected to increase the amount of client and charter business expenditures in the communities that attract the additional business. If the increased charter harvest results in decreased commercial expenditures, the community may be better or worse off, depending on the relative magnitude of the expenditures. Regions or communities in which the fleet takes fewer trips or catches less fish will likely realize reduced expenditures. The reduction in expenditures will reduce personal income and jobs in the community. Overall, the net National benefits are not expected to change as a result of shifts in regional benefits. Appendix 2 provides a general overview of the activity by community in the charter and commercial fisheries.

The Council's preliminary preferred alternative under Issue 12 would allow 18 communities in Area 2C and 14 communities in Area 3A to request a limited number of halibut charter permits from NMFS at no cost. The limit (use cap) on the number of permits that each CQE could request from NMFS under the preliminary preferred alternative ranges from 4 or 5 permits per eligible Area 2C community and 4 to 10 permits per eligible Area 3A community. Thus, if 18 Area 2C communities qualify and form CQEs, the maximum number of new permits that could be created for CQEs representing eligible Area 2C communities is 72 – 90 permits, depending upon the use cap option selected. In Area 3A, in which 14 communities qualify, the maximum number of new permits that could be created is 56 – 140 permits.

Under the Council's preliminary preferred alternative under Issue 10 (Option 10.1 and using a 10-trip threshold), 619 permits are estimated to be issued in Area 2C and 561 permits in Area 3A under the general program. Thus, under Issue 12 and depending upon the use cap selected, the pool of Area 2C permits could be increased by 11.6% - 14.5%, with those additional permits issued to CQEs. The pool of Area 3A permits could be increased by 10.0% - 25.0%. Use caps on the total number of permits each CQE could hold (whether requested or purchased permits) are also proposed. The Council selected an overall use cap of two times the use cap selected for the requested CQE permits in each area. This use cap would apply to all 35 GOA Amendment 66 communities, meaning the 3 Amendment 66 communities that do not qualify to receive new permits at no cost would be subject to the same overall use cap as those that do qualify.

Issue 12 is described and analyzed in Section 2.5.12, including a summary of the Council's preliminary preferred alternative. A summary of the overall effects of the options under consideration in Issue 12 on the various sectors is provided in Section 2.5.12.6. Creating additional permits to be held by CQEs would conflict in part with the goal to limit new effort in the charter halibut sector, and could potentially result in further negative impacts on the commercial halibut sector and the communities that benefit from the commercial fishery. This effect may be partially offset by the number of permits issued under the general charter moratorium program, which depends on the qualification criteria selected. In general, it is a policy decision by the Council to determine the appropriate number of permits created for use by CQEs, in order to balance the dual goals of limiting entry and reducing an economic barrier to future access for small, rural communities.

The market for charter permits could be affected by the provision to allow CQEs to hold charter permits, as charter operators seeking to enter the fishery may choose to apply for use of a permit through the

community CQE as an alternative to purchasing their own permit. While the pool of potential buyers may be reduced, the number of permits available for sale on the open market would not be affected (CQE requested permits are not transferable), which may result in downward pressure on the price of permits for charter operators seeking to purchase a permit. This would affect both the existing charter sector and new entrants into the fishery.

The existing charter sector could also be affected by an influx of new or expanded charter operations through CQE permits, depending upon the level of participation by rural communities. As the CQE must use the permit in its member community, charter operators in other communities may not be substantially affected, even with the overall increase in competition. However, there may be some negative effects on existing charter operators in the Amendment 66 communities, as they realize increased competition within their community. In part, the eligibility criteria are intended to exclude Amendment 66 communities whose charter halibut market is already relatively developed or saturated.

Guided anglers may benefit from an overall increase in the supply of charter opportunities and the geographic diversity of charter operations available in rural areas through the CQE permits. An increased supply of permits may also result in downward pressure on the price of a charter trip for a guided angler.

The implementation of this provision is anticipated to maintain access to the halibut charter fishery, and an associated fisheries-based economic structure, for specified small, rural communities. CQE-held charter permits may enable residents from these communities, or residents of other communities, to participate in a fishery from which they might otherwise be excluded due to the cost of purchasing a permit.

Implementation and enforcement issues

Permit issuance. To qualify for a halibut charter moratorium permit, a person must demonstrate a minimum number of bottomfishing trips as reported in the ADF&G logbook in 2004 or 2005 and the year prior to implementation. For this reason, NMFS will need access to the person's historical logbook and business information to determine the number of permits issued and associated client and area endorsements. A current State of Alaska statute prevents direct access of ADF&G logbook or ADF&G business license information by NMFS or NOAA Office of Law Enforcement (OLE). Federal access to these sources of information would require the State of Alaska legislature to amend the State confidentiality statute.

At the December 2006 and February 2007 Council meetings, ADF&G indicated that it is seeking a legislative change to the confidentiality statute during the 2007 legislative session. If the legislative change is not adequate or fails to pass the State of Alaska Legislature prior to the application period for the moratorium, NMFS would need to obtain charter business and logbook information directly from permit applicants. This option is much less desirable than the direct access provided by a statutory change because it increases the burden on both the operator and agencies, and does not allow NMFS to contact persons with eligible catch history.

Persons applying for a charter moratorium permit would be required to provide a complete application to NMFS during a designated application period which would not be less than a 90-day period. Applicants who have made claims that are inconsistent with the logbook record will be provided an evidentiary period of 60 days. Upon expiration of the 60-day evidentiary period, an Initial Administrative Decision (IAD) that either grants or denies the applicant a moratorium permit will be issued by the Regional Administrator. An applicant may appeal the IAD through the NOAA Office of Administrative Appeals (OAA).

Appeals. Permit applicants that are denied a moratorium permit or transfer may appeal the IAD through the OAA. Alternative 2 would allow persons to obtain a permit through the appeals process if they experienced situations involving “unavoidable circumstances” with explicit inclusion of medical emergencies, constructive losses, and military service. These hardships are difficult to define, and a discussion about the specific types of unavoidable circumstances is provided in Section 2.6.2. Criteria used for defining hardships in the groundfish LLP program is also provided in this section and may provide guidance to the Council and Office of Administrative Appeals.

The Council could also indicate its preference for the issuance of interim (non-transferable) permits to an appellant. Interim permits allow an appellant to fish while an appeals case is being reviewed. The disadvantage to not issuing interim permits is that persons with justifiable hardship claims may not be able to operate during the appeals process.

The number of unavoidable circumstance claims would likely be linked with the level at which the Council sets the minimum qualification criteria and the scope of unavoidable circumstances allowed by regulation. A more restrictive qualification criterion would likely increase the number of persons that appeal.

Business ownership information. Alternative 2 specifies that all persons receiving a moratorium permit either through initial qualification or transfer would need to meet a 10 percent rule of affiliation that is similar to the one promulgated under the American Fisheries Act. Persons would need to annually disclose affiliation and ownership through an application and affidavit to NMFS. Enforcement of this provision would require NMFS to have the authority to suspend a permit until the business provides the necessary annual documentation. The application would require disclosure of the applicants name, signature, business tax ID (to aid in enforcement), business mailing address, business telephone number, business e-mail, name of the managing company, and declaration of U.S. citizenship.

Persons transferring a permit would need to complete a notarized application containing contact information and business ownership information, as well as signing an affidavit declaring U.S. citizenship, meeting the business ownership requirements, and attesting that the information on the application is true, accurate, and complete. NMFS will electronically track permit holders and insure permits are not issued to a person in excess of the use caps.

Leasing prohibition. Private business arrangements are extremely difficult for NOAA OLE to enforce because documentation is often not available, and a large amount of enforcement resources are required to prosecute leasing situations. In many cases, a charter business may hire a captain to take clients fishing. Contracts with captains are business arrangements that can extend within a year, or over a number of years, and may be terminated at any time. These common business arrangements make it difficult to determine with certainty whether permits are being leased to a captain for a year or if the captain is working as an employee if the owner. Section 2.6.3 provides a detailed description of the purpose and enforcement concerns associated with the leasing provision.

Given the problems associated with enforcing a prohibition on leasing, the Council included some provisions under Issue 6 in Alternative 2 that are intended to deter leasing. Specifically, halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G logbook assigned to the person holding the permit. If the permit holder wants to use the permit on a different vessel, he/she must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. In addition, the permit number must be recorded on the proper logbook for each trip.

Enforcement of client endorsement. Several enforcement options were considered by NMFS, including limiting the number of clients onboard the vessel, line limits, and limiting the total number of halibut that

may be harvested. Enforcement based on the number of harvested halibut is most desirable because it provides a high level of accountability at sea, at the dock, and post season. The client endorsement would be linked to the collective daily bag limit associated with the number of charter anglers endorsed on the moratorium permit or aboard the vessel; whichever provides for the fewest halibut. For the regulation to be enforceable, the number of harvested halibut on the vessel should not exceed the client endorsement through the "gifting" of skipper and crew fish. For this reason, retention of halibut by skipper and crew needs to be eliminated or controlled by limiting the total number of harvested halibut allowed on a vessel to the collective bag limit for the number of clients (up to the use cap) onboard the vessel. Section 2.6.4.1 provides an analysis of enforcement issues considered for the client endorsement.

Administrative costs. The moratorium program will increase administrative and enforcement burdens on agency resources. This burden can be translated into costs imposed on the agency that include the hiring of new staff or the redirection of current staff resources. Redirection of staff resources would reduce the ability of the agency to administer current management programs and enforcement activities. To provide adequate enforcement coverage for the charter fishery, NOAA OLE would need to have an enforcement presence and administrative support for the following communities: Petersburg, Sitka, Juneau, Anchorage, Homer, and Seward. Thus, the cost estimates include annual costs for seven enforcement officers and one full time attorney to prosecute permit violations. In addition to the enforcement costs, there are start-up and annual administrative costs associated with administering the program. In total, the Federal agency costs for implementing the program are estimated to be about \$1.23 million. Section 2.6.6 provides an assessment of the program costs.

Implementation and enforcement issues requiring clarification

The Council should consider providing further guidance at final action on the following implementation or enforcement issues:

- The Council should state whether it wants to issue interim permits to someone appealing their permit status.
- There are difficulties with enforcing the client endorsements provided for under Issue 7. A harvest limit for a vessel that is linked to an angler's bag limit and client endorsement on the moratorium permit is the most enforceable option. The charter moratorium client endorsement would be tied to the IPHC bag limit in such a way that the total number of halibut harvested on the vessel could not exceed the collective daily bag limit for charter anglers endorsed on the permit or aboard the vessel. Unless directed otherwise, NMFS would likely use this approach to enforce the client endorsements selected under Issue 7.
- The Council could provide further guidance as to the extent of constructive loss, medical hardships, and other hardships that should be considered by NOAA Office of Administrative Appeals during the permit appeals process. The Council could adopt language similar to that implemented under the groundfish LLP (described in Section 2.6.2.4).

**HALIBUT CHARTER STAKEHOLDER COMMITTEE PREFERRED ALTERNATIVE ON
HALIBUT CHARTER MORATORIUM**

February 27, 2007

(additions to original language are underlined)

ALTERNATIVE 2. Implement a moratorium on entry into the charter halibut fisheries in Areas 2C and 3A using a control date of December 9, 2005.

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

Issue 1. Permits² may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership of the business. Businesses³ may receive multiple permits due to charter halibut activity by vessels reported by the businesses in ADF&G logbooks. Initial permit recipients may be "grandfathered" below the U.S. ownership level and above proposed use caps until any change in ownership of the business occurs.⁴

Issue 2. Permit would be designated for Area 2C and/or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip. The permit holder must choose one of the permits to be non-transferable.

Issue 3. Permit would be issued to an ADF&G licensed fishing guide business owner.

Issue 4. Permit applicant would be required to sign an affidavit attesting that all legal requirements were met.⁵

Issue 5. Transfers of permits (permanent) would be allowed up to use caps.

Suboption 1: Prohibit transfers of issued permits for individual vessels that qualified at trip levels less than 20 trips as reported in the ADF&G logbook.

Issue 6. Leasing of permits would not be allowed.⁶

Issue 7. Permit Endorsement for Number of Clients on Board
Highest number on any trip in 2004 or 2005, but not less than 4.

Issue 8. Permits may be stacked up to use caps.⁷

¹ Military (Morale, Welfare, and Recreational) boats are not required to meet the qualification requirements of the program, and harvests will not count against the halibut charter GHL. 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 COE program. For example, the permits issued to the military should be non-transferable and capped at 4 permits total.

² Through initial issuance and transfers.

³ A business means a business licensed by the State of Alaska as a sport fish guide operator.

⁴ Transferred permits would not be grandfathered below the US ownership cap, even upon sale of a business, but would be grandfathered above the use cap upon sale of the entire business (see Issue 11).

⁵ The only tangible evidence is the ADF&G logbook, which requires meeting all State legal requirements.

⁶ 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.

⁷ A business can use, for example, two licenses (each endorsed for 6 clients) on one vessel.

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

Issue 10. Qualification period

Option 10.1: Each licensed guide business owner(s) who reported a minimum of 5 bottomfish logbook trips during 2004 or 2005 and year prior to implementation⁸ would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance⁹ occurred. 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.

Example: a business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum ($24/20 = 1$); 2 permits under a 10 trip minimum ($24/10 = 2$); or 3 permits under a 5 trip minimum ($24/5 = 4$, but the maximum number of vessels in that year is 3).

If the Council does not select Suboption 1 under Issue 5 as part of its final preferred alternative, the Committee recommends selecting a trip threshold at some level greater than 5 trips under Issue 10, Option 10.1.

Issue 11. Use caps, with grandfather¹⁰ provision. The AFA 10% ownership rule for affiliation¹¹ will be applied to determine the number of permits associated with an entity under the use cap.

Option 2. 5 permits

Issue 12. Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66

A Community Quota Entity (CQE), representing a community in which 5 or fewer active¹² charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits.

Area 2C – use cap of 4 requested permits per eligible community.

Area 3A – use cap of 4 requested permits per eligible community.

Overall use caps for CQEs (different use caps may be selected for CQEs representing communities in Area 2C and 3A):

Option 1: 1 times those selected for permit holders under Issue 11 (i.e., 5 permits)

Provisions for CQE requested permits:

- Designated for the area in which the community represented by the CQE is located
- Endorsed for 6 clients
- Not allowed to be sold (i.e., transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

⁸ “Year prior to implementation” could also mean two years prior to implementation, depending on the starting date of the application period for permits; e.g., the threshold would also need to be met in either 2007 or 2008, for implementation in 2009.

⁹ Acceptable circumstances will be adjudicated on a case by case basis through the National Marine Fisheries Appeals Division, but includes medical emergencies, military exemptions, constructive losses. An individual who was assigned to active military duty during 2004 or 2005 and who qualifies as “active” during the year prior to implementation⁷ and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A.(prior to the qualifying period) shall be eligible for a moratorium permit.

¹⁰ 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.

¹¹ Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

¹² “Active” is defined as it is under Issue 10 (i.e., 5 bottomfish trips).

SUPPLEMENTAL
C-1(b) Stakeholder Committee Minutes Appendix II

**CHARTER HALIBUT TAKEHOLDER COMMITTEE RECOMMENDATIONS
ALLOCATION/SHARE-BASED ALTERNATIVES AND OPTIONS
REVISED FEBRUARY 28, 2007**

ACTION 1. ALLOCATION BETWEEN COMMERCIAL/CHARTER SECTORS

ALTERNATIVE 1. NO ACTION

ALTERNATIVE 2. SET AN ALLOCATION BETWEEN THE COMMERCIAL AND CHARTER SECTORS

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%	15%
b. equal to the 1995-99 GH/L, translated to percentage	13%	14%
c. percentage of combined 2004 commercial/charter catch	14%	13%
d. convert current GH/L into percentage based on 2004	12%	13%
e. equal to 2005 charter harvest, translated to a percentage	15%	13%

Option 2. Fixed Pounds

formula	Area 2C	Area 3A
a. update GH/L to 2000-2004	1.7 Milb	4.0 Milb
b. equal to the 1995-1999 GH/L	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.¹ (placeholder for State of Alaska recommendations)

Issue 2. Overage/Underage

Option 1. allow overages/underages to be transferred across between commercial and charter sectors

Option 2. 3 or 5 year rolling average of catch to determine if overage/underage occurred in latest year

Option 3. \pm 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. Note: this issue was deferred to a working group which will meet on March 20, 2007.

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

Suboption 1. By purchase of commercial quota share (permanent)

Suboption 2. By lease of commercial IFQs (annual)

¹ Develop local area management plans (LAMPs) on a separate timeline.

Option 2a. 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

ACTION 2. SHARE-BASED SYSTEMS

ALTERNATIVE 1. NO ACTION

ALTERNATIVE 2. LIMITED ENTRY PERMIT ENDORSEMENTS (~~ANGLER-DAYS~~PERMIT CLASSES)

~~Issue 1. Permits must be renewed annually²~~

Issue 1. Vessel Name on Limited Entry Permit

Option 1. No vessel name on limited entry permit

Option 2. Vessel name is required on limited entry permit

Issue 2. Permit endorsements

Option 1. No permit classes

Option 2. Permit ~~class~~transferability

² Permits could not be renewed if allowed to lapse (due to holder's inaction to renew or because minimum activity was not met)

Class A Suboption a. Immediately transferable if more than or equal to a) 20; b) 40; c) 60; or 80 angler a) 10; b) 30; or c) 50-days each year

Suboption b. Class B. Non-transferable if less than or equal to preferred alternative above a) 20; b) 40; c) 60; or 80 angler [a) 10; b) 30; or c) 50-days] (except to underdeveloped communities under Issue 13)

Suboption. By port/subarea (placeholder for State of Alaska)

Option 3. Tiered Permit Classes

Class A – (over 80 bottomfish trips)

Class B – (60 - 79 bottom fish trips)

Class C – (40 - 59 bottomfish trips)

Class D – (20 - 39 bottomfish trips)

Class E – (minimum # for moratorium - 19 bottomfish trips)

ALTERNATIVE 2. LIMITED ENTRY PERMIT ENDORSEMENTS (ANGLER DAYS)

Issue 3. Permit share-based assignment based on Client-days³

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

Option 1. not allowed, except for “unavoidable circumstance”⁴

Option 2. allowed, limited to use cap and not more than 2 out of 5 years

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

Same as under I program and $\frac{1}{2}$ X percent of revised Issue 3. Shared-based assignments

PLACEHOLDER FOR ENDORSEMENTS ON PERMITS HELD BY COMMUNITIES

ALTERNATIVE 3. CHARTER QUOTA SHARE PROGRAM

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

Issue 2. Initial Distribution of QS:

³ Permit endorsement of an angler day for every client fishing bottomfish/halibut in a day

⁴ Acceptable circumstances will be adjudicated on a case by case basis through the National Marine Fisheries Appeals Division, but includes medical emergencies, military exemptions, constructive losses. An individual who was assigned to active military duty during 2004 or 2005 and who qualifies as “active” during the year prior to implementation⁷ and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A. (prior to the qualifying period) shall be eligible for a moratorium permit.

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.

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 out of most recent six 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. (use groundfish/bottomfish 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. Leasing is defined as the use of IFQ on a charter vessel on which the owner of the QS has less than a 20% ownership interest.
2. IFQs used in charter sector may/not be leased within the sector
3. IFQs associated with commercial QS that is transferred for use in the charter sector could be leased to either sector

Leasing amount Options:

1. [0, 20, 40, 60, 80, 100%] of a charter operators annual IFQ is may be leased within the charter sector for no more than 2 out of 5 consecutive years of the program.
 2. up to 10% may be leased to commercial sector after August 15
 3. up to 30% maybe leased to charter sector. (allows mop-up by either sector)
- ~~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 certificate⁵.

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

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).

Option: pounds

Issue 8. Reporting:

Placeholder for NOAA Fisheries Service

Issue 9. Community set-aside

- 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.
Preferred 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

⁵ 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