

**Council Motion on Charter Halibut Moratorium in Area 2C and 3A
March 31, 2007**

The Council recommends the following as the final preferred alternative for the charter halibut moratorium (limited entry) action in IPHC Areas 2C and 3A.

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 or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he/she 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) for vessels that qualified at trip levels of 15 and above in Area 2C and Area 3A would be allowed up to use caps. Permits issued below trip levels of 15 in Area 2C and Area 3A would be non-transferable.

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

Issue 7. Permit Endorsement for Number of Halibut Clients on Board

Highest number on any trip in 2004 or 2005, with minimum endorsement of 4.

Permits issued under the military hardship provision would receive a halibut client endorsement of 6.

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

²Through initial issuance and transfers.

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

⁴Transferred permits would not be grandfathered below the U.S. 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).

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

⁶Halibut 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.

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

Issue 9. Evidence of participation is ADF&G saltwater logbook entry with bottomfish statistical area, rods, or boat hours.⁸

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 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. (*Staff note: this means businesses are restricted to a maximum number of permits equal to or less than the maximum number of vessels that submitted logbooks in 2004 or 2005*).

Example: a business owner operated 3 vessels with 4, 4, and 12 trips, respectively (summed trips = 20) in his best year. He would be issued 3 permits under a 5 trip minimum (20/5 = 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.¹⁴

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

Area 3A – use cap of 7 requested permits per eligible community.

⁷For example, a business can stack two licenses (each endorsed for 6 clients) on one vessel for a total client endorsement of 12.

⁸Actual halibut statistical area, rods, or boat hours as reported in the ADF&G logbooks are required to demonstrate participation in the year prior to implementation.

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

¹⁰Acceptable circumstances will be adjudicated on a case by case basis through the NOAA Office of Administrative Appeals, and includes medical emergencies, military exemptions, and constructive losses. These hardship provisions should be implemented using similar criteria used in the groundfish License Limitation Program. The military exemption refers to an individual who was assigned to active military duty during 2004 or 2005, who qualifies as “active” during the year prior to implementation, and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A (prior to the qualifying period).

¹¹A business that owns/controls permits in excess of the use cap maintains the grandfather status for those permits that remain in its control after other permits are sold, but the sold permits lose the 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.

¹²Any 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 (i.e., at least 5 bottomfish trips).

¹⁴Staff notes that the eligible communities resulting from this criteria are as follows: Area 2C – Angoon, Coffman Cove, Edna Bay, Hollis, Hoonah, Hydaburg, Kake, Kassan, Klawock, Metlakatla, Meyers Chuck, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee, Thorne Bay, Whale Pass; Area 3A – Akhiok, Chenega, Halibut Cove, Karluk, Larsen Bay, Nanwalek, Old Harbor, Ouzinkie, Port Graham, Port Lions, Seldovia, Tatitlek, Tyonek, Yakutat.

Overall use caps¹⁵ for all CQEs in a management area are 2 times those selected for the qualifying CQE requested permit use cap for each area. *(Staff note: result is overall use cap of 8 permits for each CQE in Area 2C and 14 permits for each CQE in Area 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., permanently 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).

The Council also recommends that NMFS issue interim permits to licensed fishing guide business owners appealing their permit status. *(Staff note: NOAA GC will develop an approach to implement the Council's intent with regard to interim permits and provide these recommendations as an informational report at the June 2007 Council meeting. The Council expressed an interest in limiting the issuance of interim permits only to those claims that have provided legitimate documentation and have a basis for success.)*

¹⁵The overall use cap refers to the limit on the number of permits a CQE can hold and use in total. This limit includes both purchased permits and permits requested and issued at no cost under Issue 12.