

INITIAL REVIEW DRAFT

Regulatory Impact Review/

For a Proposed Regulatory Amendment

To Limit Possession of Guided and Unguided Halibut Simultaneously on the Same Vessel

September 15, 2017

For further information contact: Jon McCracken, North Pacific Fishery Management Council
605 W 4th Ave, Suite 306, Anchorage, AK 99501
(907) 271-2809

Kurt Iverson, Alaska Regional Office
National Marine Fisheries Service
P.O. Box 21668, Juneau, AK 99802-1668
(907) 596-7210

Abstract: This document analyzes a proposed regulatory action that would prohibit mixing of guided and unguided halibut simultaneously on any vessel in Areas 2C and 3A. The first alternative under consideration is the status quo. The second alternative would prohibit the possession of guided and unguided halibut simultaneously on any vessel. Under the third alternative, if halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing guide services on in Areas 2C or 3A, the International Pacific Halibut Commission (IPHC) annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.

List of Acronyms and Abbreviations

ADF&G	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resource
AKFIN	Alaska Fisheries Information Network
BOF	Board of Fish
BSAI	Bering Sea and Aleutian Islands
CEY	Constant Exploitation Yield
CHP	Charter halibut permit
CHLAP	Charter halibut limited access program
CCL	Combined Catch Limit
COAR	Commercial Operators Annual Report
Council	North Pacific Fishery Management Council
CQE	Community Quota Entity
CSP	Catch Share Program
E.O.	Executive Order
EEZ	Exclusive Economic Zone
FMP	fishery management plan
ft	foot or feet
GAF	Guided Angler Fish
GHL	guideline harvest level
GOA	Gulf of Alaska
IPHC	International Pacific Halibut Commission
lb(s)	pound(s)
LOA	length overall
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MWR	Morale, Welfare, and Recreation program (U.S Military)
NMFS	National Marine Fishery Service
NOAA	National Oceanographic and Atmospheric Administration
NPFMC	North Pacific Fishery Management Council
OLE	Office of Law Enforcement
OMB	Office of Management and Budget
PPA	Preliminary preferred alternative
PRA	Paperwork Reduction Act
RAM	Restricted Access Management Program
RIR	Regulatory Impact Review
RQE	Recreational Quota Entity
SEAGO	South East Alaska Guides Organization
TAC	total allowable catch
U.S.	United States
USCG	United States Coast Guard

Table of Contents

EXECUTIVE SUMMARY	5
1 INTRODUCTION	8
2 REGULATORY IMPACT REVIEW	9
2.1 Relationship of this action to federal law.....	9
2.2 Purpose and need for action.....	9
2.3 History of this action	10
2.4 Alternatives.....	10
2.4.1 Other alternatives not included for consideration	12
2.5 Description of management area.....	12
2.6 Methodology for analysis of impacts.....	13
2.7 Description of guided and unguided halibut fisheries	13
2.7.1 Management of guided and unguided halibut fishery	13
2.7.2 Halibut removals in guided and unguided sport fishing	16
2.7.3 Current regulations.....	18
2.7.4 Applicable definitions.....	18
2.7.5 Guided and unguided halibut vessels	19
2.7.5.1 Multi-day guided fishing vessels	20
2.7.5.2 Floating lodges	21
2.7.5.3 Unguided fishing businesses	22
2.7.5.4 Transport vessels	22
2.8 Analysis of impacts.....	22
2.8.1 Alternative 1	22
2.8.2 Alternative 2	23
2.8.3 Alternative 3	24
2.8.3.1 Suboption 3.1	25
2.8.4 Number and description of directly regulated small entities	25
2.8.5 Summary of impacts of alternatives	26
2.8.6 Summation of the alternatives with respect to net benefit to the Nation	27
3 PREPARERS AND PERSONS CONSULTED	28

List of Tables

Table 1	Summary of Alternatives.....	7
Table 2-1	Management measures for guided sport halibut fishing in Area 2C, 2010 to 2017.....	16
Table 2-2	Area 2C guided and unguided sport harvest of halibut to include number of fish (No. Fish)	17
Table 2-3	Area 3A guided and unguided sport harvest of halibut to include number of fish (No. Fish).....	17
Table 2-4	Distinct CHP holders, permits, and anglers as of July 24, 2017	20
Table 5	Summary of alternatives	26

List of Figures

Figure 2-1	International Pacific Halibut Commission Regulatory Areas	12
Figure 2-2	Process for setting annual combined catch limits, charter and commercial allocations, and charter and commercial catch limits for Area 2C and Area 3A under the Catch Sharing Plan.....	15
Figure 2-3	Picture of a multi-day guided fishing vessel.....	21
Figure 2-4	Picture of a floating lodge	22

Executive Summary

This document analyzes a proposed regulatory action that would prohibit mixing of guided and unguided halibut simultaneously on any vessel in International Pacific Halibut Commission (IPHC) Areas 2C and 3A in the Gulf of Alaska (GOA). The first alternative under consideration is the status quo. The second alternative would prohibit the possession of guided and unguided halibut simultaneously on any vessel. Under the third alternative, if any halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing guide services in Area 2C or Area 3A, the IPHC annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.

Purpose and Need

The Council adopted the following problem statement to originate this action in February 2017:

Different regulations apply to guided and unguided (i.e., chartered and non-chartered) halibut fishing trips. Possessing halibut harvested from both guided and unguided trips on the same vessel at the same time presents challenges for accountability and enforcement that cannot be adequately addressed by current regulations. Mixed guided and unguided halibut can occur on multi-day and mothership charter fishing and floating lodges, and to a lesser extent on vessels that are owned by self-guided fishing operations that also provide sport fishing guide services to their clients. The potential for mixing guided and unguided halibut exists on every floating lodge and mothership that services halibut harvesters. The number of these operations and the associated halibut harvests remain unknown. The mixing of guided and unguided halibut could expand in the future as charter operators look for ways to maximize halibut harvests for guided and unguided anglers on their vessels.

Once guided and unguided halibut are mixed aboard a vessel, it is difficult to determine which halibut were harvested under the guided regulations and which halibut were harvested under the unguided regulations. The current regulatory structure allows guided and unguided halibut to be mixed on a vessel but does not provide the regulated public or authorized officers with a mechanism to ensure compliance with the more restrictive guided halibut regulations. A regulatory change could ensure proper accounting of guided and unguided catch.

Alternatives

Alternative 1: Take no action

This alternative is the no action alternative. Under this alternative, the current regulatory structure allowing guided and unguided caught halibut to be mixed together on a vessel would continue.

Alternative 2: Prohibit the possession of guided and unguided halibut simultaneously on any vessel

Under Alternative 2, would prohibit mixing of halibut harvested by guided and unguided operations in IPHC Areas 2C and 3A. Halibut caught under one operation type (guided or unguided) must be offloaded from the fishing vessel and removed to shore before switching to the other operation type.

Staff recommends the language in this alternative be changed from “vessel” to “fishing vessel” to better align with the Northern Pacific Halibut Act. The Act uses “fishing vessel” throughout and defines the term “fishing vessel” at 16 U.S.C. § 773(f) as follows:

- (1) any vessel engaged in catching fish in Convention waters¹ or in processing or transporting fish loaded in Convention waters;
- (2) any vessel outfitted to engage in any activity described in paragraph (1); or
- (3) any vessel in normal support of any vessel described in paragraph (1) or (2)”

Since the Act’s definition of “fishing vessel” is broad, staff believes that multi-day fishing vessels and floating fishing lodges are included within the definition. Changing to “fishing vessel” from “vessel” would better align the alternative with the Northern Pacific Halibut Act.

In addition, staff also recommends the Council expand Alternative 2 to include a Suboption 2.1. The Enforcement Committee originally recommended that Alternative 3 include “other floating facility” as a suboption. Staff believes the recommendation is also applicable to Alternative 2. The Enforcement Committee agreed that the definition of “fishing vessel” in the Northern Pacific Halibut Act would encompass “other floating facilities” such as floating lodges. The Enforcement Committee intended that floating lodges be included in the proposed action. One way of including floating lodges would be to rely on the broad definition of “fishing vessel” in the Northern Pacific Halibut Act to encompass floating lodges. A second approach would be to include “other floating facility” as a suboption because specific use of the term may provide additional clarity on the scope of “fishing vessel” to the regulated public.

***Alternative 3:** If halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing guide services on Convention waters in Area 2C or 3A, the IPHC annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.*

Under Alternative 3, if mixing of halibut occurs onboard a fishing vessel, all halibut anglers, including unguided anglers, are bound by the IPHC annual management measures and applicable federal regulations for guided sport fishing in the area that the halibut was harvested, pertaining to size restrictions and bag and possession limits. Alternative 3, as currently worded, could have the effect of requiring unguided anglers to abide by such requirements as recording harvest in a logbook, day-of-the-week closures, and annual limits. However, these additional elements of the guided angler restrictions are not necessary, from the perspective of OLE, to address the mixing of halibut from guided and unguided operations. Rather, adherence to size restrictions, carcass retention for size-restricted halibut, and bag and possession limits are necessary for this alternative, and their impacts are analyzed in this alternative.

Unless the Council indicates otherwise, staff will assume that the Council agrees with OLE’s interpretation of which guided angler restrictions would be required.

***Suboption 3.1:** Include “other fishing facility” as well as “fishing vessel”.*

This suboption would extend the requirement of prohibiting mixing of halibut at other fishing facilities along with fishing vessels. However, based on the Enforcement Committee’s December 2016 recommendation, Suboption 3.1 should read “other floating facility” and not “other fishing facility.”

Unless the Council indicates otherwise, staff will assume that suboption should be revised to read “other floating facility.” Like the staff recommendation for Alternative 2, the Enforcement Committee agreed that the broad definition of “fishing vessel” in the North Pacific Halibut Act includes “other floating facility” which includes floating fishing lodges. The committee recommended two approaches be incorporated in the alternatives to highlight the issue and to ensure floating lodges are included in the proposed action. The first approach would not include “other floating facility” in the text of the alternative and would instead rely on the definition of “fishing vessel” in the Northern Pacific Halibut Act to encompass floating lodges. The second approach would be to include “other floating facility” as a suboption to clarify that floating fishing lodges were included in the definition of “fishing vessel.”

¹ From 16 U.S. Code § 773 – Definitions (d) “Convention waters” means the maritime areas off the west coast of the United States and Canada described in article I of the Convention.

Regulatory Impact Review

Table 1 Summary of Alternatives

Alternative/suboption	Costs	Benefits
Alternative 1- Status quo	<ul style="list-style-type: none"> • Anglers and operators could label halibut caught with the assistance of a guide as unguided halibut to circumvent regulations • Vessel boardings are longer due to mixed guided and unguided halibut on the vessel 	<ul style="list-style-type: none"> • Provides multi-day fishing vessels and floating lodges the most flexibility to accommodate both guided and unguided anglers at the same time without incurring the cost of transporting halibut to shore or turning away one category of anglers to prevent mixing of halibut. • Allows crewmembers to fish as unguided anglers while not working.
Alternative 2 - Prohibition of mixing	<ul style="list-style-type: none"> • Could result in lost revenue by multi-day vessels and floating lodges that provide both guided and unguided trips from the same vessel due to restricting halibut fishing to guide or unguided, but not both at any one time. • Could increase operating costs for multi-day vessels and floating lodges that continue to offer both guided and unguided fishing due to transporting either guided or unguided caught halibut to shore to prevent mixing. • Crewmembers would be prohibited from unguided halibut fishing when halibut harvested by guided anglers are onboard the vessel. 	<ul style="list-style-type: none"> • Improve accountability and enforcement by providing clear and concise regulations for guides, anglers, and authorized officers in the field. • Maximize compliance and reduce the duration of at-sea vessel boardings.
Alternative 3 - Use Guided Regulations if mixing	<ul style="list-style-type: none"> • Unguided anglers, including crew members, would be subject to stricter guided regulations for daily bag, possession, and size limits if mixing of halibut on a vessel is occurring. • Could result in lost revenue for multi-day vessels and floating lodges due to less demand by unguided anglers. • Could increase cost for multi-day vessels and floating lodges that continue to offer both guided and unguided fishing due to transporting halibut to shore to prevent mixing. • Crewmembers would be restricted to guided regulations for daily bag, possession, and size limits if mixing of halibut on a vessel is occurring. 	<ul style="list-style-type: none"> • Allows multi-day vessels and floating lodges to mix guided and unguided caught halibut. • Allows crewmembers to fish when guided anglers are onboard multi-day vessel or floating lodge. • Improves accountability and enforcement by providing clear and concise regulations for guides, anglers, and authorized officers in the field, but there would be a compliance risk that is not present in Alternative 2. • Improves compliance and reduces the duration of at-sea vessel boardings, but less than Alternative 2.
Suboption 3.1	<ul style="list-style-type: none"> • See summary of Alternative 3 	<ul style="list-style-type: none"> • Provides additional clarity to regulated public that floating lodges are included in Alternative 3

1 Introduction

This document analyzes a proposed regulatory action that would prohibit mixing of guided and unguided halibut simultaneously on any vessel in IPHC Areas 2C and 3A in the Gulf of Alaska (GOA). The first alternative under consideration is the status quo. The second alternative would prohibit the possession of guided and unguided halibut simultaneously on any vessel. Under the third alternative, if halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing guide services in Areas 2C or 3A, the IPHC annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.

This document is a Regulatory Impact Review Analysis provides assessments of the economic benefits and costs of the action alternatives, as well as their distribution (the RIR). This RIR addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act and Presidential Executive Order 12866.

The proposed action has no potential to effect individually or cumulatively on the human environment. The only effects of the action are economic, as analyzed in this RIR. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

2 Regulatory Impact Review

This Regulatory Impact Review examines the benefits and costs of a proposed regulatory amendment to restrict mixing of guided and unguided halibut simultaneously on a vessel.

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following Statement from the E.O.:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and Benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

2.1 Relationship of this action to federal law

The Pacific halibut fishery off Alaska is governed under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773-773k), in coordination with annual fishery management measures adopted by the IPHC. Section 7.1 details the authority of the Halibut Act and its relevance to the proposed action.

IPHC promulgates regulations governing the halibut fishery. The Council may recommend regulations that are in addition to, and not in conflict with IPHC regulations. Council action must also be approved and implemented by the U.S. Secretary of Commerce (Secretary). While the proposed action would not be under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. § 1801, *et seq.*) and would therefore not include an amendment to a Fishery Management Plan, the proposed action would still require an amendment to U.S. Federal regulations.

2.2 Purpose and need for action

The Council adopted the following problem statement to originate this action in February 2017:

Different regulations apply to guided and unguided (i.e., chartered and non-chartered) halibut fishing trips. Possessing halibut harvested from both guided and unguided trips on the same vessel at the same time presents challenges for accountability and enforcement that cannot be adequately addressed by current regulations. Mixed guided and unguided halibut can occur on multi-day and mothership charter fishing and floating lodges, and to a lesser extent on vessels that are owned by self-guided fishing operations that also provide sport fishing guide services to their clients. The potential for mixing guided and unguided halibut exists on every floating lodge and mothership that services halibut harvesters. The number of these operations and the associated halibut harvests remain unknown. The mixing of guided and unguided halibut could expand in the future as charter operators look for ways to maximize halibut harvests for guided and unguided anglers on their vessels.

Once guided and unguided halibut are mixed aboard a vessel, it is difficult to determine which halibut were harvested under the guided regulations and which halibut were harvested under the unguided regulations. The current regulatory structure allows guided and unguided halibut to be mixed on a vessel but does not provide the regulated public or authorized officers with a mechanism to ensure compliance with the more restrictive guided halibut regulations. A regulatory change could ensure proper accounting of guided and unguided catch.

2.3 History of this action

At the June 2016 meeting, the Council tasked staff to prepare a discussion paper on the mixing of guided and unguided halibut on the same vessel. Different regulations apply to guided and unguided (i.e., chartered and non-chartered) halibut fishing trips. For example, unguided sport fishermen may harvest halibut of any size without restriction and they are not subject to an annual catch limit. Charter vessel anglers, or guided fishermen, on the other hand, are subject to restrictive regulations on daily bag limit, size, daily closures, and annual catch limit.

The Enforcement Committee at its October and December 2016 meetings developed a discussion paper to address the Council's June 2016 request. After reviewing the discussion paper during the February 2017 meeting, the Council initiated an analysis for limiting the mixing of guided and unguided halibut on the same vessel. Alternatives for consideration include: 1) no action; 2) prohibit the possession of guided and unguided halibut simultaneously on any vessel; and 3) if halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing guide services in IPHC Area 2C or 3A, the IPHC annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.

2.4 Alternatives

Alternative 1: Take no action

This alternative is the no action alternative. Under this alternative, the current regulatory structure allowing guided and unguided caught halibut to be mixed together on a vessel would continue.

Alternative 2: Prohibit the possession of guided and unguided halibut simultaneously on any vessel

Under Alternative 2, would prohibit mixing of halibut harvested by guided and unguided operations in IPHC Areas 2C and 3A. Halibut caught under one operation type (guided or unguided) must be offloaded from the fishing vessel and removed to shore before switching to the other operation type.

Staff recommends the language in this alternative be changed from “vessel” to “fishing vessel” to better align with the Northern Pacific Halibut Act. The Act uses “fishing vessel” throughout and defines the term “fishing vessel” at 16 U.S.C. § 773(f) as follows:

- (1) any vessel engaged in catching fish in Convention waters² or in processing or transporting fish loaded in Convention waters;
- (2) any vessel outfitted to engage in any activity described in paragraph (1); or
- (3) any vessel in normal support of any vessel described in paragraph (1) or (2)”

Since the Act’s definition of “fishing vessel” is broad, staff believes that multi-day fishing vessels and floating fishing lodges are included within the definition. Changing to “fishing vessel” from “vessel” would better align the alternative with the Northern Pacific Halibut Act.

In addition, staff also recommends the Council expand Alternative 2 to include a Suboption 2.1. The Enforcement Committee originally recommended that Alternative 3 include “other floating facility” as a suboption. Staff believes the recommendation is also applicable to Alternative 2. The Enforcement Committee agreed that the definition of “fishing vessel” in the Northern Pacific Halibut Act would encompass “other floating facilities” such as floating lodges. The Enforcement Committee intended that floating lodges be included in the proposed action. One way of including floating lodges would be to rely on the broad definition of “fishing vessel” in the Northern Pacific Halibut Act to encompass floating lodges. A second approach would be to include “other floating facility” as a suboption because specific use of the term may provide additional clarity on the scope of “fishing vessel” to the regulated public.

***Alternative 3:** If halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing guide services on Convention waters in Area 2C or 3A, the IPHC annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.*

Under Alternative 3, if mixing of halibut occurs onboard a fishing vessel, all halibut anglers, including unguided anglers, are bound by the IPHC annual management measures and applicable federal regulations for guided sport fishing in the area that the halibut was harvested, pertaining to size restrictions and bag and possession limits. Alternative 3, as currently worded, could have the effect of requiring unguided anglers to abide by such requirements as recording harvest in a logbook, day-of-the-week closures, and annual limits. However, these additional elements of the guided angler restrictions are not necessary, from the perspective of OLE, to address the mixing of halibut from guided and unguided operations. Rather, adherence to size restrictions, carcass retention for size-restricted halibut, and bag and possession limits are necessary for this alternative, and their impacts are analyzed in this alternative.

Unless the Council indicates otherwise, staff will assume that the Council agrees with OLE’s interpretation of which guided angler restrictions would be required.

***Suboption 3.1:** Include “other fishing facility” as well as “fishing vessel”.*

This suboption would extend the requirement of prohibiting mixing of halibut at other fishing facilities along with fishing vessels. However, based on the Enforcement Committee’s December 2016 recommendation, Suboption 3.1 should read “other floating facility” and not “other fishing facility.” **Unless the Council indicates otherwise, staff will assume that suboption should be revised to read “other floating facility.”** Like the staff recommendation for Alternative 2, the Enforcement Committee agreed that the broad definition of “fishing vessel” in the North Pacific Halibut Act includes “other floating facility” which includes floating fishing lodges. The committee recommended two approaches be

² From 16 U.S. Code § 773 – Definitions (d) “Convention waters” means the maritime areas off the west coast of the United States and Canada described in article I of the Convention.

incorporated in the alternatives to highlight the issue and to ensure floating lodges are included in the proposed action. The first approach would not include “other floating facility” in the text of the alternative and would instead rely on the definition of “fishing vessel” in the Northern Pacific Halibut Act to encompass floating lodges. The second approach would be to include “other floating facility” as a suboption to clarify that floating fishing lodges were included in the definition of “fishing vessel.”

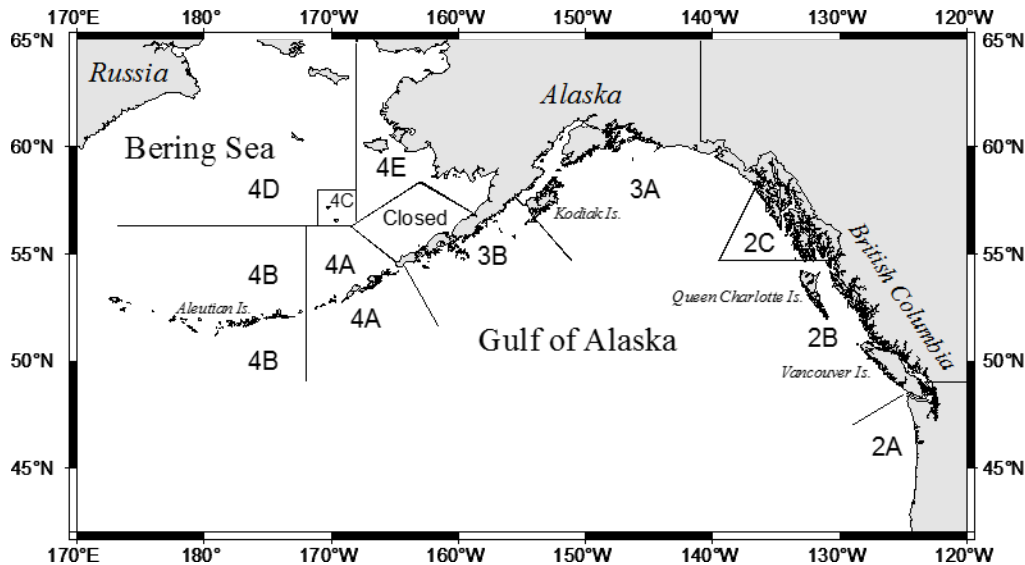
2.4.1 Other alternatives not included for consideration

During the December 2016 Enforcement Committee meeting, the Committee recommended not to include an alternative that would identify guided and unguided halibut on the same vessel by tagging, cutting a fin, or separating into different holds or bins. Clipping a fin is already used to mark Guided Angler Fish (GAF), so using the same mechanism to mark non-GAF fish could create confusion. In addition, cutting fins, tagging halibut, or separating halibut into different bins or holds to delineate guided and unguided caught halibut is essentially a self-reporting mechanism that may place too much reliance on the honor system.³ Recognizing the limitations of this approach, the Council did not include it as an alternative for consideration.

2.5 Description of management area

The potential actions under consideration would directly affect IPHC halibut regulatory areas 2C (Southeast Alaska) and 3A (South Central Alaska). Direct effects would be expected to occur for guided and unguided operators and anglers that mix harvested halibut in these areas.

Figure 2-1 International Pacific Halibut Commission Regulatory Areas.



³ A similar situation exists in the unguided fleet, where a two-fish per person per day limit – rather than a boat limit (number of anglers multiplied by two-fish) – relies on the honor system.

2.6 Methodology for analysis of impacts

The evaluation of impacts in this analysis is designed to meet the requirement of E.O. 12866, which dictates that an RIR evaluate the costs and benefits of the alternatives, to include both quantifiable and qualitative considerations. Additionally, the analysis should provide information for decisionmakers “to maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.”

One of the largest challenges in preparing this RIR is providing an accurate account of the number of the multi-day fishing vessel and floating lodge operations that offer both guided and unguided halibut fishing in the affected areas, and the extent to which mixing of guided and unguided halibut simultaneously occurs. Neither NMFS, the Alaska Department of Fish and Game (ADFG), nor the IPHC collects data on the number of operators that offer multi-day fishing from vessels (including floating lodges), number of trips conducted, how much halibut is harvested by guided and unguided charter operations on multi-day fishing vessels and floating lodges, and the extent of mixing of guided and unguided halibut on these fishing vessels. It is also not possible to quantify the number of boardings regarding mixing of guided and unguided halibut that Office of Law Enforcement (OLE) personnel have conducted since the information has not been collected in the past. Based on anecdotal accounts, OLE personnel have encountered multi-day fishing vessels at sea that have mixed guided and unguided halibut onboard. In some cases, where their suspicion was aroused, they were unable to verify that all guided halibut onboard was harvested and retained in compliance with the IPHC Annual Management Measures.

Given the absence of data concerning mixing of guided and unguided halibut in Areas 2C and 3A, the analysis will rely on a qualitative assessment to describe the impacts of the alternatives. The absence of data creates two large challenges for analysts in preparing a RIR. First, without a fully described and enumerated status quo, it will be difficult to measure the impacts of the action alternatives compared to status quo. Second, the lack of data concerning numbers of multi-day fishing vessels or floating lodges, their catch of guided and unguided halibut, and the extent of mixing of guided and unguided halibut makes it difficult to provide the Council a measure of the impacts from the action alternatives on those directly affected by the action alternative. As a result, the analysis will rely on a qualitative approach to assess the impacts of the alternatives and the net benefits to the Nation.

2.7 Description of guided and unguided halibut fisheries

2.7.1 Management of guided and unguided halibut fishery

In general, guided halibut sport fishing is managed under an annual allocation and is subject to charter restrictions under Federal regulations that can be more restrictive than the regulations for unguided anglers fishing for halibut.

The Council and NMFS developed specific management programs for the charter halibut fishery to achieve allocation and conservation objects for the halibut fisheries. These management programs are also intended to maintain stability and economic viability in the charter fishery by establishing 1) limits on the number of participants; 2) allocations of halibut that vary with abundance; and 3) a process for determining annual charter angler harvest restrictions to limit charter fishery harvest to the established allocations. The charter halibut fisheries in Areas 2C and 3A are managed under the Charter Halibut Limited Access Program (CHLAP) and the Catch Sharing Plan (CSP). The CHLAP limits the number of operators in the charter fishery, while the CSP establishes annual allocations to the charter and commercial fisheries and describes a process for determining annual management measures to limit charter harvest to the allocations in each management area.

Since implementation of the CHLAP program in 2011, all vessel operators in Areas 2C and 3A with charter anglers on board must have an original, valid permit on board during every charter vessel fishing trip for the area in which halibut were caught and retained. Federal charter halibut permits are endorsed for the appropriate regulatory area and the number of anglers that may catch and retain halibut on a charter vessel fishing trip range from 4 to 38.

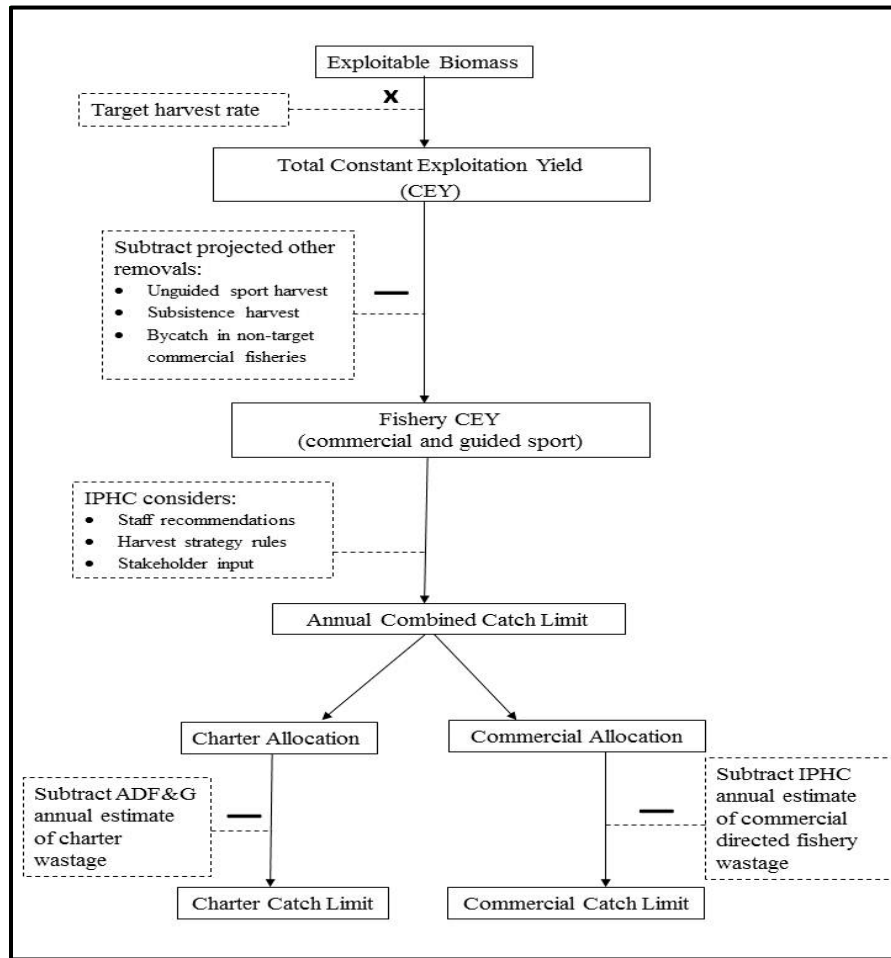
The CSP, implemented by NMFS in January 2014, defines an annual process for allocating halibut between the charter and commercial halibut fisheries in Areas 2C and 3A. The CSP establishes sector allocations that vary proportionally with changing levels of annual halibut abundance and that balance the differing needs of the charter and commercial halibut fisheries over a wide range of halibut abundance in each area. The CSP describes a public process by which the Council develops recommendations to the IPHC for charter angler harvest restrictions that are intended to limit harvest to the annual charter halibut catch limit in each area.

As part of implementation of the CSP, the ADFG Saltwater Charter Logbook (i.e., logbook) is the primary data collection method for monitoring and managing the charter harvest. The logbook program provides information on participation and harvest by individual vessels and businesses in charter fisheries for halibut, as well as other state managed saltwater species. Logbook data are compiled to show where fishing occurs, the extent of participation, and the species and number of fish kept and released by individual anglers. This information is essential for regulation and management of the charter halibut fisheries in Area 2C and Area 3A.

As seen in Figure 2-2, projected unguided sport removals and subsistence harvest are subtracted from the total constant exploitation yield (CEY) before the catch limits are set for commercial and guided fishing. There is no catch limit assigned to unguided sport harvest; the total amount of removals is constrained indirectly through management measures such as bag limits and gear restrictions. Catch limits are established for the commercial and guided halibut sectors with the remaining CEY.

The regulations for unguided sport halibut harvest have remained at a daily bag limit of two fish of any size, while the guided sport sector's management measures are more restrictive and have varied over the years (particularly since the implementation of the CSP). The CSP provides a systematic, timely, and responsive process to address harvest overages or underages, using the best available and most recent data.

Figure 2-2 Process for setting annual combined catch limits, charter and commercial allocations, and charter and commercial catch limits for Area 2C and Area 3A under the Catch Sharing Plan



Annual management measures for implementation in the Areas 2C and 3A guided halibut fishery are determined each year through a public process. In December, prior to Council consideration, ADFG presents an analysis based on the combinations of management measures requested by the Council’s Charter Halibut Management Committee. This analysis is based on a forecast of the upcoming year’s harvest under the current year (“status quo”) regulations and observed effects of various measures in past years. Projected harvests under alternative management measures are compared to the guided sector’s allocation associated with the IPHC’s “blue line” Combined Catch Limit for commercial and guided sport fisheries. The guided allocation is defined in relation to the magnitude of this combined catch limit. Management measures are not modified inseason, therefore the Council recommends annual management measures intended to keep guided harvest within the guided sector allocation in each area.

There are a variety of management measures that have been used or considered in the past to manage the charter and other recreational halibut fisheries. Some of these measures directly restrict the number or size of fish allowed to be retained. Management measures for the guided sector in recent years they have been much more restrictive relative to the unguided sector, as can be seen in Table 2-1.

Table 2-1 Management measures for guided sport halibut fishing in Area 2C, 2010 to 2017

IPHC area	Year	Management type	Area 2C charter regulation
2C	2010	GHL	One fish (no size limit); no harvest by skipper & crew; line limit
	2011	GHL	One fish with a maximum of 37 inches; no harvest by skipper and crew; line limit
	2012	GHL	One fish under (U)45 inches or over (O)68 inches; no harvest by skipper and crew; line limit
	2013	GHL	One fish U45 inches or O68 inches; no harvest by skipper and crew; line limit
	2014	CSP	One fish U44 inches or O76 inches; no harvest by skipper and crew; line limit
	2015	CSP	One fish U42 inches or O80 inches; no harvest by skipper and crew; line limit
	2016	CSP	One fish U43 inches or O80 inches; no harvest by skipper and crew; line limit
	2017	CSP	One fish U44 inches or O80 inches; no harvest by skipper and crew; line limit
3A	2010	GHL	Two-fish bag limit (no size restrictions); no limit on crew retention
	2011	GHL	Two-fish bag limit (no size restrictions); no limit on crew retention
	2012	GHL	Two-fish bag limit (no size restrictions); no limit on crew retention
	2013	GHL	Two-fish bag limit (no size restrictions); no limit on crew retention
	2014	CSP	Two-fish bag limit (one fish U29 inches); one trip per day; no harvest by skipper and crew
	2015	CSP	Two-fish bag limit (one fish U29 inches); one trip per day, five-fish annual limit; Thursday closure; no harvest by skipper and crew
	2016	CSP	Two-fish bag limit (one fish U28 inches); one trip per day, four-fish annual limit; Wednesday closure; no harvest by skipper and crew; line limit
	2017	CSP	Two-fish bag limit (max on second fish U28 inches); one trip per day, four-fish annual limit; Wednesday closure and 18 July, 25 July, and 1 August; no harvest by skipper and crew; line limit

Source: From NPFMC and ADF&G

GHL = Guide Line Harvest

CSP = Catch Share Program

Table notes: All pounds are in net weight. The guided harvest removal for 2016 (italicized) is based on preliminary estimates from ADF&G (2016). Harvest limit and guided harvest include discard mortality associated with O26 halibut released beginning with the CSP in 2014.

2.7.2 Halibut removals in guided and unguided sport fishing

Five major categories of halibut use occur in Alaska: commercial landings, sport (guided and unguided), subsistence and personal use, discard mortality in halibut targeted fisheries, and bycatch mortality in non-halibut directed fisheries.

Table 2-2 and Table 2-3 provide Area 2C and Area 3A guided and unguided sport harvest of halibut by number of fish and millions of pounds (Mlb) from 1995 through 2016. For the 2015 season, the harvest of Area 2C guided halibut was 65,656 fish for a yield of 0.768 Mlb, while the harvest of unguided halibut was 73,816 fish for a yield of 1.327 Mlb. For Area 3A, the harvest of guided halibut was 163,632 fish for a yield of 2.067 Mlb, while the harvest of unguided halibut was 136,225 fish for a yield of 1.616 Mlb.

**Table 2-2 Area 2C guided and unguided sport harvest of halibut to include number of fish (No. Fish)
Millions of pounds (M lb.)**

Year	Guided		Unguided		Total Sport Harvest	
	No. Fish	Yield (Mlb)	No. Fish	Yield (Mlb)	No. Fish	Yield (Mlb)
1995	49,615	0.986	39,707	0.765	89,322	1.751
1996	53,590	1.187	41,307	0.943	94,897	2.129
1997	51,181	1.034	53,205	1.139	104,386	2.172
1998	54,364	1.584	42,580	0.917	96,944	2.501
1999	52,735	0.939	44,301	0.904	97,036	1.843
2000	57,208	1.130	54,432	1.121	111,640	2.251
2001	66,435	1.202	43,519	0.721	109,954	1.923
2002	64,614	1.275	40,199	0.814	104,813	2.090
2003	73,784	1.412	45,697	0.846	119,481	2.258
2004	84,327	1.750	62,989	1.187	147,316	2.937
2005	102,206	1.952	60,364	0.845	162,570	2.798
2006	90,471	1.804	50,520	0.723	140,991	2.526
2007	109,835	1.918	68,498	1.131	178,333	3.049
2008	102,965	1.999	66,296	1.265	169,261	3.264
2009	53,602	1.249	65,549	1.133	119,151	2.383
2010	41,202	1.086	52,896	0.885	94,098	1.971
2011	36,545	0.344	42,202	0.685	78,747	1.029
2012	42,436	0.605	54,696	0.977	97,132	1.583
2013	52,675	0.762	78,078	1.361	130,753	2.123
2014	65,036	0.783	69,060	1.170	134,096	1.954
2015	65,656	0.768	73,816	1.327	139,472	2.094

Source: ADF&G 2016

**Table 2-3 Area 3A guided and unguided sport harvest of halibut to include number of fish (No. Fish)
Millions of pounds (M lb.)**

Year	Guided		Unguided		Total Sport Harvest	
	No. Fish	Yield (Mlb)	No. Fish	Yield (Mlb)	No. Fish	Yield (Mlb)
1995	137,843	2.845	95,206	1.666	233,049	4.511
1996	142,957	2.822	108,812	1.918	251,769	4.740
1997	152,856	3.413	119,510	2.100	272,366	5.514
1998	143,368	2.985	105,876	1.717	249,244	4.702
1999	131,726	2.533	99,498	1.695	231,224	4.228
2000	159,609	3.140	128,427	2.165	288,036	5.305
2001	163,349	3.132	90,249	1.543	253,598	4.675
2002	149,608	2.724	93,240	1.478	242,848	4.202
2003	163,629	3.382	118,004	2.046	281,633	5.427
2004	197,208	3.668	134,960	1.937	332,168	5.606
2005	206,902	3.689	127,086	1.984	333,988	5.672
2006	204,115	3.664	114,887	1.674	319,002	5.337
2007	236,133	4.002	166,338	2.281	402,471	6.283
2008	198,108	3.378	145,286	1.942	343,394	5.320
2009	167,599	2.734	150,205	2.023	317,804	4.758
2010	177,460	2.698	124,088	1.587	301,548	4.285
2011	184,293	2.793	128,464	1.615	312,757	4.408
2012	173,582	2.284	113,359	1.341	286,941	3.626
2013	199,248	2.514	121,568	1.452	320,816	3.966
2014	174,351	2.034	127,125	1.533	301,476	3.568
2015	163,632	2.067	136,225	1.616	299,857	3.682

Source: ADF&G 2016

2.7.3 Current regulations

Although there are no regulations that address the issue of possessing guided and unguided halibut on the same vessel at the same time, there are regulations designed to limit mixing of halibut taken in subsistence, sport, and commercial fisheries. In 2003, the Council recognized that mixing subsistence harvested halibut with non-subsistence harvested halibut would present enforcement challenges. To address this challenge, the Council implemented a prohibition on possessing subsistence, sport and commercially harvested halibut on the same vessel at the same time when the final subsistence regulations were first published. The Council approved this regulatory tool to assist authorized officers in ensuring that daily bag and possession limits, as well as other restrictions relevant to each fishery, could be enforced in the field without putting undue burden on the harvester or the agency. The relevant portion of the subsistence regulation is provided below:

50 CFR §300.66 Prohibitions.

In addition to the general prohibitions specified in 50 CFR 300.4, it is unlawful for any person to do any of the following:

(h) Conduct subsistence fishing for halibut while commercial fishing or sport fishing for halibut, as defined in §300.61, from the same vessel on the same calendar day, or possess on board a vessel halibut harvested while subsistence fishing with halibut harvested while commercial fishing or sport fishing, except that persons authorized to conduct subsistence fishing under §300.65(g), and who land their total annual harvest of halibut...: (emphasis added).

50 CFR 300.66(l): Retain subsistence halibut harvested under a charter halibut permit (CHP), Ceremonial Permit, or Educational Permit together in any combination or with halibut harvested under any other license or permit.

Another regulation prohibits mixing of charter halibut from different regulatory areas:

50CFR 300.66 (u): Be a charter vessel guide of a charter vessel on which one or more charter vessel anglers are catching and retaining halibut in both Commission regulatory areas 2C and 3A during one charter vessel fishing trip.

There are also limits on mixing sport caught halibut on a vessel when other fish or shellfish are destined for commercial use. The IPHC Annual Management Measures at Section 25 (6) prohibit the possession of sport harvested halibut onboard a vessel when other fish or shellfish aboard are destined for commercial sale, trade or barter. This prohibition is in place to assist authorized officers in ensuring that all of the regulations specific to the mechanism of harvest could be enforced efficiently while onboard a vessel.

25. Sport Fishing for Halibut—General

(6) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard said vessel are destined for commercial use, sale, trade, or barter.

Other prohibitions include retaining subsistence caught halibut under different permits on the same trip and limitations for charter guides when anglers are catching halibut in Areas 2C and 3A during a single trip.

2.7.4 Applicable definitions

This section includes a partial listing of definitions that are relevant to the proposed action as reference guide.

Federal Definitions from 50 C.F.R. § 300.61

Sport fishing guide services, for purposes of §§300.65(d) and 300.67, means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member, as defined at §300.61.

Compensation, for purposes of sport fishing for Pacific halibut in Commission regulatory areas 2C and 3A, means direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; for this definition, “benefits” includes wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the actual daily expenses for fuel, food, or bait.

Charter vessel, for purposes of §§300.65, 300.66, and 300.67, means a vessel used while providing or receiving sport fishing guide services for halibut.

Charter vessel fishing trip, for purposes of §§300.65, 300.66, and 300.67, means the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel.

Charter vessel guide, for purposes of §§300.65, 300.66 and 300.67, means a person who holds an annual sport fishing guide license or registration issued by the Alaska Department of Fish and Game, or a person who provides sport fishing guide services.

Charter vessel operator, for purposes of §300.65, means the person in control of the charter vessel during a charter vessel fishing trip.

2.7.5 Guided and unguided halibut vessels

The background information in this section provides a general description of likely impacted fishing vessels and an estimate of the number of halibut sports fishing vessels that would likely be directly affected by the proposed action.

Table 2-4 shows the current number of charter halibut permit (CHP)s and CHP holders by regulatory area and type of CHP. The total number of CHPs has changed since initial allocation. Some CHPs were initially considered “interim”, some of which were later revoked upon completion of an appeals process. Additionally, the number of CHP holders continually changes as permits are transferred. An individual may hold more than one CHP, and in more than one regulatory area. Additionally, Community Quota Entity (CQE) and U.S. Military Moral, Welfare and Recreation Program (MWR) permits have been issued.

As shown in Table 2-4, 268 entities currently hold 529 CHPs in Area 2C, and 289 entities currently hold 428 CHPs in Area 3A. For this calculation, all CHP holders were counted once per area, even if he or she holds multiple permits. Therefore, counts of CHP holders cannot be summed across areas and types because some CHP holders have permits in more than one category and are counted more than once.

Table 2-4 Distinct CHP holders, permits, and anglers as of July 24, 2017

Area	Permit type ¹	CHP holders ²	Permits	Angler endorsements
2C	CHP	268	529	2,714
	CQE	12	48	288
	MWR	1	1	Unlimited
3A	CHP	289	428	3,169
	CQE	8	56	336
	MWR	3	6	Unlimited

Source: CHP_Permits(7-24-17)

¹CHP regular permit with angler endorsements, CQE=community quota entity permits,

MWR = U.S. Military Morale, Welfare, and Recreation Program permits

²An individual CHP holder may hold more than one CHP in more than one regulatory area

The number of unique CHP holders that would be affected by the proposed action is a significantly smaller group. Those sport halibut fishing businesses that are effected by the proposed action include multi-day fishing vessels, floating lodges, and to a lesser extent vessels owned by self-guided fishing operations that could also provide guided fishing service during the fishing trip, since they could result in guided and unguided halibut being held onboard the vessel simultaneously until the client and their halibut are offloaded to shore. Businesses that provide guided or unguided only halibut fishing would not be affected by the proposed action. However, the information used to generate Table 2-4 does separate out data on the number of multi-day fishing vessels, floating lodges, or self-guided fishing operations holding CHP permits in Area 2C and Area 3A.

In discussions with NMFS OLE and South East Alaska Guides Organization (SEAGO) concerning the lack of data on the number of multi-day fishing vessels and floating lodges, they both indicated that the potential number of these businesses that could be affected by the proposed action was likely less than 20 in the both Area 2C and Area 3A combined. SEAGO estimated there are slightly more than a dozen potential multi-day vessels that could offer both guided and unguided halibut fishing in Area 2C and 3A and which could mix harvested halibut on the vessel. To estimate the number of floating lodges that could provide both guided and unguided halibut fishing in Area 2C and Area 3A, the analysis relies on estimates provided by Alaska Department of Natural Resource (ADNR). ADNR requires a permit for any floating facility for any length of time on tide/submerged lands, which would include floating fishing lodges that provided guided and unguided halibut fishing services. Based on estimates from ADNR, there are six floating lodges that have permits on file which could provide halibut fishing services.

2.7.5.1 Multi-day guided fishing vessels

Multi-day fishing business operations typically consist of a large vessel (referred to as “multi-day and mothership charter fishing” by the Council in its February 2017 problem statement) that conducts multi-day fishing and sightseeing adventures with one or more small vessels associated with the larger vessel. On multi-day vessels, the captain, crew, and guests are lodged and fed and spend much of their time on the multi-day vessel as it tows the smaller vessel(s) or transports them on deck. The smaller vessels may be used by the guests to conduct unguided and/or guided fishing while the multi-day vessel is anchored or in transit. Guided fishing could also occur from the multi-day fishing vessel itself. When halibut harvested from guided and unguided fishing are mixed on the multi-day fishing vessel, enforcement of the more restrictive guided halibut size, bag, and possession limits becomes complicated. A charter vessel operator could ignore the more restrictive guided angler rules and claim that some or all of the fish were taken by anglers who fished without a guide. The saltwater logbook does not provide an adequate tool for verification or enforcement because the logbook is required to be completed at the end of the guided vessel fishing trip, which in the case of multi-day vessels can be when the halibut is transferred from the

smaller vessel to the larger vessel or when the halibut is transferred off the larger vessel (depending upon which vessel the halibut was harvested from). In the latter situation, mixing can occur on the larger vessel for a number of days before the logbook is completed.

Figure 2-3 is an example of a multi-day guided fishing vessel. This vessel is a 60-foot charter fiberglass vessel with five staterooms. There is room for up to six anglers. The vessel may go 50 miles each day, depending on the fishing, the weather, and the clients' requests. One or more smaller vessels are often associated with this type of fishing vessel. Each trip's itinerary is personalized.



Figure 2-3 Picture of a multi-day guided fishing vessel

2.7.5.2 Floating lodges

Practices vary, but a floating lodge can be a large vessel at anchor, an anchored barge with structures built on it, or an anchored large platform with a lodge on top. Smaller vessels typically deploy from these floating lodges. Fishing is conducted from smaller vessels that come and go from the float house daily or multiple times a day. Some of the small vessels may engage in unguided fishing trips (self-guided, employee or compensation trips) while some of the vessels may engage in fully guided trips. When the small vessels return from fishing to the floating lodge, they offload harvested halibut. The halibut is mixed on the floating lodge where it is not always possible for enforcement personnel to determine which halibut were harvested by guided or unguided anglers. Charter halibut bag and possession limits apply on floating lodges in Alaska because the IPHC Annual Management Measures at Section 28 indicate that sport fishing measures apply “in Convention waters in and off Alaska.”

Figure 2-4 is an example of a floating lodge. Located in a bay in Southeast Alaska, it has 12 private rooms with 24-guest maximum occupancy. The superstructure is built on top of a barge, which is capable of transportation on water and which is moored in Areas 2C and 3A waters. It has fully-outfitted Smoker Craft skiffs for both guided and unguided fishing.



Figure 2-4 Picture of a floating lodge

2.7.5.3 Unguided fishing businesses

Businesses that rent boats for unguided fishing may also offer guided fishing. Guided and unguided halibut harvest can occur on the same vessel if unguided halibut is harvested by sport anglers on the vessel first, then the anglers request the assistance of a guide to harvest additional halibut on that same trip. Possessing guided and unguided halibut simultaneously under these circumstances is not currently prohibited.

2.7.5.4 Transport vessels

The IPHC Annual Management Measures at Section 28 (1)(e) allow a person on board a vessel that does not contain any sport fishing gear to exceed the possession limit of halibut. This type of vessel is typically employed as a water taxi to transport clients and fish from a vessel or remote lodge to a community or air taxi to return home. There is no possession limit on this type of vessel. Use of this type of vessel could allow business owners to overcome any operational challenges resulting from adoption of Alternatives 2 or 3.

2.8 Analysis of impacts

2.8.1 Alternative 1

Alternative 1 is the no action alternative. Under this alternative, multi-day vessels and floating lodges that cater to halibut anglers could continue to mix harvest that came from guided and unguided fishing.

It is likely many of the multi-day fishing vessels and floating lodges already limit the mixing of guided and unguided halibut, either by keeping the halibut separated, or by limiting their anglers to only one form of fishing. Nevertheless, OLE reports that some multi-day fishing vessels and floating lodges do offer a mix of guided and unguided halibut fishing and would continue to mix the respective harvests since it is not prohibited. The number of sport fishing businesses that provide both guided and unguided halibut fishing services is unknown, but anecdotal information from SEAGO suggests the number of affected businesses is likely very limited (perhaps less than 20 businesses). At this point, there

appears to be no indication of significant changes in the number of multi-day vessels and floating lodges that cater to guided and unguided halibut anglers.

Under this alternative, if the Council assumes, in the absence of quantitative data, that mixing is occurring, possessing halibut harvested from both guided and unguided trips simultaneously on a fishing vessel will continue to hamper accountability of sport harvested halibut and enforcement of guided and unguided regulations. Once guided and unguided halibut are mixed aboard a vessel, it is difficult for OLE to determine which halibut were harvested under the more restrictive guided regulations and which halibut were harvested under the more liberal unguided regulations. Compliance will likely continue to be less than challenging and the duration of an at-sea boarding will continue to be longer due to difficulties in accounting for harvest halibut under the different management regulations than if there were regulations prohibiting mixing of guided and unguided simultaneously on the same vessel as proposed in Alternative 2 and Alternative 3. This alternative will continue to rely on the honor system to ensure compliance when halibut caught under the more restrictive guided halibut regulations are possessed simultaneously on the same vessel with halibut caught under the less restrictive unguided relations.

2.8.2 Alternative 2

Under Alternative 2, the simultaneous possession of halibut harvests from guided and unguided angling vessels in Areas 2C and 3A would be prohibited. This alternative would likely affect only multi-day fishing vessels and floating fishing lodges that offer both guided and unguided fishing opportunities on the same trip. Businesses that offer only one form of angling – either guided or unguided – and do not complete a fishing trip on a multi-day vessel or floating lodge where guided and unguided halibut could be mixed would not be affected by this alternative.

As indicated early in Section 2.7.5, the number of sport fishing businesses that provide both guided and unguided halibut fishing services is unknown, but anecdotal information from SEAGO suggests the number of affected businesses is limited to less than 20 businesses. The effect of this alternative on those multi-day fishing vessels and floating lodges would be the elimination of both guided and unguided halibut fishing services that result in mixing of halibut onboard the fishing vessel. Under Alternative 2, halibut caught under one operation type (guided or unguided) must be moved ashore before switching to the other operation type to prevent mixing of guided and unguided halibut harvest on the vessel. The effect of prohibiting mixing of guided and unguided halibut would likely be lost revenue due to reduced business flexibility and constraint on fishing operations to offer only guided or unguided halibut fishing services at any one time on the fishing vessel.

One approach that could be utilized by multi-day vessels and floating lodges to mitigate the restrictions of Alternative 2 would be to transport either the unguided halibut or guided halibut to shore to prevent mixing of the harvest. Since no mixing of guided and unguided halibut harvests would then occur, a business could still offer both fishing services. However, delivering their harvests to shore would likely increase the cost for the multi-day vessel or floating lodge.

An additional impact of this alternative could be a limitation on halibut fishing by crewmembers⁴ while guided customers are onboard the fishing vessel. On multi-day fishing vessels, crewmembers will often utilize their free time to fish for halibut. In most cases, any halibut caught by a crewmember is considered unguided halibut, and therefore, under Alternative 2, could not be onboard with halibut caught by guided customers. To prevent mixing of guided and unguided halibut onboard the vessel, a sport fishing business would restrict their crewmembers from fishing for halibut while guided customers are onboard the fishing vessel. Given that one of the primary benefits of being a crewmember is access to recreational fishing,

⁴ A crew member, as defined in the charter halibut program, means an assistant, deckhand, or similar person who works directly under the supervision of, and on the same vessel as, a charter vessel guide or operator of a vessel with one or more charter vessel anglers on board.

this alternative would restrict that benefit, which could make it more challenging for multi-day fishing vessels and floating lodges to attract crewmembers.

From the perspective of OLE, this alternative would put in place regulations that would improve accountability and enforcement by prohibiting the mixing of guided and unguided halibut onboard the vessel. This approach would be less ambiguous and more concise for guides, anglers, and authorized officers in the field. Given that this alternative does allow multi-day vessels and floating lodges to offer either guided or unguided halibut fishing, but not both at the same time, the enforcement officer when conducting a boarding will have to determine if the anglers onboard are guided or unguided. Once the officer has determined the category of anglers onboard the vessel, the officer could quickly determine the appropriate bag and size limits. Overall, this alternative would improve accountability and enforcement of halibut regulations in Areas 2C and 3A by providing unambiguous regulations that require little interpretation by guides, anglers, and OLE officers. This alternative will also maximize compliance and reduce the duration of at-sea vessel boardings since accounting of harvested halibut against harvesters will be easier.

2.8.3 Alternative 3

Under Alternative 3, if mixing of guided and unguided halibut occurs onboard a fishing vessel, unguided anglers would be subject to the IPHC annual management measures and applicable federal regulations for guided sport fishing in the area that the halibut was harvested. These measures include size restrictions, carcass retention for size-restricted halibut, and bag and possession limits. Applicable federal regulations pertaining to annual limits, entering unguided fish in saltwater logbooks, and week-day-closures will not apply to unguided anglers. In addition, unguided halibut harvest that is subject to the guided halibut bag and size restrictions will not be deducted from the charter allocation under the CSP.

Relative to Alternative 2, this alternative provides some flexibility for multi-day vessels and floating lodges to have both guided and unguided fishing experiences for their anglers. It also addresses enforcement concerns for the accurate accounting of guided and unguided halibut fishing that is taking place onboard the fishing vessel, since all unguided anglers are limited to guided size and daily bag limits for the particular area the halibut was caught (see Table 2-1 for the latest guided regulations).

The effect of this alternative on the few businesses that might mix guided and unguided halibut would be that unguided anglers would be restricted to the guided daily bag and size regulations of the area where they are fishing, which is more restrictive than unguided halibut regulations. For Area 2C, this restriction is currently a one fish limit 44 inches or under or over 80 inches or more. In Area 3A, guided anglers are restricted to two fish per day, but one fish must be 28 inches or less.

The effect of restricting unguided anglers to the guided limitations would likely be lost revenue to multi-day fishing vessels and floating fishing lodges that currently offer a mix of guided and unguided angling. Given the obvious fishing limitations for unguided anglers on board vessels that mix guided and unguided halibut, unguided anglers are more likely to select a fishing experience that allows utilization of the unguided sport harvest regulations. As a result, multi-day fishing vessels and floating lodges that offer both guided and unguided halibut fishing would see less booking of unguided halibut fishing trips.

In addition, limiting unguided halibut anglers on multi-day fishing vessel and floating fishing lodge operations to the guided bag and possession limits and size restrictions could result in reductions in total unguided sport halibut harvest. This may benefit other halibut users as unguided harvests are subtracted as a removal from the CEY before the commercial and charter catch allocation is calculated.

Like Alternative 2, one potential business practice that could mitigate adverse impacts of Alternative 3 would be to transport the unguided or guided possessed halibut to shore. Since no mixing of guided and unguided halibut would be simultaneously possessed on the vessel, unguided anglers could continue to follow the unguided sport harvest regulations. However, delivering guided or unguided caught halibut to

shore to prevent mixing of halibut would likely increase the operating cost to the multi-day vessel or floating lodge. In those cases where the cost of transporting the halibut to shore exceeded the revenue from paying anglers, the multi-day vessel or floating lodge would likely restrict anglers on the vessel to operate as either guided or unguided, or require all anglers on the vessel to follow guided halibut regulations in order to allow possession of both guided and unguided halibut.

This alternative would allow crew to fish for halibut while guided customers are onboard the multi-day vessel or floating lodge. Since halibut caught by crew is considered unguided harvest, a multi-day vessel or floating lodge that has guided fishing anglers onboard would utilize the daily bag and possession limits and halibut size limits from the guided sport fishing regulations for crew. Given that one of the benefits of being a crewmember is access to recreational fishing, this alternative would restrict that benefit for crew, which could make it more challenging for multi-day fishing vessels and floating lodges to attract crewmembers.

From the perspective of OLE, Alternative 3 does improve accountability and enforcement, but relative to Alternative 2, this alternative does have some compliance risk that is not present in Alternative 2. When conducting a boarding, enforcement officers will have to determine if halibut onboard the vessel has been mixed. If halibut has been mixed, the enforcement officer could determine that appropriate number of halibut onboard the vessel per angler, per day using the guided regulations where the halibut were caught. In Area 2C, this would be one halibut 44" or under or over 80" and over per angler per day on the fishing vessel. In Area 3A, this would be two halibut, one of which must be less than 28", per angler per day for no more than 2-days. However, under this alternative, the catcher vessels that deploys from the multi-day vessels or floating lodges do not have to complete the saltwater logbook until the end of the charter trip. The potential exists for charter operators to swap illegal guided fish with unguided fish aboard the multi-day vessel or floating lodge and then complete the saltwater log book to mask the illegal operation. In other words, a guided angler could catch halibut over the daily limit and upon returning to the multi-day vessel or floating lodge, that halibut is reported as halibut caught by unguided anglers or crew members that have remained on the multi-day vessel or floating lodge.

2.8.3.1 Suboption 3.1

During the December 2016 Enforcement Committee meeting, the Committee discussed the appropriate definition of the term "fishing vessel" in proposed action and whether that definition included "other floating facilities." The committee agreed that the definition of "fishing vessel" in the Northern Pacific Halibut Act encompasses "other floating facilities" such as floating lodges. The committee intended that floating lodges be included in the proposed action. One way of including floating lodges would be to rely on the broad definition of "fishing vessel" in the Northern Pacific Halibut Act to encompass floating lodges. A second approach would be to include "other floating facility" as a suboption since specific use of the term may provide additional clarity on the scope of "fishing vessel" to the regulated public. Information concerning the impacts of this alternative to floating lodges is include in Section 2.8.3. Based on estimates from ADNR, there are six floating lodges which could provide halibut fishing services in IPHC Areas 2C and 3A, and therefore these floating lodges could be impacted by this suboption.

2.8.4 Number and description of directly regulated small entities

Section 603 of the Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis (IRFA) be prepared to describe the economic impacts of proposed actions on small entities. As of January 2017, NMFS Alaska Region will prepare the IRFA in the Classification section of the proposed rule for an action. Therefore, the preparation of a separate IRFA is not necessary for the Council action on this issue until after final action.

There are two action alternatives under consideration. The first alternative would prohibit the possession of guided and unguided halibut simultaneously on any vessel. Under the second alternative, if any halibut harvested using sport fishing guide services is possessed with halibut harvested not using sport fishing

guide services in Area 2C or Area 3A, the IPHC annual management measures for guided sport fishing for the area that the halibut was harvested apply to all halibut onboard the fishing vessel.

Based on estimates provided by SEAGO and ADNR on the number of halibut charter operators that could be affected by this proposed action, there are likely less than 20 businesses in Areas 2C and 3A. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities, and those of all affiliates combined, are less than \$7.5 million. It is likely, these businesses make less than \$7.5 million in total annual gross receipts on annual basis, and therefore are all consider small entities.

2.8.5 Summary of impacts of alternatives

Table 5 provides a table summarizing the impacts of the alternatives.

Table 5 Summary of alternatives

Alternative/suboption	Costs	Benefits
Alternative 1- Status quo	<ul style="list-style-type: none"> • Anglers and operators could label halibut caught with the assistance of a guide as unguided halibut to circumvent regulations • Compliance is less than maximum and vessel boardings are longer due mixed guided and unguided halibut on the vessel 	<ul style="list-style-type: none"> • Provides multi-day fishing vessels and floating lodges the most flexibility to accommodate both guided and unguided anglers at the same time without incurring the cost of transporting halibut to shore or turning away one category of anglers to prevent mixing of halibut. • Allows crewmembers to fish as unguided anglers while not working.
Alternative 2 - Prohibition of mixing	<ul style="list-style-type: none"> • Could result in lost revenue by multi-day vessels and floating lodges that provide both guided and unguided trips from the same vessel due to restricting halibut fishing to guide or unguided, but not both at any one time. • Could increase operating costs for multi-day vessels and floating lodges that continue to offer both guided and unguided fishing due to transporting either guided or unguided caught halibut to shore to prevent mixing. • Crewmembers would be prohibited from unguided halibut fishing due to mixing of halibut when halibut harvested by guided anglers are onboard the vessel. 	<ul style="list-style-type: none"> • Improve accountability and enforcement by providing clear and concise regulations for guides, anglers, and authorized officers in the field. • Maximize compliance and reduce the duration of at-sea vessel boardings.
Alternative 3 - Use Guided Regulations if mixing	<ul style="list-style-type: none"> • Unguided anglers, including crew members, would be subject to stricter guided regulations for daily bag, possession, and size limits if mixing of halibut on a vessel is occurring. 	<ul style="list-style-type: none"> • Allows multi-day vessels and floating lodges to mix guided and unguided caught halibut. • Allows crewmembers to fish when guided anglers are

Alternative/suboption	Costs	Benefits
	<ul style="list-style-type: none"> • Could result in lost revenue for multi-day vessels and floating lodges due to less demand by unguided anglers. • Could increase cost for multi-day vessels and floating lodges that continue to offer both guided and unguided fishing due to transporting halibut to shore to prevent mixing. • Crewmembers would be restricted to guided regulations for daily bag, possession, and size limits if mixing of halibut on a vessel is occurring. 	<p>onboard multi-day vessel or floating lodge.</p> <ul style="list-style-type: none"> • Improve accountability and enforcement by providing clear and concise regulations for guides, anglers, and authorized officers in the field, but there would be a compliance risk that is not present in Alternative 2. • Improves compliance and reduce the duration of at-sea vessel boardings, but less than Alternative 2.
<p style="text-align: center;">Suboption 3.1</p>	<ul style="list-style-type: none"> • Would provide clarity to regulated public that floating lodges are included in Alternative 3 • See summary of Alternative 3 	<ul style="list-style-type: none"> • See summary of Alternative 3

2.8.6 Summation of the alternatives with respect to net benefit to the Nation

Overall, this action is likely to have a limited effect on net benefits to the Nation. The action would reduce the mixing of guided and unguided caught halibut on fishing vessels in Areas 2C and 3A. The action is likely to directly affect some multi-day fishing vessels and floating lodges by reducing the flexibility of providing guided and unguided fishing trips for anglers unless they incur additional cost to transport halibut ashore. This alternative would improve accountability and enforcement of guided and unguided caught halibut that is mixed on multi-day fishing vessels and floating lodges.

3 Preparers and Persons Consulted

Preparers

Jon McCracken, NPFMC
Mike Fey, AKFIN
Kurt Iverson, NMFS
Will Ellis, Office of Law Enforcement, NMFS
Brian McTague, NOAA Office of General Counsel, Enforcement Section
Diana Evans, NPFMC

Contributors

Samantha Weinstein, South East Alaska Guides Organization
Virginia Batts, Alaska Department of Natural Resources
Scott Meyer, ADF&G

Persons (*and Agencies*) Consulted

Sarah Marrinan, NPFMC
Nathan Lagerwey, Office of Law Enforcement, NMFS
Andrew Hall, Office of Law Enforcement, NMFS
Bob Marvelle, Office of Law Enforcement, NMFS
Ron Antaya, Office of Law Enforcement, NMFS
Jams Hasbrouck, ADF&G