

North Pacific Fishery Management Council

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Enforcement Committee Agenda **October 3, 2017** **1pm – 4pm** **Hilton Hotel, Aspen/Spruce Room** **Anchorage, Alaska**

I. C2 Mixing of Guided and Unguided Halibut

Background:

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 for presentation at a future Council meeting. 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 their October and December 2016 meetings developed a discussion paper to address the Council's June 2016 request. After reviewing the discussion paper, 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 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.

After reviewing the discussion paper, the Council initiate an analysis for limiting the mixing of guided and unguided halibut on the same vessel for presentation at the October 2017 meeting. Below are the alternatives for consideration and suggested staff changes to the 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.

The following table summarizes the impacts of the alternatives.

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