


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: April 9, 1998

SUBJECT: Halibut Charterboat Management

ESTIMATED TIME 1 HOUR

ACTION REQUIRED

Receive report from the Halibut GHL Committee.

BACKGROUND

At the December 1997 Council meeting, NMFS notified the Council that implementation of the GHL without accompanying regulations was problematic and could not be submitted to the Secretary at that time. NMFS published the Council's intent of managing the halibut charter fishery under a GHL as a notice of inquiry in the Federal Register on March 10, 1998 (Item C-7(a)). NMFS recommended that the Council develop possible management alternatives for analysis that would be triggered by the GHL. The Council announced the formation of a GHL Committee to recommend possible management measures that would keep the halibut charter fleet under the GHL. The committee met on February 25-26, 1998 and its minutes are attached as Item C-7(b).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 411, 424, 435, and 455

[HCFA-1809-N]

RIN 0938-AG80

Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships; Extension of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of extension of comment period for proposed rule.

SUMMARY: This document extends the comment period for a proposed rule published in the *Federal Register* (63 FR 1659) that generally would prohibit physician referrals under Medicare and Medicaid, to health care entities with which the physician (or his or her immediate family member) has a financial relationship. The comment period is extended 60 days.

DATES: The comment period is extended to 5 p.m. on May 11, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-1809-P, P.O. Box 26688, Baltimore, MD 21207-0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5-09-26, Central Building, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-1809-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

For comments that relate to information collection and recordkeeping requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget,

Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Joanne Sinsheimer (410) 786-4620.

SUPPLEMENTARY INFORMATION: On January 9, 1998, we issued a proposed rulemaking in the *Federal Register* (63 FR 1659) that would incorporate into regulations the provisions of sections 1877 and 1903(s) of the Social Security Act. Under section 1877, if a physician or a member of a physician's immediate family has a financial relationship with a health care entity, the physician may not make referrals to that entity for certain health services (designated health services) under the Medicare program, unless certain exceptions apply.

In addition, section 1877 provides that an entity may not present or cause to be presented a Medicare claim or bill to any individual, third party payer, or other entity for designated health services furnished under a prohibited referral, nor may the Secretary make payment for a designated health service furnished under a prohibited referral.

Section 1903(s) of the Social Security Act extended aspects of the referral prohibition to the Medicaid program. It denies payment under the Medicaid program to a State for certain expenditures for designated health services. Payment would be denied if the services are furnished to an individual on the basis of a physician referral that would result in the denial of payment for the services under Medicare if Medicare covered the services to the same extent and under the same terms and conditions as under the State plan. We announced that the public comment period would close 5 p.m. on March 10, 1998.

Due to the complexity of this proposed rule and because numerous commenters have requested more time to analyze the potential consequences of the proposed rule, we have decided to extend the comment period for an additional 60 days. This document announces the extension of the public comment period to May 11, 1998.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare Hospital Insurance; Program No. 93.778, Medical Assistance Program)

Dated: March 4, 1998.
Nancy-Ann Min DeParle,
Administrator, Health Care Financing Administration.

Dated: March 6, 1998.
Donna E. Shalala,
Secretary.
[FR Doc. 98-6285 Filed 3-9-98; 8:45 am]
BILLING CODE 4120-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 022598B]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inquiry.

SUMMARY: NMFS issues this notice of inquiry to inform the public that the North Pacific Fishery Management Council (Council) recommended that Guideline Harvest Levels (GHLs) be established for the guided sport fishery for Pacific halibut in International Pacific Halibut Commission (IPHC) Regulatory Areas 2C and 3A. The Council's stated purpose for recommending these GHLs was to place an upper limit on the future harvest of halibut by the guided sport fishery.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

At its meeting in September 1997, the Council voted to recommend that GHLs be established for the guided sport fishery for halibut in IPHC Regulatory Areas 2C and 3A. The Council also recommended new recreational and reporting requirements for the guided sport fishery for halibut. The Council is pursuant to the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773, *et seq.*) has the authority to develop regulations governing halibut fisheries in the United States portion of Convention waters in and off Alaska, as long as such regulations are in addition to, and not in conflict with, regulations adopted by the IPHC. Such regulations developed by the Council may be implemented only with the approval of the Secretary of Commerce (Secretary). The Council has not submitted regulations concerning the GHLs to the Secretary for approval.

The Council's recommended GHLs for the guided sport fishery IPHC

Regulatory Areas 2C and 3A would be based on the guided sport fleet receiving 125 percent of its 1995 catch in each of these areas, expressed each year as a percentage of each year's combined commercial and guided sport harvest levels. The percentages are: 12.76 percent for IPHC Regulatory Area 2C and 15.61 percent for IPHC Regulatory Area 3A. For example, if the combined commercial and guided sport harvest for IPHC Regulatory Area 2C is 10,000,000 lb (4,536 metric tons (mt)), then the Guideline Harvest Level would be 1,276,000 lb (579 mt).

In a letter dated November 24, 1997, NMFS informed the Council that establishing GHGs by regulations would be problematical unless management measures were specified in the regulations that clearly indicated what would happen if the GHGs were reached. The Council reviewed the information provided in NMFS's letter at its meeting in December 1997, and

decided to form a Halibut Charterboat Committee (Committee). The Committee is tasked with developing management measures to keep guided sport catch under the established GHGs in IPHC Regulatory Areas 2C and 3A. The Committee will report on these management measures to the Council in April 1998. The Committee is comprised of four persons representing the guided sport sector (two persons from IPHC Regulatory Area 2C and two persons from IPHC Regulatory Area 3A), three persons representing the non-guided sport sector, one Council member, one Alaska Board of Fish member, and a representative of the Pacific States Marine Fisheries Commission who will serve as the chairman. The first meeting of the Committee was held in Anchorage, Alaska on February 25 and 26, 1998. Future meetings may be scheduled if needed.

NMFS has made no determinations with respect to the approvability of the Council's recommended GHGs for the guided sport fishery for halibut or associated management measures. If the Council adopts such management measures in the future, the Council would submit the GHGs, management measures, and regulations to the Secretary for review. At that time, the Council's regulations would be published in the **Federal Register** for public comment. NMFS encourages the interested public to participate in the Council's development of recommendations concerning GHGs for the guided sport fishery for halibut.

Dated: March 4, 1998.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 98-6134 Filed 3-9-98; 8:45 am]
BILLING CODE 3510-22-F

**Guideline Harvest Level Committee
Meeting Minutes
February 25-26, 1998**

Dave Hanson, Chairman
Ed Dersham, Board of Fisheries
Tim Evers (Area 3A Charterboat)
Robert LaGuire (Area 2C Non-Charterboat)
Larry McQuarrie (Area 2C Charterboat)

Joe Kyle, North Pacific Council
Mike Bethers (Area 2C Charterboat)
John Goodhand (Area 3A Charterboat)
Mary Jo McNally (Area 2C Non-Charterboat)
Doug Ogden (Area 3A Non-Charterboat)

The Halibut Guideline Harvest Level Committee, also known as the GHL Committee, convened on February 25, 1998 at 10 AM, to recommend a list of management measures to keep the halibut guided (charter) fleet under the guideline harvest level approved by the Council at its September 1997 meeting. All members were present. Agency staff in attendance were Jane DiCosimo (NPFMC), John Lepore (NMFS), Earl Krygier, Doug Vincent-Lang, and Rob Bentz of ADF&G. Staff made brief presentations on the status of the GHL and recordkeeping and reporting requirements that resulted in the development of an ADF&G logbook for the charter fleet beginning in 1998. Due to uncertainties in predicting annual IPHC biomass estimates, quotas, and average size of fish harvested, staff also discussed the difficulty in: (1) determining the GHL in pounds of fish for a given year and (2) projecting when the GHL might become effective. Staff also discussed the Council and Board of Fisheries joint protocol for the development of halibut local area management plans, also known as LAMPs, and a proposal to create a subsistence category for halibut currently scheduled for final decision in December 1998.

The committee achieved consensus on a number of points related to the GHL and halibut management in general.

- The halibut charter fishery requires stability. To achieve stability, the charter industry requires two fish/person/day (current bag limit) for the entire season and requires the historical length of the charter season (no season limitations).
- To ensure stability, the charter fleet recommends that the Council create a banking system so that foregone charter harvests could be used to compensate the fleet in years when low TACs might affect bag limits and season lengths. Industry representatives will forward recommendations for banking at a later time. The industry may request the aid of agency staff to assist in modeling the minimum allocation necessary for industry stability.
- Uniform regulations should be developed for resident and non-resident anglers and guided and non-guided sport fisheries.
- Bycatch mortality in the commercial halibut fishery is unacceptable and must be reduced. Savings should be apportioned equally between the commercial and sport (guided and non-guided) halibut sectors.
- Increased law enforcement is needed for all halibut fisheries.
- Council efforts to establish a halibut subsistence category are encouraged.
- The GHL should be tied to reduction in commercial bycatch mortality, charter fleet moratorium, and reduction in competition with the commercial fleet for fishing grounds.

- The charter industry recognizes the problems in the halibut fisheries identified by the Council, but opposes the GHL as the only solution. The committee does not recognize a biological problem with the halibut stock in Alaska, but acknowledges that the GHL addresses sociological and economic allocation issues as identified by the Council. The committee has offered an alternative as a substitute for the GHL. This alternative contains the same range of management measures recommended for use under the GHL to slow the rate and harvest of halibut removals from the charter fishery.

The majority of the committee does not endorse the concept of the GHL based on the level of halibut abundance, current level (%) of guided sport harvest, stable charter fleet participation, commercial bycatch waste, lack of data and analysis of associated impacts on the guided sport fishery, and public testimony. Given the strong condition of the halibut resource and lack of economic, social and/or allocative problems, the fleet has time to employ tools within local area management plans to achieve the same effect as the GHL. This would be much more palatable to the guided sport industry.

The committee discussed a variety of possible management measures in detail that could be analyzed by the Council for implementation under the GHL, or within local area management plans (LAMPs) instead of a GHL. The committee recommends the following seven possible management measures that separately or together would restrict the halibut charter harvest and address the problems in the fishery as identified by the Council. The committee has also developed three management alternatives for Council analysis to address the approved problem statement related to the guided halibut fishery. The analysis should examine the impacts to all user groups (guided, non-guided, commercial longline fisheries) under all three alternatives.

Proposed Management Measures

1. **Line limit** - number of lines legally fished from vessel; inspected may be different from non-inspected; may need to grandfather some existing inspected boats.
2. **Boat limit** - number of halibut legally landed on a halibut charter boat in given day (midnight to midnight) based on individual bag limit.
3. **Annual Limit** - number of halibut that can be retained annually by an angler.
4. **Trip Limit** - one boat limit/24-hour period.
5. **Super-exclusive registration** - A charter boat registered in one LAMP may not operate in another LAMP in the same year.
6. **LAMP** - local area management plan.
7. **SCVOA** - Sport Catcher Vessel Only Area to protect locally designated areas for sport (guided and non-guided) use only.

Alternatives

Alternative 1. Drop the GHL.

- Develop local area management plans as quickly as possible for areas with documented problems, through facilitation, etc. if possible.

- Employ the following six tools within a LAMP to curtail catch rates of guided sport anglers: (1) line limits on boats, (2) annual angler limits, (3) vessel trip limits, (4) super-exclusive registration of charter vessels, (5) moratorium, and (6) SCVOA to address gear conflicts. These tools could be employed, as well as others not listed, within a LAMP framework to curtail guided sport catch rates.

Alternative 2. Under a GHL,

- Retain GHL at specified levels and convert the GHL to an allocation.
- Manage the guided sport fishery under status quo or according to LAMPs approved by the Council.
- Consider moratorium in the LAMPs.
- Bank uncaught halibut for sport fishery to be provided to sport fishery during years of low TAC to provide stability to guided sport fishery.

This alternative would provide the best benefits to both the guided sport and targeted longline fishery. In high TAC years, the commercial fleet would benefit from high TAC levels. In low TAC years, the sport fishery which is unable to take advantage of high TAC abundance would take a higher percentage (from banked fish). The greatest benefit under this alternative would go to the commercial fleet as the percent of gain in high TAC years would be much greater than the percentage of loss during a low TAC year.

Alternative 3. Under a GHL,

- Manage guided sport fishery status quo.
- Apply range of management measures listed above to curtail catch rates of guided anglers once GHL is attained.
- Apply management measures up to 2 years after attainment of GHL (1 year if data is available, but at the beginning of a year for industry stability).
- Employ combination of management measures (one to several) depending on the level of catch reduction required.
- Include a moratorium under this alternative.

The committee adjourned on Thursday, February 26, at 11:45 AM.

Others in attendance: Robert Ward, Mel Erickson, Chris Oliver, Henry Mitchell, Marc Smith, George Hiller, Steve Babinec, Andrew Corcoran, and Steve Vanek.

Alaska Longline Fishermen's Assoc.

P.O. Box 1229 Sitka, AK 99835 (907) 747-3400

North Pacific Fishery Management Council
605 West 4th Avenue, Ste. 306
Anchorage, AK 99501

April 1, 1998

RECEIVED
APR - 9 1998
N.P.F.M.C

Dear Chairman Lauber,

On behalf of the Alaska Longline Fishermen's Association (ALFA), I would like to submit the following brief comments on **Agenda Item C-7: Halibut Charter boat management.**

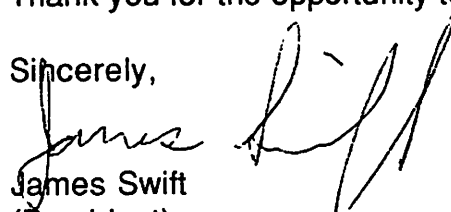
ALFA members understand that the halibut charter boat committee met in Anchorage last month, and developed options for analysis that will enable the guided sport halibut fleet to live within the Guideline Harvest Level (GHL) adopted by the Council last September. ALFA supports this effort, and urges the Council to move ahead as quickly as possible with analysis of all potentially effective options.

We recognize that there is growing support for a guided sport halibut moratorium in areas 2C and 3A. While ALFA supports this effort, we are aware of the lengthy process inevitably involved in developing any limited entry program. ALFA urges the Council to initiate analysis of those measures identified by the committee that could be submitted to the Secretary for consideration in 1998, and task the committee with further developing elements and options for a guided sport moratorium.

In closing, ALFA supports the work of the committee, and urges the Council to initiate analysis of the measures identified by the committee that could be implemented in a timely manner and effectively restrain the guided sport fleet to the GHL adopted by the Council last September.

Thank you for the opportunity to comment.

Sincerely,


James Swift
(President)

March 12, 1998

To: North Pacific Management Council

I am in support of the Guideline Harvest Level for halibut passed last September. I feel that it is a very fair answer to the problem of unregulated guided sport harvest. It ensures that the guided halibut sport charter season will not be curtailed mid season which is important to the guides. It also eliminates the, so far, unending reallocation of the longline halibut quota to the charter fleet, which is important to the longline fleet. The need to act quickly on this is further seen with the IFQ management program in effect as it unfairly burdens the longline halibut fleet when a person buys Quota Shares, expecting to fish them to pay for them, only to have the charter fleet reallocated them due to their unregulated catch rate. With an increasing halibut allowable catch it is a good time to implement the GHM quickly so as to allow the charter fleet time to figure out ways to slow down their own fishery. I would urge the Council to act in a timely matter in the implementation of this program as the problem is upon us now and the coastal communities dependent on the commercial longline fleet need stability.

Thank You

Carolyn Nichols
Carolyn Nichols
305 Islander Dr.
Sitka, AK 99835

RECEIVED

MAR 25 1998

N.P.F.M.C

11/20/97

Honorable Bill Clinton
President of the United States
1600 Pennsylvania Avenue
Washington, DC 20500

Everett Forwarded to
N.Pac. Council

Dear sir,

The North Pacific Fisheries Management Council has decided that 3 million pounds of halibut caught onboard charterboats is all the public needs. The commercial fishermen that make up this regional federal council have decided for us that their own fisheries waste and bycatch is more important than our right to go fishing for this very healthy resource.

I am a concerned citizen concerning the Halibut fishing here in Alaska. We have been told that the North Pacific Fisheries Management Council has or is going to regulate the sports fishing in area 2C & 3A on the Kenai Peninsula. The State law at this time is two halibut, per day, for all sports fisherman. They now want to put a poundage limit in conjunction with the Commercial Fisherman. The Commercial fishermen take approximate 48 million pounds along with approximate 2 1/2 million pounds killed but not kept.

This action does not recognize the difference of commercial fisheries and recreational fisheries. This council is trying to impose a commercial management plan on a recreational fishery not understanding the differences.

I oppose the restriction of any recreational fishery before a reduction of bycatch and waste is made in the commercial fisheries. Why should the general public be restricted before the commercial fisheries clean up their waste and bycatch, which is 6 times more than guided recreational fishermen ever catch. The allocation is not fair and equitable to all such fishermen. The resulting 91% commercial and 9% recreation split is not fair and equitable at all.

I feel, the only way we can keep our resources is to regulate the size by both sports fisherman and the commercial fisherman. If we keep taking the large halibut, (Broods), and all halibut over 60 pounds are female, we will loose all halibut here in Alaska. If we keep taking all the broods they will not lay millions of eggs for future generations to come. If we limit the sport fisherman and charter guides, Alaska will loose one of it's largest resources, Tourism. Thousands of people come to Alaska to fish for this resource, and if we loose it, the people that cater to them will also loose. There are hundreds of Hotels, Bed & Breakfasts, charter guides, restaurants and so no. No one comes to Alaska to see the commercial fisherman catch fish. Most of the commercial fisherman don't even live in our State. They make hundreds of thousands of dollars and live the state.

Thank you for your time.

Respectfully, *Terry L. Smith*
Terry L. Smith.

Bluff House Bed & Breakfast
P.O.Box 39327
Ninilchik, Alaska 99639
(907) 567-3605
E-Mail, bluffbb@alaska.net

RECEIVED

APR 15 1998

N.P.F.M.C

HALIBUT CHARTER BOAT MANAGEMENT

The Sitka Sound Management Plan has taken care of the only problem in the state that has started all this B.S. All of the assumptions that were applied to this issue have been proven false. Even the problem statement could be taken to blame El Nino on the Charter Boats.

Executive Order 12962 signed by the President on June 7, 1995 was designed to promote recreational fishing opportunities in all U.S. Federal Waters. That plan reflects that the primary impetus of the order is to provide for increased recreational fishing opportunities. Any alternative of capping or restricting the Guided Sport Fisherman is inconsistent with Executive Order 12962 that demands that the North Pacific Council provide more recreational fishing opportunities, not less opportunities.

The Problem statement is flawed. The REAL problem is pressure from the IFQ Fisherman who are contributing to near shore depletion near our home ports. Longline Fisherman are fishing closer to home port than they ever did before. Now the full length of there season (8 mo.) totally encompasses the Traditional Charter Season. In the last three years they have increased there quota each year.

They have voted to increase the T.A.C. so much that now the exvessel price is plummeting which has reduced the value of there fishery. The value of the Guided Sport Fishery is remaining stable, showing that the recreational fishery is not dependent on the halibut resource, but is dependent on the value of the service we provide to our clients. The concensus of the GHl committee is not what the recreational fishery needs, it is what this council wants it to do. It is not in compliance with the E.O.12962 and is in direct violation of the Magnuson-Stevenson Act.

How can this council even consider restricting the Guided Sport Fisherman when your next issue is to consider giving local Gulf of Alaska communities the quote "Excess Halibut."

How can there be "Excess Halibut" if a restriction on the Guided Sport Fisherman is being considered.

This council needs to consider long and hard before it moves on this issue.

Thank You
Don Westlund

From Problem Free Ketchikan Alaska

Rep. KETCHIKAN CHARTER BOATS