



PO Box 22073
Juneau, AK 99802-2073
(425) 949-1810msg (206) 260-9111efax

halibutcoalition@gmail.com

www.halibutcoalition.org

Summary of Halibut Charter Management in Alaska

Prepared by Halibut Coalition for Lt. Governor Parnell

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Legal Framework

North Pacific halibut stocks are managed under an international Convention between the governments of the United States and Canada. *The Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, March 2, 1953* (“The Halibut Convention”), 5 USTS; TIAS 2900:16 U.S.C. section 773K. This Convention created the International Pacific Halibut Commission (IPHC) (originally called the International Fisheries Commission 1923)), which is a scientific body charged with research and management of the stocks of Pacific halibut within the Convention waters of both nations. The actions of the IPHC are directed at the long-term conservation of the halibut resource. The IPHC conducts research surveys and annual stock assessments to determine the amount of halibut that can be sustainably harvested on a regional and annual basis. Scientifically derived quotas are established and each Nation is expected to ensure regional quotas, as well as domestic harvest targets assigned to specific sectors, are not exceeded.

Historical Background

In Alaska, policy recommendations pertaining to allocation of the halibut resource are the responsibility of the North Pacific Fishery Management Council (Council), a management body established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) in 1976. Council policy recommendations are translated into regulation by the National Marine Fisheries Service (NMFS) for consideration and adoption/rejection by the Secretary of Commerce. These regulations apply to both State and Federal waters, including the “inside” waters of Southeast Alaska, Prince William Sound, etc. In 2006 the Council considered delegating limited management authority for halibut to the State of Alaska, and determined such delegation required Congressional enabling legislation and changes to the Halibut Convention. Delegation was not pursued but remains a long-term option.

Alaska Longline Fishermen’s Association • Cordova District Fishermen • Deep Sea Fishermen’s Union • Fishing Vessel Owners Association • Halibut Association of North America • Kachemak Bay Fisheries Association • North Pacific Fisheries Association • Petersburg Vessel Owners Association • Sea Food Producers Cooperative • Southeast Alaska Fishermen’s Alliance • United Cook Inlet Driftnetters Association • United Fishermen’s Marketing Association • United Southeast Alaska Gillnetters Association

The longline, or ‘setline’ as it is called by the IPHC, industry has prosecuted halibut off Alaska since the late 1800s. The halibut resource has been fully allocated, or all available quota has been harvested, since the early 1900s. As the fleet and consequently harvest expanded, longline fishermen organized voluntary stand downs, or non-fishing periods, to protect stocks. Over the now 100 year history of the halibut fishery, longline fishermen have consistently supported conservation to maintain the health and abundance of the halibut stock. In 1995, an individual fishing quota (IFQ) system was implemented to reduce gear loss, bycatch and resource waste. The IFQ system requires that fishermen own individual quota to harvest halibut commercially, requiring substantial investment in harvesting privileges but dramatically improving resource conservation and management, as well vessel safety and the market value of halibut. In 2005 the halibut fishery was certified as sustainable by the Marine Stewardship Council.

Conservation and allocation concerns

In 1993, the IPHC notified the Council of the substantial increase in halibut charter harvest, identifying both conservation and allocation concerns associated with that increase. The IPHC highlighted that left unchecked the charter halibut harvest could in time exceed the longline catch in some areas, and questioned the adequacy of existing charter harvest catch accounting systems. Additional concerns were raised by the non-guided sport and subsistence fishermen, who testified that the concentration of charter harvest near coastal communities was driving local depletion of halibut stocks and reducing their harvesting success. Noting that the scheduled 1995 implementation of the longline IFQ system would exacerbate existing conservation concerns and reallocation impacts, longline fishermen joined subsistence and resident sport fishermen in requesting that the Council establish an upper bound on charter harvest to address local depletion and to establish a measure of stability for all sectors.

NPFMC Management Actions

The Council spent the next seven years developing that upper bound, or Guideline Harvest Level (GHL), for the charter fleets in Southeast (IPHC area 2C) and Southcentral (IPHC area 3A) Alaska with the assistance of multiple halibut charter committees, weeks of public testimony, and reams of analysis. The first GHL, which was recommended by the Council in 1998 and was based on 125% of the charter fleet’s highest annual halibut harvest up to that date (1995), was never implemented due to conflicting legal recommendations from NMFS. In 2000, the Council once again recommended halibut charter GHLs for IPHC areas 2C and 3A, again basing the GHLs on 125% of the charter fleets’ largest annual harvest up to that time (1995-1999); these GHLs were implemented in 2004—but without any charter harvest control measures to prevent GHL overages.¹ (See attached timeline for additional detail)

In 2001, the Council adopted a halibut charter individual quota system that: 1) initially allocated quota to charter operators based on their past history in the halibut charter fishery; and, 2) established a market based mechanism for subsequent limited transfer of quota between the

¹ GHLs are developed annually by the North Pacific Council to represent a pre-season specification of acceptable halibut harvests in the charter vessel fisheries in management Areas 2C and 3A. 72 Fed. Reg. 74257 (Dec. 31, 2007).

charter and longline sectors. This halibut charter individual quota system was rescinded by the Council in 2005, after languishing for 4 years on the desks of Council and NMFS staff, hence was never implemented.

When rescinding the halibut charter individual quota system in 2005, the Council committed to managing the charter fleet to remain below halibut GHLS until a long-term management strategy was implemented (December 2005, April, 2005; NPFMC minutes). The Council also created a new halibut charter committee and initiated analysis of multiple long-term management strategies, many of which relied on legislative or Congressional action to be implementable (i.e., development of non-profit regional associations that would purchase halibut quota share, using funds collected through fees assessed on charter vessels, to increase the charter allocation; state limited entry for charter vessels; federally appropriated funds for quota share purchase, etc.). Years passed, the charter fleet continued to grow, and charter halibut harvest almost doubled in some areas. In fact, the halibut charter fleet has exceeded its GHLS in area 2C (Southeast Alaska) **every year** since the GHLS was implemented in 2004, and likely exceeded its 2008 GHLS by 100%, harvesting an estimated 1 million pounds over the established “upper bound.” In 2007, the charter fleet exceeded the 3A (South Central Alaska) GHLS by almost 10%.

Economic and Conservation Impacts of Charter Overages

Since 1995, deckhands and fishermen who did not receive an initial allocation of quota share or received quota share insufficient to support their businesses have been making substantial investments in longline quota share, paying up to \$28 per pound for halibut quota. Thirty-three percent of the halibut quota share is now held by persons who did not receive any initial allocation, and 67% by people who have purchased some or all of the quota share they now fish. Over 80% of the Southeast and Southcentral quota is now held by Alaskans—coastal residents who have borrowed against their retirement or mortgaged their homes to purchase access to what they considered a well managed and reasonably stable resource. These investments are jeopardized by the charter GHLS overages, since for years the IPHC has deducted the projected charter overages from the longline allocation to protect the resource from over harvest. While the deductions have acted as a conservation buffer to the resource, they have placed longline fishermen in the untenable position of paying off loans on shares they are no longer allowed to fish because the quota has been reallocated to the charter fleet.

In December 2006, the IPHC noticed the Council that charter GHLS overages in area 2C had caused the total exploitable biomass for the area to be exceeded, compromising the IPHC’s ability to achieve conservation and management objectives. In January 2007, the IPHC recommended a one halibut daily limit for charter clients to protect the resource from overharvest. After receiving assurances from NMFS that comparable harvest control measure would be implemented prior to the start of the 2007 charter season, the U.S. Government (Departments of State and Commerce) declined adoption of the IPHC recommended bag limit reduction. In June, NMFS implemented a 32 inch maximum size limit on the second fish taken by charter clients in 2C. Despite the daily bag limit reduction, charter harvest exceeded the 2007 GHLS by 36%.

When halibut abundance dropped by 55% in the 2C area between 2005 and 2007 (and drove a 43% reduction in the longline quota), the charter overages sent the longline, sport and subsistence fishermen back to the Council to demand effective charter harvest control measures. In June 2007, the Council recommended a one halibut daily limit for charter clients at existing low abundance levels to protect stocks.

Charter lawsuit

The one halibut daily limit was implemented in Area 2C in June, 2008. Three days later eleven charter operators filed a lawsuit against the limit, claiming their client's bag limit could not be reduced until after the 2008 GHL was reached or exceeded. Given that charter harvest is not tallied until nine months after the charter season has closed, the plaintiffs knew their objection could only result in a substantial GHL overage. Focusing on a technicality and the plaintiff's deliberate misrepresentation of Council intent, a federal district court located in D.C. granted the charter fleet a preliminary injunction and allowed the charter fleet to harvest two halibut, with a maximum size limit on the second fish, throughout the 2008 season. NMFS is now in the process of reissuing the one halibut daily limit for area 2C with a 2009 implementation goal.

NPFMC's Current Management Plan

During the winter of 2006/2007, the Council adopted a moratorium on entry into the halibut charter business, using 2005 as the cut off date for qualification. The moratorium will provide charter operators with a valuable license and protection from new entrants. Also during this winter representative from the longline and charter industry worked together during Council meetings to craft a management compromise or catch sharing plan, presenting this strategy to the Council for analysis and consideration in April 2008. Elements of the catch sharing plan included: 1) an allocation between the two sectors; and, 2) a mechanism for limited transfer between sectors in the form of quota share leasing.

After listening to two days of public testimony from halibut processors, distributors and consumers, and halibut subsistence, sport, charter and longline fishermen the Council adopted a catch sharing plan in October, 2008. **Scheduled for implementation in 2010, the catch sharing plan will establish clear allocations, with sector accountability, between the charter and longline sectors in IPHC Areas 2C and 3A.** The plan establishes specific management measures for the charter sector triggered by specified combined charter and longline catch limits (dictated by abundance), provided the measures prevent a charter allocation overage. The plan also allows limited leasing of halibut quota share by individual charter operators, allowing those charter operators who lease share to provide increased harvesting opportunities to their clients. More information on the halibut catch sharing plan is available at the Council website at: <http://www.fakr.noaa.gov/npfmc/newsletters/NEWS1008.pdf>

Once implemented, the catch sharing plan will be in effect until superceded by another Council action. Still scheduled for future consideration by the Council are the long-term management strategies of an individual quota system for the 2C and 3A charter sectors; a common pool approach to charter purchase of additional quota share; and a charter license limited entry program. The Council has not yet set a date for consideration of these long-term options, and likely will not until requested to do so by the halibut charter industry or the State of Alaska.