Introduction to This Special Issue

The North Pacific Fishery Management Council (NPFMC or Council) currently is considering a range of options for controlling the growth of the charter halibut fishery and bringing charter client catches down to a point at or below guideline harvest levels.

The Council in December 2005 overturned its earlier decision to implement an individual fishery quota (IFQ) program for charter halibut, and since has discussed different options at its regular meetings. It is anticipated that the first vote on specific measures will occur at the Council meeting in April 2007.

The Council encourages charter operators, clients who use their services, and interested members of the public to submit written testimony prior to, or to testify in person at, Council meetings.

To be effective, those offering testimony must understand the options, and must address specific proposals or issues, which may be complex and may be expressed in technical terms unfamiliar to people who don’t spend their working lives in fishery management.

The Council staff produces a newsletter, and maintains a Web site with a great deal of information on the options, and interested people are encouraged to read the papers posted on the site (www.fakr.noaa.gov/npfmc).

In addition, the Alaska Department of Fish and Game (ADFG), National Marine Fisheries Service (NMFS) Alaska Region, and some industry associations have information pages, commentary, or position papers on their Web sites.

Some charter operators have indicated that they are overwhelmed by the volume of information and have asked the Marine Advisory Program to provide a condensed, readable summary in a special issue of Charter Log. The following pages provide such a summary.

The print version of the issue is being distributed to an updated mailing list of industry-related recipients and others who have requested it. An electronic version is posted, and linked to the Marine Recreation and Tourism section of the Marine Advisory Program Web site (www.marineadvisory.org).

Although every attempt is made to be accurate within the constraints of brevity, the Council staff is the final authority on Council deliberations and actions. This summary should be viewed as a work in progress, and will be updated as the Council advances its work. Updates and corrections are welcome.

—Terry Johnson, Editor.

Approaches Currently under Consideration

The North Pacific Fishery Management Council currently is considering a suite of options for managing the halibut charter fishery.

It is doing so with its own staff, National Marine Fisheries Service staff, the Council’s Advisory Committee (AP), and the Halibut Charter Stakeholders Committee, and in consultation with the International Pacific Halibut Commission (IPHC) and the Alaska Department of Fish and Game.

The immediate problem is that the volume of charter halibut catches in Areas 2C and 3A have grown to the point where they exceed the guideline harvest levels (GHLs) set for each area by the Council in 2000 and implemented in 2003 (see accompanying article “Background”).

A plan for creation of an individual fishery quota (IFQ) program for the fishery passed the Council but was not implemented, and was subsequently
rescinded in late 2005. This left the Council with the dilemma of GHLs with no mechanism for keeping the catches within them. With the IFQ plan set aside, the Council initiated a process of devising other approaches to achieving that goal. (See accompanying article “Recent Chronology.”)

Following is a list of approaches now under consideration.

1. Implementation of a halibut charter moratorium, with licenses issued to current participants. Eligibility could be based on activity in 2004 or 2005 and the year before implementation. Licenses would be transferable. This would limit the halibut charter fleet (currently about 800 vessels) to its current size, but would not reduce catches or bring the industry into compliance with the GHL. Set asides could be made for small communities that don’t currently have fully developed charter industries. (See summary article “Moratorium.”) A moratorium could be developed into a limited entry program, imposed by either the Council or the State of Alaska. (See accompanying article “State Delegation.”) Features of a limited entry plan could be limited transferability, based on “angler days,” “rod days,” or other units of angler effort. Limited entry would not reduce current levels of charter catches but could stabilize effort so that other measures could be effective.

2. Amendment by Congress to the Halibut Act, which would allow state delegation of some charter halibut management authority and responsibility. The Council could designate to the State of Alaska specific regulatory functions, on a temporary or permanent basis. This alone would not reduce charter catches but would give the state, through the Board of Fish, the ability to respond quickly with in-season tools to constrain charter catches and keep them below GHL. (See the summary articles “State Delegation” and “State of Alaska Perspective on Charter Halibut Management.”)

3. Establishment of a separate charter sector halibut allocation, with different mechanisms for accounting of charter catches, and for compensating the commercial sector for charter “overages” or for intentional transfer of catch privileges from commercial to charter sectors. Under consideration is a “charter stamp” to be purchased by charter clients, the revenues from which could be used to retire quota from the commercial pool and transfer it to the charter pool.

4. Revive the IFQ plan, possibly with provision for including some of the late entrants who would have been excluded under the original IFQ. Suggestions for this option include allowing authority to hold commercial quota and lease it to the charter sector.

5. Annual limits for charter anglers (four, five, or six halibut per year, depending on area). While this could reduce charter halibut catches, it raises complex technical questions regarding logbook accuracy, federal recordkeeping and reporting requirements, and state confidentiality laws. (See article “Area 2C Charter Angler Annual Limits.”)

6. Various other measures, such as:

- A permanent prohibition on skipper and crew catches.
- One-trip-per-day limits.
- Rod limits (one per angler on board or a fixed number per boat).
- Reduction of daily charter angler bag limit to one halibut (with provision for retention of a second, “trophy” fish).
- One-day-per-week closures.

- Minimum size limit of 32 inches.
- Season-end closures set for dates in August or September.
- Limit the number of lines fished to the number of clients on board.
- Raising the GHLs, or allowing GHLs to “float” with halibut abundance so that in times of high halibut numbers charter allocations would increase, and in times of decreasing abundance the charter catch would be reduced.

[The above was condensed from a presentation by Phil Smith, NMFS Restricted Access Management Division, and from other sources.—Ed.]

A permanent solution to the problem of charter halibut catches exceeding GHLs and of reallocating halibut from commercial to guided recreational sectors has not been found. Council staff has analyzed or is in the process of analyzing and writing papers on most of the above approaches. Any of the above approaches would require time—in some cases several years—to be studied, approved, and implemented. The most likely first step would be a moratorium, which as stated above would not decrease charter catches but may stabilize them, and the informed view is that if a moratorium is adopted at the Council’s meeting in April 2007, it would go into effect in 2009 at the earliest.

The Council is seeking industry and public input. Go to www.fakr.noaa.gov/npfmc and click on the charter halibut options for further details. See also the accompanying article “Sources of Information and Discussion of Halibut Charter Management.”

See also the NMFS Alaska Region publication “Tips for Submitting Effective Public Comments” at www.fakr.noaa.gov/prules/effectivereviews.pdf.

Recent Chronology

Sport fishing landings, along with natural mortality, bycatch, personal use, and subsistence, are subtracted from allowable catch levels determined by the International Pacific Halibut Commission (IPHC) before commercial quotas are calculated. Therefore the commercial halibut industry has expressed concern to the North Pacific Fishery Management Council that growing charter catches were cutting into the resource on which their quotas were based.

The Council first addressed concerns over the growth of the charter sector halibut catches in 1993, when it established a Charter Working Group. In 1995 the Council considered harvest restriction options.

In 1997 the Council recommended a guideline harvest level (GHL) for charter harvests based on 125% of 1995...
Moratorium

[The following is a highly condensed summary of the Moratorium proposal, as outlined in the NPFMC document Charter Halibut Moratorium Discussion Paper Dec. 2006. The full document of 38 pages is available on the NPFMC website, www.fakr.noaa.gov/npfmc.—Ed.]

The first major step the Council may take toward limiting the catch of halibut by the charter sector, since the Dec. 2005 meeting at which the IFQ plan was overturned, will be to decide whether to impose a moratorium on entry to the fishery. A moratorium usually is defined as a temporary halt to new entry, and is intended to stabilize effort in the fishery while long-term solutions are devised. However, Council staff has explained that in this case, a moratorium would actually be a permanent access limitation program, in the form of limited entry. The Council has already set Dec. 9, 2005 as the control date for a moratorium, meaning that only vessels or businesses already with a history of participating in the fishery by that date would be assured access in the future.

If the Council imposes a moratorium, 13 primary issues must be resolved to provide the structure for a limited entry program. Following is a summary of the 13 issues, condensed for readability from the Council discussion paper.

1. Permits may be held by U.S. citizens, or businesses with at least 75% U.S. ownership. A business owner may receive multiple permits based on prior activity by that business’s vessels. Currently licensed businesses that don’t meet the 75% test may be grandfathered in.

2. Permits would be designated for either Area 2C or 3A.

3. Permits would be issued to registered guide business operators (not hired captains or crew).

4. Permit applicants would have to sign an affidavit attesting that all legal requirements were met.

5. Permanent transfers of permits would be allowed.

6. Leasing would be prohibited. (However, Council staff notes that enforcement may be difficult.)
7. Permits would be endorsed for a specified maximum number of clients on board, either six clients (as in the case of uninspected vessels) or the highest number carried on any trip in 2004 or 2005 (but not less than four) in the case of inspected vessels.

8. Permits may be “stacked.” That is, more than one permit may be assigned to a single vessel, allowing it to carry the aggregate number of clients the permits would allow. The Council must decide whether stacked licenses become permanently joined or if they can be separated and transferred to other vessels.

9. Evidence of participation would be based on proper ADFG logbook entries.

10. Qualifying years would be 2004 or 2005 and participation in the year prior to implementation, with a minimum number of bottomfish trips (1, 5, 10, or 20). Options could allow exemptions from qualifying years standards in the case of “unavoidable circumstances” and in the case of vessels under construction on Dec. 9, 2005.

11. Permit holder must renew permit annually and have at least minimum prescribed activity. Several questions must be answered concerning how to calculate qualifying activity.

12. Use caps would limit the number of vessels a business may operate. The range is one to ten uninspected vessel permits per owner and one to three permits for operators of inspected and uninspected over 100 gross ton vessels.

13. Issue 13 is Community Provisions, and introduces new options and questions to be resolved. Community Provisions refers to a proposal, similar to the Community Enterprise Quota program in the commercial halibut fishery, to provide permits for communities—or residents of communities—that currently do not have developed halibut charter industries.

The Council will consider three options, summarized here as:

Option 1: Community quota entities (CQEs) may purchase limited entry permits.

Option 2: A CQE that represents community meeting qualifying criteria may request a limited entry permit on behalf of a community member.

Option 3: CQEs may request non-renewed limited entry permits on a “first come first served” basis.

[For a detailed discussion of the proposal and questions to be resolved pertaining to Community Provisions, see pp. 15-34 of the Charter Halibut Moratorium Discussion Paper.—Ed.]

Issues that the Council clarified at the December 2006 meeting

The Council staff had identified points on issues 1-13 which the Council clarified at the Dec. 06 meeting. Following is a brief summary of those points. See pp. 35-38 of the Charter Halibut Moratorium Discussion Paper for details.

Issue 7: Permit endorsement for the number of clients on board would be equal to the highest number on any trip in 2004 or 2005, but not less than four

Issue 8: Permit stacking
Permits could be stacked up to use caps.

Issue 10: Qualifying years—two options

1. Each licensed operator who reported a minimum of 1, 5, 10, or 20 trips during 2004 or 2005 and the year prior to implementation would be issued permits based on the number of trips summed for all vessels in his/her best year of the qualification period.

2. Each licensed operator who reported a minimum of 1, 5, 10, or 20 trips during the same qualifying period would be issued permits for each vessel based on the number of trips in his/her best year of the qualifying period; trips by vessels operated by a qualified guide business that do not individually meet the qualification criteria could be combined to meet the criteria.

Issue 11: Use caps, with grandfathered provisions, would be applied to determine the number of permits associated with an entity. Options would be 1, 5, or 10 permits.

Issue 12: Community provisions for Area 2C and 3A communities identified under Gulf of Alaska plan Amendment 66

A Community Quota Entity (CQE), representing a community in which 5 or fewer, or 10 or fewer active charter businesses terminated trips in 2004, 2005, and the year prior to implementation, may request permits. Use caps would apply to the CQEs, ranging from 3 to 15 each, depending on area.

Provisions for requested permits would include:

- Must be used within the first full season after issuance.
- Designated for the area in which the community is located.
- Endorsed for six clients.
- May not be sold or otherwise transferred.

The Council may vote on the Moratorium at its April 2007 meeting. Interested parties should submit testimony and recommendations in advance of that meeting. See the NOAA article on how to make effective testimony, www.fakr.noaa.gov/prules/effectivecomments.pdf.
State Delegation

[The State of Alaska has proposed changes to federal law that would allow delegation of authority to manage some aspects of the sport halibut fishery to the state. If that delegation were defined sufficiently broadly, it could open the door to not only state regulation of methods and means in the fishery but also to access limitation programs such as halibut charter boat limited entry. In October 2006 Jay Ginter, with NMFS Sustainable Fisheries Division, submitted a discussion paper explaining procedures and outlining implications of state delegation. What follows is a highly condensed summary of the paper Providing Authority to State Governments to Manage Pacific Halibut Fisheries.—Ed.]

Pacific halibut are managed exclusively under federal regulations, and state authority and responsibility to manage Pacific halibut fisheries is virtually nonexistent.

Halibut fisheries are governed under the Northern Pacific Halibut Act of 1982, which gives effect to the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea, which was signed in 1953 and amended in 1979. The Convention requires all halibut fishing in Convention waters to comply with regulations of the International Pacific Halibut Commission (IPHC).

The Secretary of Commerce has responsibility to carry out the terms of the Convention, and the regional fishery management councils must submit to the Secretary for approval any regulations they develop for management of the fishery. Under the Halibut Act there is no provision for state authority in management of the fishery. Existing sport halibut regulations, such as the two-fish daily limit and the February through December season, are IPHC regulations. However, the State of Alaska has principal authority and responsibility for managing sport fisheries, including the recreational guided (charter) fishery, for all sport fisheries except halibut, and has a clear role in some aspects of the fishery. The state sets requirements for angler licensing and performs survey work that is used in halibut management. The state manages sport fisheries for other species that may be involved in angling opportunities that also involve halibut.

For these and other reasons the State of Alaska is proposing a Congressional change to the Halibut Act that would permit delegation of some halibut sport fishery management authority to the state.

A key issue raised in Mr. Ginter’s paper is the fact that the state fishery management process is substantially briefer and more quickly concluded than the federal regulatory process. A regulatory change to state-managed fisheries can occur in as little as two months, and emergency regulations can become effective immediately upon filing. In addition, the Commissioner of Fish and Game can implement temporary changes immediately through emergency orders. The federal system, on the other hand, is “more cumbersome” because of the required public involvement and analysis of alternatives. Federal regulation changes can take from one to several years to accomplish.

The Ginter paper also recommends several changes to the text of the proposed changes to the Halibut Act. See the paper on the Council Web site for details.

Practical Effect of the Proposed Change

The overall effect would be to delegate to the coastal states authority to implement certain regulations to manage sport halibut fisheries without going through the normal Council and Secretarial review process. The change would allow the Council to recommend broadly or narrowly defined authority to specific states. The action would be initiated at the Council level in the same manner as other regulatory changes. It would be a federal action for which there is statutory requirement for analysis and public review. It would be similar to the process used to make fishery management plan amendments but would not be governed by the Magnuson-Stevens Act.

Specific types of regulations that may be delegated to the state would be prescribed by the Council, which could also stipulate a specific withdrawal or sunset date or may continue in effect until changed. The key factor is that state-promulgated regulations can’t conflict with Council or IPHC regulations, and can’t be less restrictive in the sense that they could work contrary to IPHC and Council conservation efforts.

Ginter’s paper does not argue for or against the proposed statutory change, and does not present potential pros and cons. It does point out that the intent of the change would be to allow the states to more quickly respond to recreational fishing trends and more responsively tailor regulations than is now possible. The change could also allow the Councils to more efficiently implement policies to allocate halibut between commercial and recreational sectors.

Separate Accountability

[As part of the reopened process of designing a plan for management of the halibut charter industry, the Alaska Longline Fishermen’s Association (ALFA) submitted a proposal called Separate Accountability. Under the proposal, charter and commercial halibut allocations in Areas 2C and 3A would be managed separately. It is intended to remove the economic penalty placed on the commercial sector for overages of the guideline harvest level (GHL) incurred by the charter sector. What follows is a much-condensed summary of a NPFMC staff discussion paper called Separate Accountability Proposal for Pacific Halibut Fisheries, April 6, 2006.—Ed.]

Background

The catch limit placed on the commercial fishery is determined by the following formula:

\[
\text{Exploitable Biomass} \times \text{Harvest Rate} = \text{Total Constant Exploitation Yield (CEY)}
\]

\[
\text{Total CEY} – \text{Other Removals} = \text{Fishery CEY}
\]

\[
\text{Fishery CEY} \times \text{Policy Considerations} = \text{Fishery Catch Limit}
\]

It means that “other removals” including natural mortality, commercial fisheries bycatch and wastage, subsistence and personal use, unguided sport catch, and guided sport catch all come “off the top” before commercial fishery limits are calculated. When one segment of the “other removals” category grows, as has the guided (charter) sport catch, it causes an uncompensated reallocation from the commercial sector.

The idea of Separate Accountability is to designate a specific use category for guided sport and to charge all removals by that sector to that category, rather than to “other removals.” A combined commercial and charter Fishery Catch Limit would be set by the International Pacific Halibut Commission (IPHC). In a sense, this would give the charter industry a status equivalent to the commercial fishery in terms of management. It also would mean that charter catches would no longer come “off the top” but would be charged to the charter sector. And it means that “overages” or area-wide season catches that exceeded the GHL would have to be made up by the charter sector rather than deducted from the following year’s total allowable catch assigned to the commercial fleet.

IPHC staff has suggested that, under a combined commercial/charter catch limit, commercial wastage would be removed from the “other removals” category and made part of the commercial fishery allocation, so that the charter sector would not “pay” for commercial wastage. However, that wastage would have to be deducted from the commercial share of the combined limit.

The ALFA proposal suggests that removing the effect of GHL overages on the commercial sector would (a) facilitate development of a long-term plan by allowing the Council to develop measures appropriate to the charter fishery without worrying about spillover effects on the commercial fishery, and (b) promote stability by signaling the Council’s intention to adhere to the GHL.

Council staff comments that the actual “separate accountability” of the proposal is somewhat limited because there is no direct accountability if the charter industry exceeds its GHL. The proposal would eliminate the direct penalty to the commercial sector but not replace it with direct penalty to the charter sector, due to the system of postseason management currently applied to the charter sector.

The staff comments that the Council should consider whether the proposed approach of using the GHL as an allocation within a combined fishery catch limit is an improvement over the status quo of deducting projected harvests either now or under a permanent solution. Further, the Council should consider whether it is confident that it can manage the charter allocations with postseason management so that they would not be exceeded. If the GHL is not equivalent to the actual harvest, the staff suggests, the proposal would create a procedure that could systematize the potential for overharvest if corrective or remedial management measures are not adopted.

Much of the concern over Separate Accountability lies in technical issues pertaining to the methodologies IPHC and ADFG use to estimate and project noncommercial removals. For the staff analysis of these and related issues see “Separate Accountability Proposal for Pacific Halibut Fisheries Discussion Paper, April 6, 2006” which is available online at the NPFMC Web site.

Area 2C Charter Angler Annual Limits

At its April 2006 meeting the North Pacific Fishery Management Council adopted the GHL preferred alternative to limit the halibut harvest by charter anglers in Area 2C to five fish per person per year. At the June meeting NMFS indicated that costs for implementation and enforcement likely would be high. NMFS staff studied the question and wrote a 30-page discussion paper that details costs associated with implementation of the limit. One finding was that using the State of Alaska reporting system would be the most cost effective and least burdensome method, but costs nevertheless would be substantial. Subsequently NMFS has recommended that the Council reconsider the annual limit.

In support of the 2C angler limits, the Commissioner of Fish and Game asserted that he would exercise state Emergency Order (EO) authority to prohibit the harvesting of fish by charter skippers and crew.

Subsequently the Council rescinded the five-fish limit that was originally adopted in April and initiated a revised analysis for 2C only of:

1. one trip per vessel per day
2. no retention of halibut by skippers and crew
3. annual catch limits of four or five halibut
4. one fish bag limit for June, July, August, or the entire season
5. trophy size limit for second fish of 45, 50, 55, or 60 inches
6. season closure date of Aug. 15, Aug. 31, or Sept. 15
7. day of the week closure, and/or
8. minimum size limit of 32 inches.

Review of the analysis is scheduled for April 2007 and final action in June; implementation would be planned for 2008.

Sufficient information about implementation and enforcement of the five-fish limit was unavailable at the April 2006 meeting, but a NMFS representative told the Council that her agency would need to determine whether Alaska sport fishing licenses could be used to enforce an annual limit. The Council asked NMFS to present at the June meeting a report outlining administration and enforcement issues.

In June 2006 NMFS and NOAA Office of Law Enforcement (OLE) told the Council that the annual limit would require federal recordkeeping and reporting tools, including a federal angler permit and charter vessel logbook. Detailed cost information was not available, but costs were thought to be substantial.

Two approaches to implementing the Council’s action are considered in the staff discussion paper: (1) utilization of the state charter logbook and angler licensing information, and (2) implementation of a federal halibut logbook and angler catch card using either hard copy or electronic reporting methods.

1. Information provided by the 2006 Saltwater Charter Logbook and Vessel Registration (SCVL) and angler sport fishing licensing requirements would meet OLE requirements, but these items would need to be modified. Furthermore, current state statute and policy prevent OLE from getting the information. Changes in state law and policy would be required. OLE officers would have to be deputized by the State of Alaska.

2. A federal logbook and angler catch card program could be implemented using hard copy or electronic media. Charter guides would have to complete a federal logbook, and anglers would need a federal catch card.

OLE estimates that to enforce the five-fish annual limit in 2C would cost the agency $600,000 in enforcement officer time each year, and additional staff time. The annual limit, if adopted, would probably be accompanied by other measures, such as weekly or season closures, rod limits, etc. See the range of options in the accompanying article “Approaches Currently Under Consideration.” The Council is likely to take final action at its June 2007 meeting.

[The above is condensed from the executive summary of Discussion Paper: Implementation of an Annual Limit for Charter Anglers in Area 2C which is available in its entirety at the NPFMC Web site.—Ed.]

State of Alaska (ADFG) Perspective on Charter Halibut Management

While the halibut biological yield is managed by the International Pacific Halibut Commission, allocation in U.S. waters is by the North Pacific Fishery Management Council, and the National Marine Fisheries Service develops and enforces regulations, the State of Alaska also has a role in halibut charter management.

The state has authority to regulate charter operations, as it does other kinds of sport fishing methods and means. To date ADFG’s role in halibut charter management has been

- Conducting biological assessment.
- Implementing a sport fishing business an guide licensing program.
- Revamping the saltwater logbook reporting system.
- Obtaining emergency order (EO) authority to restrict certain fishing practices. (An EO was issued to prohibit skipper and crew harvests in Area 2C, which the department calculates prevented an additional harvest of 4,748 halibut.)
- Amending the Halibut Act to allow the state greater role in halibut management.
- Linking sector allocations to halibut abundance.
- Creating a limited entry system based on client-days.
- Creating a revised quota share program.
- Designing a mechanism to allow an orderly, compensated allocation shift (from commercial to charter sector) such as a “charter stamp” or taxing authority.

ADFG supports the following actions and principles in support of bringing charter catches into compliance with the GHL:

- Continued use of Alaska EO authority for skipper and crew harvests.
- Fixing confidentiality issue with logbooks for sharing data with NMFS and NPFMC.
- Fast tracking a halibut charter entry license moratorium.

[Condensed from a presentation by Douglas Vincent-Lang, special assistant, ADFG.—Ed.]
Sources of Information and Discussion on Halibut Charter Management

The reader has access to several additional sources of information—and opinion—on the evolving charter halibut management issue.

See an online forum with discussion, some of it well-informed, on both sides of the issue at forums.outdoorsdirectory.com/showthread.php?t-5972&page=5.

The Alaska Charter Association was formed in 2004 largely to oppose the halibut charter IFQ plan. ACA views are at www.alaskacharter.org.

The South East Alaska Fishermen’s Association tracks and lobbies on fisheries issues and their director is on the Stakeholders Committee. See their perspective at www.seafa.org, especially the document “Summary of the Halibut Charter Stakeholder Meeting October 16-18, 2006.”

The United Fishermen of Alaska (UFA), the state’s umbrella organization of the commercial fishing industry, publishes a weekly newsletter on industry developments. See www.ufa-fish.org.

Latest authoritative nongovernmental source is Tina McNamee, who was recently appointed to the Council’s Advisory Panel, and has committed to keep the industry (she runs a charter business in Sitka) updated on developments. Get on her email distribution list by writing to her at info@islandviewcharters.com.

Before you write testimony to present to the Council, check the posting by NOAA Alaska Regional Office called “Tips for Submitting Effective Public Comments,” which is at www.fakr.noaa.gov/prules/effectivecomments.pdf.