

## Discussion Paper: Unguided Rental Boat Registration

October 2018<sup>1</sup>

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### 1 Introduction

In June 2017, the North Pacific Fishery Management Council (Council) requested that Council staff, National Marine Fisheries Service (NMFS) staff, and Alaska Department of Fish & Game (ADF&G) staff develop a discussion paper to explore mechanisms to create a registration for motorized rental boats that are used by unguided anglers to harvest halibut in International Pacific Halibut Commission (IPHC) regulatory areas 2C and 3A. That discussion paper was presented to the Council in December 2017 and identified a number of decisions for the Council to address before progress could be made on any program to register rental boats used by unguided anglers to harvest halibut in areas 2C and 3A.

In December 2017, the Council requested an expanded discussion paper. The Council's motion included a purpose and need statement and provided a number of specific questions for the expanded discussion paper to address. The purpose and need statement approved by the Council proposes that presumed growth in the unguided harvest of halibut in IPHC regulatory areas 2C and 3A and the differences in

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harvest regulations between guided and unguided anglers is negatively impacting or may negatively impact other halibut fishing sectors. The Council stated that they intend to establish a registration requirement for vessels affiliated with charter operations, remote lodges, or businesses that require annual saltwater fishing guide licenses in order to estimate the halibut catch from unguided anglers accessing the resource with rental boats in order to determine whether management actions are necessary to limit the catch of unguided halibut anglers. This paper provides an overview of existing vessel registration programs, examines the patterns in halibut harvest in the unguided, guided, and commercial sectors in recent years to assess the level of growth in the unguided harvest of halibut in areas 2C and 3A and the potential for harm to other sectors, and addresses questions from the Council concerning opportunities and challenges to designing and implementing a registration of rental boats in areas 2C and 3A.

## **2 Purpose and Need**

The Council's motion from December 2017 included the following purpose and need statement:

*Due to declines in halibut abundance and associated changes in charter halibut sport fishing regulations, the charter halibut sector in IPHC Areas 2C and 3A currently has more restrictive management measures than non-charter halibut anglers. Additionally, charter halibut catch is limited by an allocation between the commercial and charter sectors; whereas the non-charter halibut harvest is not constrained by a sector catch limit.*

*The Council is concerned that differences in regulations between the charter and non-charter sectors, and growth of unguided halibut rental vessels affiliated with charter operations may result in increased halibut harvest in the non-charter sector that may negatively impact other sectors. To address this concern, the Council intends to a) establish a registration requirement for vessels affiliated with charter operations, remote lodges, or businesses that require annual saltwater fishing guide licenses, and b) estimate halibut catch from this segment of the sector. The intent of this registration requirement and catch estimation is to identify and track these unguided vessels to better understand impacts of this portion of the sector to communities, the halibut resource and other halibut stakeholders. This information will help the Council determine whether additional management actions are necessary for this segment of the fishery.*

## **3 Definitions**

### **3.1 Guided and unguided anglers**

In February 2014, the Council defined guided sport fishing services and compensation, incorporating recommendations developed cooperatively by State and Federal enforcement and management staffs. NMFS published regulations in 2015 (50 CFR §300.61) that define guided sport fishing services and compensation as follows:

*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 fish by being on board a vessel with such person, 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.*

*Compensation means direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; in this paragraph, "benefits" includes wages or other employment benefits given direction 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 reasonable daily expenses for fuel, food, or bait.*

Under the definitions of guided sport fishing and compensation, recreational anglers participating in the halibut fishery in Alaska are either guided (charter) or unguided (non-charter), regardless of how they access the resource. An angler using a rented boat, without a guide onboard and without any physical direction from a guide during any portion of the fishing trip is considered to be unguided, and an angler using a privately-owned vessel, but with a guide aboard, or with physical direction from a guide during any portion of the trip is considered to be guided, and an ADF&G logbook and sport fishing guide vessel registration would be required. Although other terms have been used to describe the practice of an unguided angler using a rented vessel, this paper will consider any anglers that are fishing without a guide onboard and without physical direction from a guide during any portion of the fishing trip as unguided anglers, per the NMFS regulatory definitions at 50 CFR §300.61.

### **3.2 Unguided rental boats**

Businesses in Alaska have for many years offered clients the opportunity to rent a boat to access marine waters. From the rented boat, the clients are able to participate in many activities including sightseeing, wildlife viewing, and fishing for many saltwater species available to anglers in Alaska, including salmon, cod, ling cod, rockfish, and halibut. Under the definitions of guided sport fishing and compensation described above, some businesses began to legally offer anglers the opportunity to rent boats without a guide onboard and without any physical direction from a guide during any portion of a fishing trip. Some operators may be offering these rental boats in addition to offering guided fishing opportunities. Under these definitions, any anglers utilizing rental boats without a guide onboard are considered unguided or “non-charter” for the purposes of halibut fishing. These anglers are, therefore, legally able access the unguided daily bag limits of two fish of any size rather than being held to the more restrictive guided or “charter” angler daily bag limits.

There is public perception that the number of operations offering boats for rent and the number of halibut caught by unguided anglers is increasing. The Council purpose and need statement stated that the Council is concerned that the differences in regulations and the presumed growth of the unguided rental boat segment could have negative impacts on other halibut sectors.

## **4 Existing Vessel registries**

This section will provide an overview of existing vessel registration programs in order to consider whether they might meet the Council’s needs for a rental boat registry.

### **4.1 Federal registry**

The US Coast Guard (USCG) documents vessels that are at least 5 net tons and used in fishing activities on navigable waters of the U.S. or the Exclusive Economic Zone (EEZ). The USCG National Vessel Documentation Center<sup>2</sup> notes that vessel more than 25 feet are likely to measure 5 net tons or more under the Simplified Measurement System. Many of the boats that are available for rent in area 2C or area 3A are less than 5 net tons, and therefore exempt from USCG documentation. There are no federal programs to register or document vessels less than 5 net tons. In order for the USCG documentation to be used to register rental boats in Alaska, significant changes would have to be made.

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<sup>2</sup> <http://www.dco.uscg.mil/Our-Organization/Deputy-for-Operations-Policy-and-Capabilities-DCO-D/National-Vessel-Documentation-Center/>

#### **4.2 State of Alaska Division of Motor Vehicles registration**

The State of Alaska, Department of Administration, Division of Motor Vehicles (DMV) registers all powered boats used on any water of the state, including rivers, streams, lakes, and salt water within 3 miles of land. The registration application includes information about whether the boat will be used as a rental boat. The DMV database includes the name of the entity (individual or business) that registered the boat, and the mailing address for the registering entity.

The DMV registry, on May 25, 2018, contained 539 vessels identified as rentals. Of those, 349 vessels were registered by 78 businesses. A total of 197 vessels are registered as rentals by 35 businesses in IPHC area 2C, and 52 boats are registered by 12 businesses in area 3A (249 boats total for 2C and 3A), the other 100 boats are freshwater rentals or available for rent outside of IPHC Areas 2 or 3. The DMV registry also contains boats identified as pleasure craft. There are 37,597 entities that have registered 38,128 boats. During review, staff identified at least one company that is known to offer boats for rent to halibut anglers that does not have any registered rental boats but does have registered pleasure boats. It is not clear what determines whether a boat is registered as a rental or pleasure boat. There may be other companies that offer boats for rent that are registered as pleasure boats. However, during review staff also identified several companies that have registered rental boats that do not offer fishing services (e.g. adventure tours, marinas, etc.). A full review of more than 38,000 vessels in the DMV pleasure boat database is outside the scope of this discussion paper. Without any other information, 197 boats in area 2C and 52 boats in area 3A (249 total) may be a reasonable approximation of the number of boats available for rent.

#### **4.3 Alaska Department of Fish & Game vessel registration**

In addition to the DMV registration described above, the State of Alaska in AS 16.05.395 requires vessels used to provide sport fishing services to be registered with ADF&G, and display proof of registration when the vessel is used to provide sport fishing services. To implement the statute, the Alaska Administrative Code, 5 AAC 75.077(a), requires that all vessels being used to provide sport fishing *guide* services (emphasis added) be registered annually with the department and outlines procedures related to the registration process and proof of registration. This was intended to focus the registration requirement on guide services because there are many businesses that rent boats that do not provide sport fishing services or guide services (e.g., kayak rental, motor boat rental, river raft rental, etc.). Without this clarification, any vessel available for rent that could, potentially, be used for sport fishing would be required to be registered with ADF&G.

The State of Alaska also requires businesses that conduct saltwater sport fishing services to obtain a saltwater sport fishing operator license. However, as described in §5.3, the statute that requires saltwater fishing guide licensing will sunset in 2019. It is not certain what impact this may have on any action to require businesses offering saltwater sport fishing services to register their vessels available for rental.

### **5 Halibut sport harvest in Alaska**

The halibut sport fishery in Alaska is managed by the IPHC, the Council, and NMFS under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act), which gives effect to the Convention between the United States and Canada for the Preservation of Halibut Fishery of the North Pacific Ocean and Bering Sea. Under the Halibut Act, the Council approved, and NMFS implemented, a Catch Sharing Plan (CSP) that allocates halibut among the commercial and charter sectors in Areas 2C and 3A. The non-charter sport sector is not included in the CSP and is therefore unconstrained by an allocation or other catch limit aside from the 2 fish per day limit established by the IPHC. Charter vessel operators are required under State and Federal regulations to record the numbers of halibut kept and released by individual clients in an ADF&G logbook to inform annual estimates of harvest and discard mortality. Logbook data have been used to manage the charter sector since 2014. Non-charter harvest is estimated by ADF&G using a post-season mail survey. The survey estimates sport fishery harvest of all species, including Pacific halibut.

Data on the size of halibut retained in charter and non-charter fisheries are collected through an ADF&G dockside creel sampling program in major ports in areas 2C and 3A.

The Council motion from December 2017 states that the Council is concerned that the presumed growth of the unguided rental boat segment could have negative impacts on other halibut fishing sectors.

Although simply having boats on the water would not cause negative impacts to any sector, one way to assess negative impacts is to examine the patterns of halibut catch by sector during the years in which the number of rental boats is presumed to have grown.

### **5.1 Sport Harvest statistics**

Total non-charter and charter halibut sport harvest levels from 2003 through 2016 are shown in Table 1. Total harvest in area 2C has varied considerably between years, with a sharp decline from 2008 to 2011, and an increase from 2011 to 2013. Recent harvest levels since 2013 have been more stable, and are currently around 2Mlb, similar to the harvest levels in 2003 (Figure 1). Total harvest in area 3A has generally declined from about 5.5Mlb in 2003 to 3.5Mlb in 2016 (Figure 1).

Before 2014, charter halibut harvest in areas 2C and 3A was regulated under Guideline Harvest Levels (GHLs). The GHLs constituted reference levels for harvest, and regulations did not necessarily trigger management actions when the GHLs were exceeded. The GHLs were replaced in 2014 by quotas based on allocations specified in the CSP. From 2003 to 2016, the GHLs or quotas ranged from 1.432 to 0.788 million pounds in area 2C and from 3.650 to 1.782 million pounds in area 3A (Table 1). In both areas 2C and 3A, the GHL or quota has generally declined since 2003 and reached its lowest point in 2014. Charter halibut harvest has also declined, generally, from 2003 to 2016. Charter harvest was lowest in 2011 in area 2C, and in 2016 in area 3A.

Figure 2 highlights patterns in charter and non-charter harvest in area 2C and area 3A. The non-charter harvest of halibut in area 2C has been variable from 2003 – 2016, but despite concerns of increased harvest, does not appear to show any trend. Non-charter harvest of halibut includes both privately owned boats and rental boats. There are currently no data to assess the proportion of the non-charter harvest that occurs from rental boats. The declines in charter harvest starting in 2011 resulted in the non-charter harvest exceeding the charter harvest from 2011 – 2016. The decline in charter harvest in area 2C from 2008 to 2011 could be the result of a number of factors, including a reduction in effort, a reduction in the GHL, and implementation of more restrictive bag and size limits to keep the fishery within its GHL. The decline in charter effort was likely linked to economic factors as well as some diversion of charter effort to the non-charter sector to avoid restrictions. Figure 2 also shows that non-charter harvest declined from 2003 to 2011, as the charter harvest was declining. The amount of effort diverted to the non-charter sector cannot be estimated with available information. Non-charter harvest in 3A has been generally unchanged since 2003 and remains below charter harvest.

Table 1 Non-charter, charter<sup>a</sup>, and total sport harvest of Pacific Halibut in area 2C and area 3A and the GHL or Quota (after 2013) from 2003 – 2016. GHL was replaced with a quota under the Halibut CSP after 2013 (dashed line). GHL or quota applies only to the charter harvest.

Year	Area 2C				Area 3A			
	Non-charter	Charter	Total	GHL/Quota	Non-charter	Charter	Total	GHL/Quota
2003	0.846	1.412	2.258	1.432	2.046	3.382	5.427	3.650
2004	1.187	1.750	2.937	1.432	1.937	3.668	5.606	3.650
2005	0.845	1.952	2.789	1.432	1.984	3.689	5.672	3.650
2006	0.723	1.804	2.526	1.432	1.674	3.664	5.337	3.650
2007	1.131	1.918	3.049	1.432	2.281	4.002	6.283	3.650
2008	1.265	1.999	3.264	0.931	1.942	3.378	5.320	3.650
2009	1.133	1.249	2.383	0.788	2.023	2.734	4.758	3.650
2010	0.885	1.086	1.971	0.788	1.587	2.698	4.285	3.650
2011	0.685	0.344	1.029	0.788	1.615	2.793	4.408	3.650
2012	0.977	0.605	1.583	0.931	1.341	2.284	3.626	3.103
2013	1.361	0.762	2.123	0.788	1.452	2.514	3.966	2.734
2014	1.171	0.783	1.954	0.761	1.533	2.034	3.567	1.782
2015	1.327	0.768	2.095	0.851	1.646	2.067	3.683	1.890
2016	1.308	0.792	2.100	0.906	1.528	1.964	3.492	1.814

<sup>a</sup> Charter estimates are based on the ADF&G mail survey before 2014, and on logbook data since 2014.

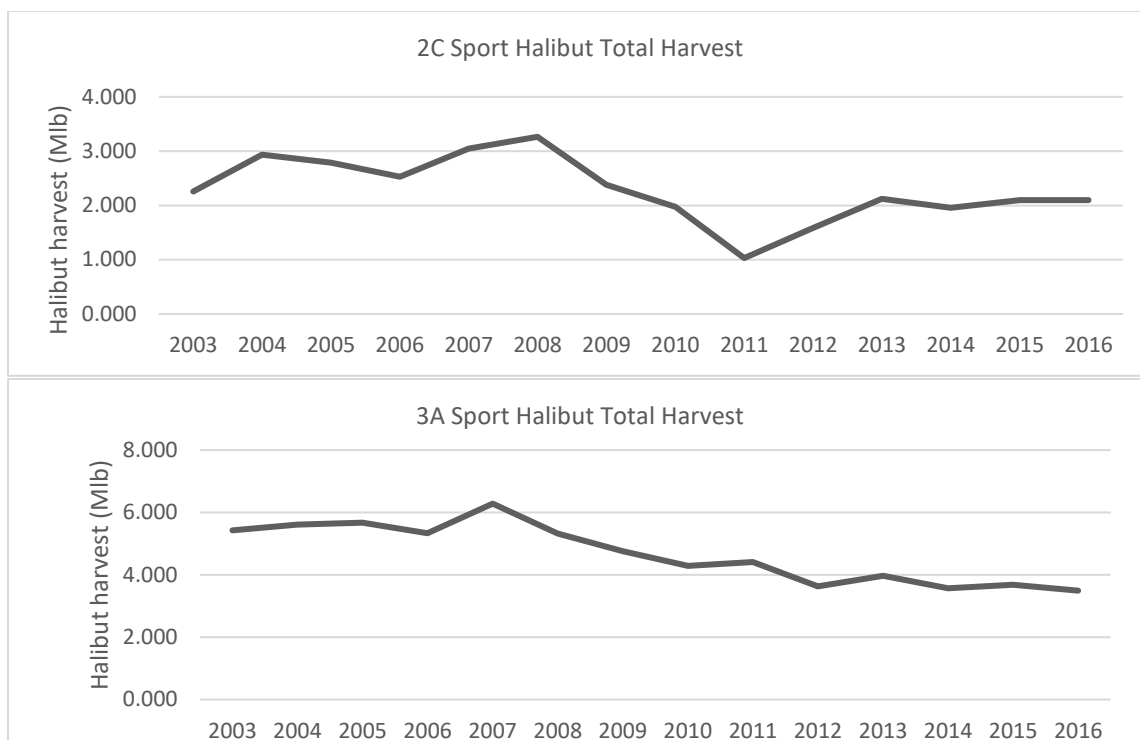


Figure 1 Total sport halibut harvest in area 2C (top) and 3A (bottom) from 2003 – 2016.

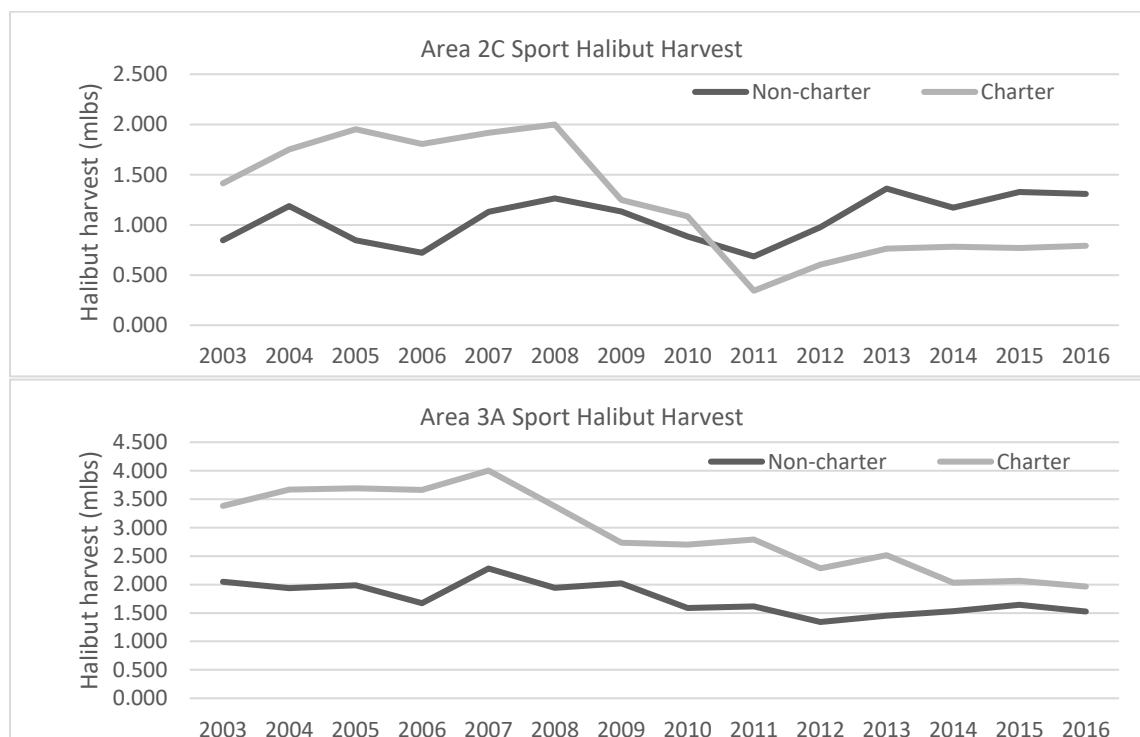


Figure 2 Non-charter and charter halibut harvest in area 2C (top) and 3A (bottom) from 2003 - 2016

Figure 3 shows the non-charter and charter halibut harvest in area 2C and 3A as a proportion of total sport harvest. The change in patterns of sport harvest in area 2C is clearly seen as non-charter halibut harvest exceeds 50% of the total harvest for the first time in 2011. This could explain the impression from the public that non-charter harvest is increasing in area 2C, despite data that show no large change in non-charter harvest from 2003 – 2016 (Figure 2). The non-charter harvest in area 3A has remained around 30-40% of the total harvest from 2003 – 2016.

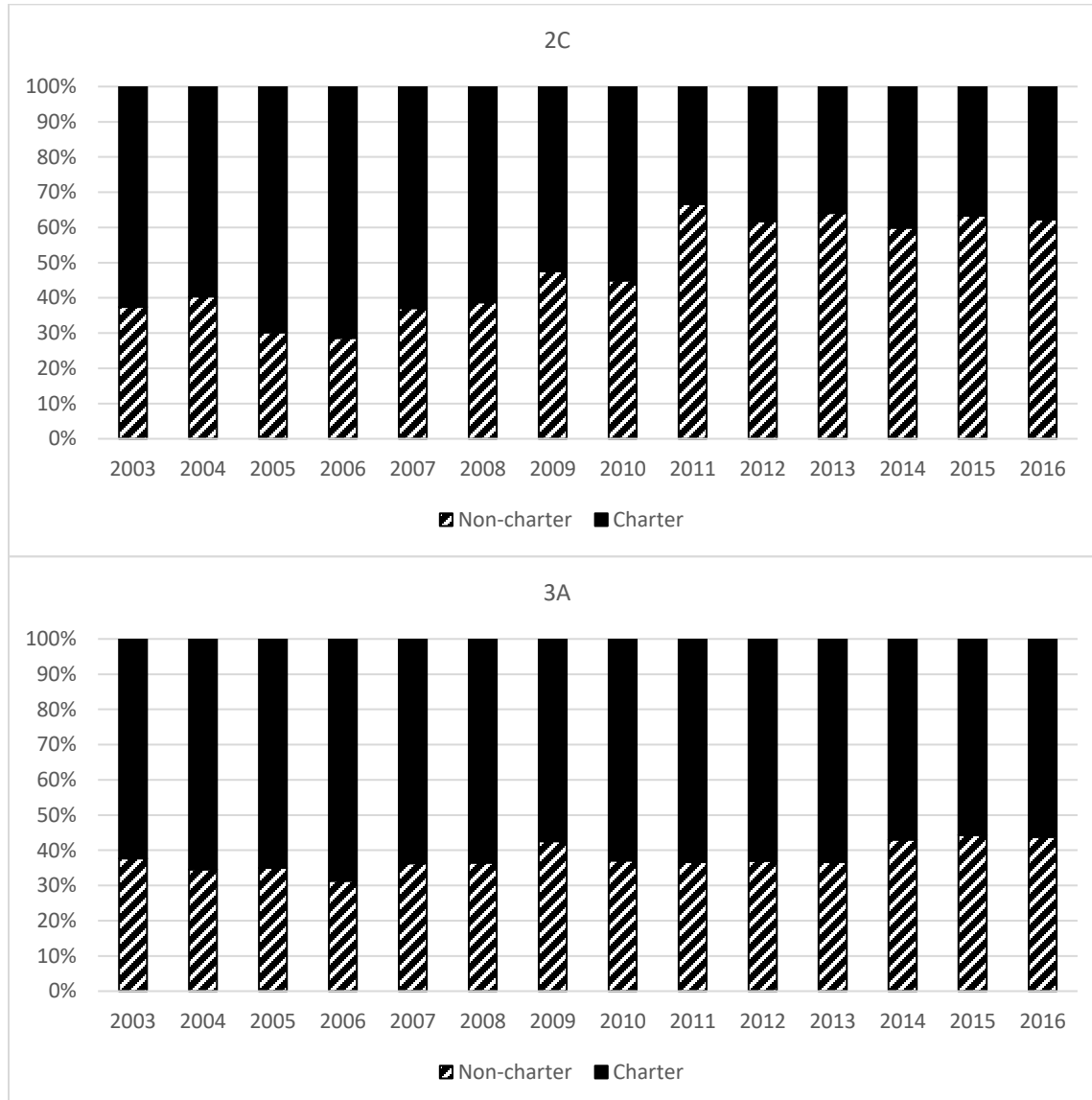


Figure 3 Non-charter and charter halibut harvest, as proportion of total annual sport harvest, in Area 2C (top) and 3A (bottom) from 2003 – 2016

Figure 4 shows charter halibut catch compared to the GHL or quota in areas 2C and 3A from 2003 through 2016. The charter catches in area 2C regularly exceeded the GHL before 2011 when severe restrictions on charter catch were put in place. Since 2011 the charter catch has remained below or very

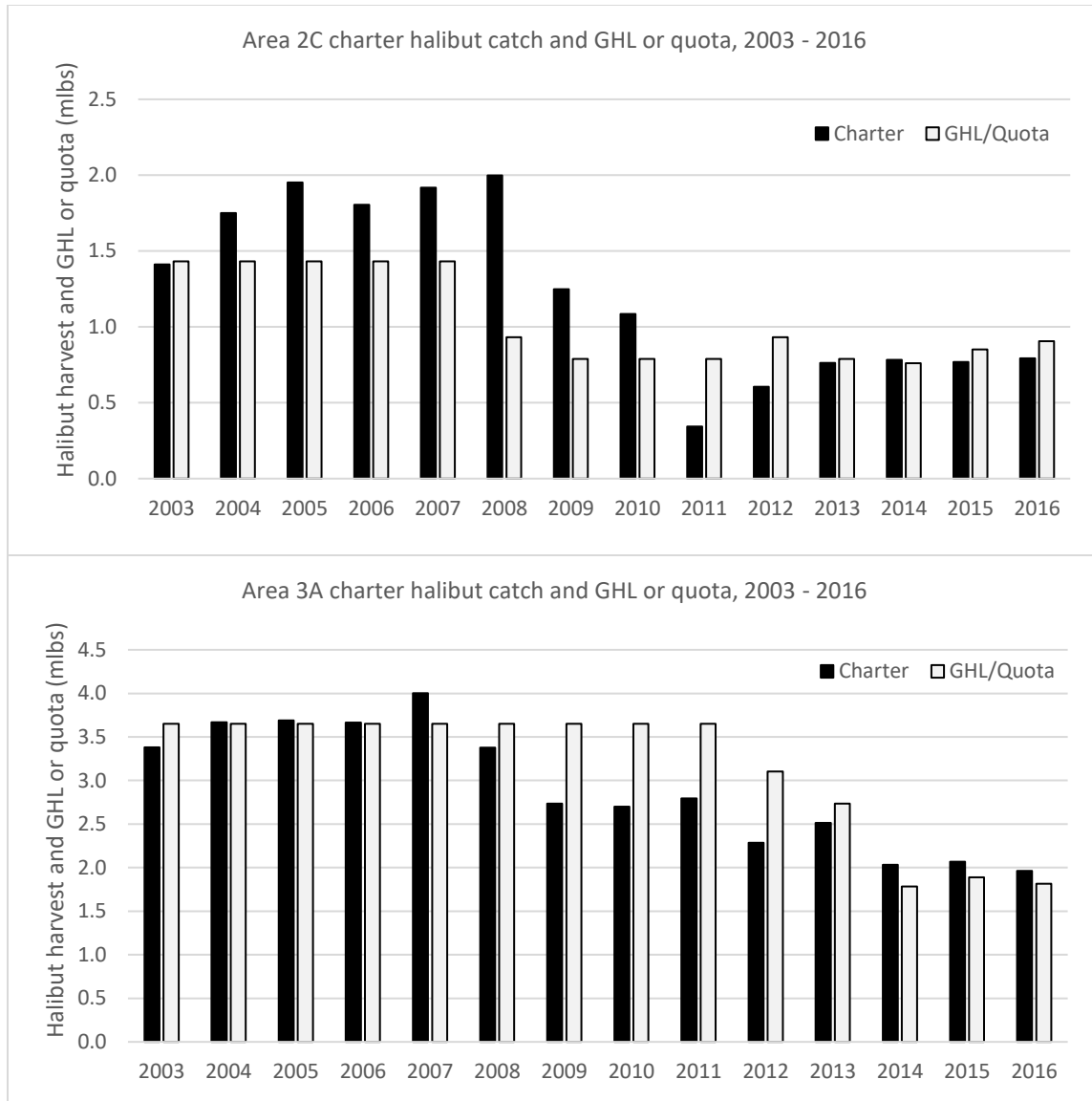


Figure 4 Charter halibut catch and GHL or quota (after 2013) in area 2C (top) and 3A (bottom) from 2003 – 2016.

close to the GHL or quota. Charter catch in area 3A was generally close to the GHL until the GHL was exceeded in 2007. Charter halibut catch remained below the GHL and quota until 2014 and exceeded the quota from 2014 – 2016.

Figure 5 shows non-charter, charter, and Individual Fishing Quota (IFQ) halibut catch in areas 2C and 3A from 2003 through 2016. The overall decline in halibut harvest from the mid-2000s to 2016 is easily seen. Overall the IFQ harvest exceeds the charter and non-charter harvest, but by smaller margins in recent years.

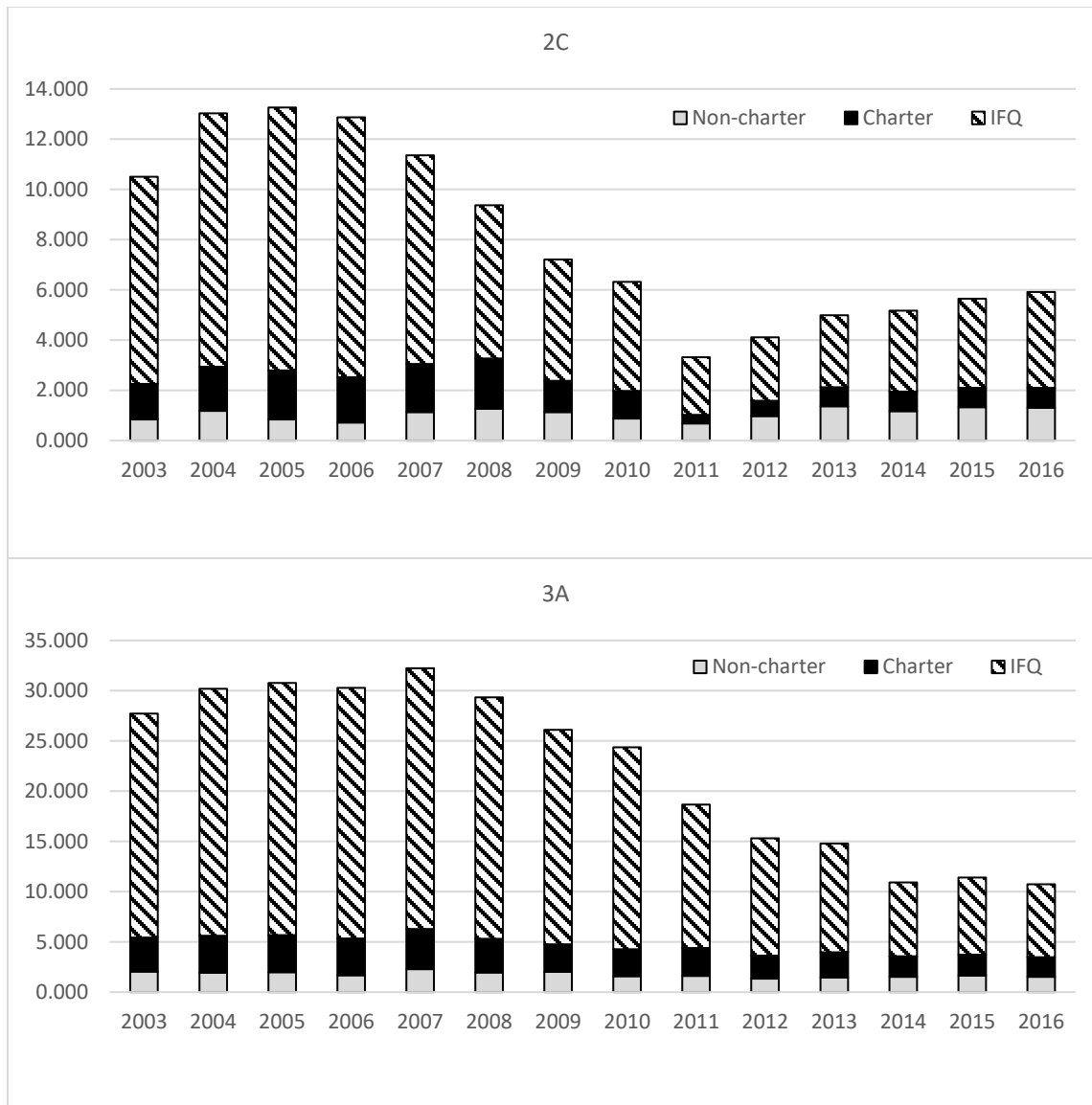


Figure 5 Non-charter, charter halibut, and IFQ harvest in Area 2C (top) and 3A (bottom) from 2003 – 2016

## 5.2 Charter Halibut Permits

Since February 1, 2011 all vessels operators in areas 2C and 3A with charter anglers onboard have been required to have an original, valid charter halibut permit (CHP) onboard during every charter vessel fishing trip on which Pacific halibut are caught and retained. Each CHP is endorsed for the appropriate regulatory area (2C or 3A) and, with limited exceptions, the number of charter anglers that may catch and retain halibut on a fishing trip. CHPs were issued to licensed charter fishing business owners based on past participation. Some CHPs are transferable and have since been transferred to an owner other than the original recipient.

Each business owner with a CHP is required to obtain a business owner license from ADF&G and to register the vessels to be used to conduct charter fishing operations. The business owner is also required to submit logbook sheets to ADF&G.

Recent Council action (NPFMC 2018) requires that owners of CHPs in areas 2C and 3A renew their CHPs annually. The intent of the renewal process is to provide more complete and useful information to evaluate whether changes in the CHP Program are necessary as a result of changes in ownership and participation of CHPs, to facilitate retirement of non-transferrable permits when ownership changes, and to improve the ability of enforcement agents to ensure valid permits are being used.

### **5.3 Licensing of sport fishing services and sport fishing guides**

State of Alaska regulation 5 AAC 75.075 (a) requires the owner of a business to obtain a current annual saltwater sport fishing operator license from the department before the business conducts saltwater sport fishing services. Alaska Statute 16.05.940 defines sport fishing as:

*the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries.*

The State statute that requires saltwater fishing guide licensing had a 2-year sunset clause attached to it when it passed in 2016. The Alaska Legislature did not take action on the statute in 2018, and the program to license saltwater sport fishing services will expire at the end of 2018. As a result, businesses that conduct saltwater sport fishing services will not be required to obtain a license in 2019 but may be subject to the ADF&G registration program, as was the case before 2017. It is not certain what impact this may have on an action by the Council to require businesses offering sport fishing services to register their boats.

## **6 Considerations for a new unguided rental boat registry**

In the December 2017 motion, the Council identified a number of points that they request staff to address in this discussion paper, including:

- Appropriate agency to administer a registration
- Timeframe for registration
- Number of businesses or vessels associated with charter operations
- Steps necessary to estimate catch from this segment of the unguided sector
- Challenges of a selective registration requirement focused on vessels affiliated with charter operations, remote lodges, or businesses that require annual saltwater fishing guide licenses
- Consideration of adapting the State of Alaska definition of hunting outfitter to rental boat businesses.

Those will be addressed in this section. It should be noted at the beginning that there are very few data to evaluate these points. This section should be considered a “brainstorming” section to identify opportunities and issues with developing a rental boat registration.

### **6.1 Appropriate agency to administer a registration**

#### **6.1.1 State of Alaska**

As noted above, the State of Alaska requires vessels used to provide sport fishing guide services to be registered with ADF&G, and display proof of registration when the vessel is used to provide sport fishing guide services. This includes all vessels used by CHP holders to provide charter halibut fishing. The most simple form of registry would involve businesses that hold sport fishing service licenses (or on ADF&G registry after 2018) to register their boats that are available for rent at the time that the business license is renewed. According to ADF&G Division of Sport Fish staff<sup>3</sup>, this sort of registry would be an

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<sup>3</sup> T. Brookover, 7/10/2018

incremental change from what is required now and would be relatively simple to implement. In this case, ADF&G could provide those businesses with additional logbooks for each vessel that could be used to harvest halibut, and business owners would be required to submit those logbooks to ADF&G as is now required for charter halibut vessels. There are potential issues involved in multi-day rentals where the owners of the business may not be able to record the number of halibut caught and retained each day. This simple registry would also not apply to those businesses that offer boats for rent, but do not also offer sport fishing services.

Discussions with ADF&G Division of Sport Fish staff indicated that there are rapidly increasing complications if the registry moves beyond sport fishing service license holders to include other businesses. As the registry gets broader and complications grow, ADF&G staff indicated that it may be more appropriate for NOAA to implement a registry, but reiterated that they would remain committed to working with the Council and NOAA Fisheries to provide information that Council needs. Any registry implemented by the ADF&G may require commensurate regulations approved by the State of Alaska Board of Fisheries.

#### **6.1.2 Federal registry**

Federal vessel registration is limited to the USCG vessel documentation for any vessels at least 5 net tons used in fishing activities on navigable waters of the U.S. or the U.S. EEZ. Any vessel less than 25 feet is likely to be less than 5 net tons and is exempt from documentation. Neither NOAA nor the USCG have a program to register vessels less than 5 net tons.

Similar to the concept of linking a registry to saltwater sport fishing license holders described above, NOAA could require businesses that hold CHPs to register any boats that they have available for rent when the CHPs are renewed as recently approved by the Council. This would also likely be an incremental change to an existing program. Again, this would likely not include businesses that rent boats but do not hold CHPs (do not provide guided halibut fishing). If ADF&G were also able to provide logbooks for those rental vessels that are registered, some data on the halibut harvest from those vessels would be available, with the same caveat about multi-day rentals.

NOAA Fisheries does not currently have a vessel registry in place, and any new registry would require new regulations and the regular review under the National Environmental Policy Act, Paperwork Reduction Act, Executive Order 12866, and Executive order 13771 (Reducing Regulations and Controlling Regulatory Costs), etc. Discussions with NOAA Fisheries Alaska Region staff identified a number of other issues that would need to be addressed before a registry or catch accounting for unguided halibut anglers could be considered<sup>4</sup>. The first consideration is the authority under which NOAA would require business owners to register their vessels. NOAA may not have authority to require businesses that are not engaged in, or only peripherally engaged in fisheries (e.g., business that offers lodging only). Other concerns include the scope of the registry (area, type of vessel, etc.), and enforcement. Some of these issues have been raised in other sections of this paper, but there may be additional concerns that would be identified and considered in an analysis of potential alternatives if the Council chooses to initiate an analysis.

#### **6.1.3 Third-party registry**

Another option that the Council and NOAA could consider is for another organization to develop and operate a registry and collect harvest data from rental boats. The Pacific States Marine Fisheries Commission (PSMFC) has indicated that if funding were available they would be able to develop and implement a rental boat registry<sup>5</sup>. This could allow NMFS to identify the scope, application, and data

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<sup>4</sup> J. Keaton, T. Buck, K. Iverson, G. Merrill 8/15/18

<sup>5</sup> M. Fey, 7/9/2018

needs for a registry and may be easier and more cost effective than creating a new registry. If the registry were able to use ADF&G logbooks as a data collection method, the issue with two logbooks may be avoided. Details and costs of a third-party registry could be considered and assessed in an analysis of alternatives, if the Council chooses to initiate an analysis.

## **6.2 Timeframe for registration**

The timeframe for a registry would depend on a number of factors, including the mechanism for a registry, the Council's needs for data, cost, and impact to business owners. In general, an annual registry may provide the Council with more precise data, but with increased cost (fees, time) for business owners while a multi-year registry may be less onerous to business owners, but at the cost of less precise information to the Council.

The ADF&G Division of Sport Fish has indicated that it would be relatively simple to combine a rental boat registry with the sportfishing service license (or registry after 2019). If the rental boat registry was linked to CHP renewal, as described above, it would be only an incremental change to require annual registrations as part of the annual CHP renewal process approved by the Council in April 2018. An annual registration is more likely to be able to track the number of vessels available for rent than would a multi-year registration because vessels may not remain available for rent for the duration of a multi-year registration. In this case, a multi-year registration may overestimate the number of vessels actually available to unguided anglers. If the annual registry were combined with a logbook requirement, the program may provide the Council with more information about the number of halibut that are harvested annually by the portion of the unguided sector that are using rental boats to access the saltwater. As noted above, a registry tied to CHP renewals would not apply to those businesses who rent boats but do not have a CHP.

However, if the registry is not associated with CHP renewal, a multi-year registration may be less onerous to business owners as registration paperwork would need to be completed and submitted less frequently. The registry may be less precise than an annual registry if vessels are removed from rental availability sometime during the registry period, but if new vessels are required to be registered before they are available for rent the registry may provide a maximum estimate of the number of vessels available.

## **6.3 Costs of registration**

Any registration would impose some level of burden on NMFS or the State of Alaska, depending on whether the registration is managed by the Federal or State government. Although not directly comparable to a vessel registry, RAM estimated approximately \$300,000 in costs to provide for an annual renewal process for Charter Halibut Permits (CHPs) in NPFMC (2018). Because an unguided rental boat registration would be a new registry, there are likely to be some initial start-up costs and recurring costs to maintain a registry. Costs would be estimated in an analysis, should the Council choose to initiate an analysis of alternatives.

## **6.4 Number of businesses or rental vessels associated with charter operations**

As noted above, the State of Alaska Department of Administration, Division of Motor Vehicles (DMV) registers all powered boats used on any water of the state, including rivers, streams, lakes, and salt water within 3 miles of land. The DMV registry contains 78 businesses that have registered 343 rental boats across the State. As described in §4.2 a total of 47 businesses have registered 249 rental boats in areas 2C and 3A. Some of those businesses are likely to also hold one or more CHPs. However, it is also likely that some business owners that own both charter businesses and rental businesses hold their charter business and rental boat businesses separately to protect holdings and limit liability associated with each. It is also likely that some boats are available for rent (without a guide) or available for charter (with a guide), further complicating the estimate of the number of boats available for rent from charter operations.

Without additional data it is difficult to ascertain which of the businesses that offer charter halibut fishing opportunities also offer boats for rent.

Other methods have been proposed or attempted to estimate the number of rental boats available in areas 2C and 3A (e.g., review of Facebook pages). However, those methods are unrepeatable, and there is no way to assess the accuracy of the estimate. The Alaska DMV registry provides a record of all powered boats used on any water of the state, including rivers, streams, lakes, and salt water within 3 miles of land and provides an easily repeatable, reliable method to estimate the number of boats available.

## **6.5 Steps necessary to estimate catch from unguided rental boats**

The catch of halibut from unguided anglers fishing from rental boats is already accounted for in the Statewide Harvest Survey. However, because there are no data collected in the Statewide Harvest Survey about how individual anglers accessed the salt water, there are no data available to estimate the proportion of unguided halibut harvest occurs from rented boats. If the Council wishes to collect these data, there are several options that the Council could consider.

### **6.5.1 Statewide Harvest Survey**

The Alaska Department of Fish and Game Sport Fish Division has conducted a mail survey to estimate sport fishing participation (number of anglers, days fished), total harvest (fish kept) since 1977 and total catch (fish kept plus fish released) since 1990. Estimates from 1996 to present are available from the ADF&G website<sup>6</sup>. The following description of the Statewide Harvest Survey comes from Romberg (2016).

The purpose of the survey is to provide information on participation, catch, and harvest in order to protect, maintain, and improve recreational fisheries in Alaska. The survey provides a statewide database on where fishing occurs, the extent of participation, and the species and numbers of game fishes caught and harvested. These data are essential for regulation and management of fisheries, for project evaluation, and for formulation of ADF&G policies and priorities that reflect angler needs, concerns, and preferences.

The survey uses a stratified random sampling of fishing households with at least one individual who either purchased a fishing license, holds a permanent identification (PID) card, or holds a disabled veteran (DAV) license. The surveys include pages that ask specifically about the Kenai, Kasilof and Russian Rivers freshwater fisheries and Cook Inlet saltwater fisheries, and all other statewide saltwater and freshwater sites. The survey booklet is designed to capture guided and non-guided activity within fisheries across Alaska.

The survey has been refined since 1977 to provide the ADF&G with the data they need to evaluate and manage recreational fisheries in Alaska. Because the method of access to waters by recreational anglers is not necessary to manage these fisheries, those data are not collected. In order to collect those data, the Statewide Harvest Survey would have to be modified significantly to add questions about access for each trip, and to record the number of fish caught on each trip. This is likely to have impacts to the automated data evaluation protocols that ADF&G have developed. An example of the Statewide Harvest Survey Cook Inlet and Kachemak Bay Saltwater survey page is shown in Figure 6. Any proposed change to the Statewide Harvest Survey would have to be approved by the Alaska Department of Fish and Game and may require commensurate regulations approved by the State of Alaska Board of Fisheries.

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<sup>6</sup> <https://www.adfg.alaska.gov/sf/sportfishingsurvey/>

## COOK INLET and KACHEMAK BAY SALTWATER

See Mapsite Booklet Page 15

Number of Household Anglers who fished. Do not include visiting friends, relatives, or other party members outside your household.

Number of Household Trips (a trip, which may last one or more days, is a visit to a fishing site).

Sum of Each Household Angler's Days Fished. Count any part of a day as one whole day. If 2 or more anglers fish the same day, include that day in each angler's sum.

Example: 2 household anglers fished the same day. One angler returned a second day, and fished again at the same site.

Sum of Each Household Angler's Days Fished would equal 3.

DO NOT INCLUDE FISH HARVESTED UNDER SUBSISTENCE REGULATIONS.

<b>SALTWATER CHARTER</b> <i>Charter (guided) means you paid to be accompanied or personally directed on your fishing trip</i>		No. of Household Anglers	No. of Household Trips	Sum of Each Household Angler's Days Fished	King Salmon through June 24	King Salmon after June 24	King Salmon Summer Fishery*	King Salmon Winter Fishery**	Silver (Coho) Salmon	Red (Sockeye) Salmon	Pink Salmon	Chum Salmon	Dolly Varden/Arctic Char	Steelhead Trout	Smelt	Halibut	Shark	Rockfish	Lingcod	Sablefish (Black Cod)	Pacific Cod	Other (specify)
980	Upper Cook Inlet north of Bluff and Chinitna Points, including saltwaters by Anchor River, Whiskey Gulch, Deep Creek and Nimichik River (boat)																					
952	Lower Cook Inlet west of Gore Point not including Kachemak Bay (boat)																					
796	Kachemak Bay from Bluff Point to Seldovia (boat)																					
<b>SALTWATER NONCHARTER</b> <i>Noncharter (nonguided) means you did not pay to be accompanied or personally directed on your fishing trip</i>		No. of Household Anglers	No. of Household Trips	Sum of Each Household Angler's Days Fished	King Salmon through June 24	King Salmon after June 24	King Salmon Summer Fishery*	King Salmon Winter Fishery**	Silver (Coho) Salmon	Red (Sockeye) Salmon	Pink Salmon	Chum Salmon	Dolly Varden/Arctic Char	Steelhead Trout	Smelt	Halibut	Shark	Rockfish	Lingcod	Sablefish (Black Cod)	Pacific Cod	Other (specify)
980	Upper Cook Inlet north of Bluff and Chinitna Points, including saltwaters by Anchor River, Whiskey Gulch, Deep Creek and Nimichik River (boat)																					
981	Upper Cook Inlet fishing from the shore (specify)																					
952	Lower Cook Inlet west of Gore Point not including Kachemak Bay (boat)																					
796	Kachemak Bay from Bluff Point to Seldovia (boat)																					
823	Homer Spit (fishing from shore on the Spit)																					
991	Other Lower Cook Inlet and Kachemak Bay fishing from the shore (specify)																					

\* Summer king salmon fishery occurs April 1 through September 30.

\*\* Winter king salmon fishery occurs January 1 through March 31 and October 1 through December 31.

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Figure 6 Cook Inlet and Kachemak Bay Saltwater survey page from 2015 ADF&G Statewide Harvest Survey.

### 6.5.2 ADF&G Saltwater Charter Logbook

The State of Alaska requires all sport fish charter/guide operators in both saltwater and freshwater to maintain a logbook for each vessel, whether the vessel is used to fish or not. All daily trips must be recorded in the logbook, and the book must be returned to ADF&G by the date specified in the logbook. It is the responsibility of the guide to assure that daily fishing activity is recorded in the logbook in a timely manner, and the responsibility of the business owner to ensure that all data for fishing activities from January 1 through December 31 are submitted to ADF&G. The ADF&G has developed an optional electronic logbook (eLogBook) that can be used to replace the paper forms.

The logbook must include the following, if applicable:

- Vessel name
- AK or USCG number
- Charter Halibut Permit (CHP) number
- CHP holder name
- Name of sport fishing business
- ADF&G sport fishing business license number
- Primary port.

Logbook entries for each trip must contain:

Trip Information		
• Date	• Hour trip ended	• Guide License number
• CHP number(s)	• NOAA Guided Angler Fish requirements	• Port of Community of off-loading
• Primary Statistical Area fished	• Boat hours fished	
Individual Angler Information		
• Sport Fishing License No.	• Residency	• Comped and crew angler status
• Angler name	• Youth anglers	• Angler Signatures
• Proxy fishing information		
Catch Information		
• Number of fish retained	• Number of fish released	• Guide signature
• Continuing trip information		

An example saltwater sport fishing charter trip logbook page is shown in Figure 7.

Alaska Department of Fish & Game  
**2018 Saltwater Sport Fishing Charter Trip Logbook Page**  
RETURN TO: 333 RASPBERRY ROAD, ANCHORAGE, ALASKA 99518-1565 • QUESTIONS: CALL (907) 267- 2369

**TRIP INFORMATION**

Complete this section for every trip. Continue on additional pages for trips with more than six anglers in the same trip.

DATE FISHED: \_\_\_\_\_ / \_\_\_\_\_ 2018 \_\_\_\_\_ AM \_\_\_\_\_ PM  
Month Day Hour Trip Ended

2018 GUIDE LICENSE NUMBER: \_\_\_\_\_  
(assigned to you by ADF&G)

CHARTER HALIBUT PERMIT (CHP) NUMBER: \_\_\_\_\_  
(assigned to you by NOAA)

Check box if more than one CHP is used on this trip: ☐

FOR OFFICE USE ONLY  
Total Anglers \_\_\_\_\_

TARGETED SPECIES / LOCATION FISHED:  
(where most fish species were caught)

Salmon: \_\_\_\_\_  
Primary Statistical Area Hours Fished

Bottomfish: \_\_\_\_\_  
Primary Statistical Area Hours Fished

COMMUNITY OR PORT WHERE TRIP ENDED:  
(where fish or clients were off-loaded from vessel)

GUIDED ANGLER FISH (GAF) PERMIT NUMBER:  
(assigned to you by NOAA)

**INDIVIDUAL ANGLER AND CATCH INFORMATION**

Complete one row below for each angler who fished this trip.  
Record sport fishing license number, printed name AND Alaska residency status for all anglers.  
Write "YOUTH" in license number for young anglers not required to license.

	AK Resident	Non - Resident	Comped	Captain or Crew	Kept / Released	SALMON					BOTTOMFISH								
						King (28" & larger)	King (under 28")	Coho	Sockeye	Other Salmon	Halibut	GAF Halibut	Lingcod	Pelagic Rockfish	Yelloweye Rockfish	Nonpelagic Rockfish (including Harems)	Sablefish (Black Cod)	Salmon Shark	
1. _____ License Number	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	K ▶														
First Name / Last Name					R ▶														

Signature (required if halibut were kept -- certifies that license number, name, and halibut kept are recorded correctly per federal regulation)

Figure 7 Portion of 2018 Saltwater Sport Fishing Charter Trip Logbook Page.

### 6.5.3 Requiring logbooks for unguided anglers

The ADF&G Saltwater Sport Fishing Charter Logbook is required for all guided anglers. Anglers who are using rented boats to access the saltwater without the services of a fishing guide are unguided. The ADF&G logbook is therefore not currently required for anglers on rented boats. As discussed in §6.1.1, ADF&G has indicated that it would be an incremental step to require businesses with sport fishing licenses to register boats that they have available for rent, and to provide logbooks for those vessels. In this case, the responsibility for correctly recording data and returning the logbook pages (or submitting electronic logbook forms) would remain with the business owner. There may be problems associated with

multi-day rentals where the business owner is not able to determine the number of fish caught and retained at the end of each day. However, this option would provide the ADF&G, and the Council, with information about halibut harvest on some rental boats. This option would still not account for rental boats owned by businesses that do not have a sportfishing service license.

The Council could also consider requiring separate saltwater logbooks for all recreational anglers. The Council could determine which data are necessary to effectively address the Council's questions and concerns and design the logbook to record those data. However, the ADF&G Division of Sport Fish has noted their opposition to a 2-logbook scenario where guided and unguided operations have different logbooks and different requirements<sup>7</sup>. Specifically, there are instances where a boat may sometimes be used to provide guided fishing and sometimes rented without a guide. There are also a number of questions that would need to be addressed in an analysis of alternatives, including whether the owner of the rental boat or the angler would be responsible for the logbook, whether the information collected was restricted to halibut or other species were included, and enforcement issues (e.g., is the information on the logbook required at the commencement of the trip or once a halibut has been landed?).

The Council could also consider a new catch accounting system for rental boats, that may be designed and implemented by another entity like the PSFMC. As noted in §6.1.2, the PSFMC has indicated that if funding were available they could design and implementing a vessel registration and catch accounting system. In this case, the Council and NOAA could identify the information they required and the logbook or other mechanism designed to provide those data. There may be logistical or enforcement concerns with introducing another type of logbook or other catch recording mechanism.

## **6.6 Guide, Outfitter, or Transporter**

The State of Alaska includes definitions of guides, outfitters, and transporters in its big game statutes and regulations (AS 08.54.591-680). These definitions may be adapted for application to businesses providing rental boats and gear for unguided anglers.

**Guide** means to provide, for compensation or with the intent or with an agreement to receive compensation, services, equipment or facilities to a big game hunter in the field by a person who accompanies or is present with the big game hunter in the field either personally or through an assistant.

**Outfit** means to provide, for compensation or with the intent to receive compensation, services, supplies, or facilities, excluding the provision of accommodations by a person described in AS 08.54.785<sup>8</sup>, to a big game hunter in the field, by a person who neither accompanies nor is present with the big game hunter in the field either personally or by an assistant. The State of Alaska does not provide a definition of outfitters for businesses providing saltwater sport fishing services.

**Transportation services** means the carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; "transportation services" does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by hunters.

Under these definitions, a business owner who provides a rental boat to a client could be considered an outfitter regardless of whether other fishing gear (rods & reels, downriggers, bait, etc.) were provided. The Council could consider defining businesses that provide rental boats as "outfitters" and requiring

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<sup>7</sup> T. Brookover, 7/10/2018

<sup>8</sup> **08.54.785 CHAPTER NOT APPLICABLE.** The provisions of this chapter do not apply to a person providing, for compensation or with the intent to receive compensation, only accommodations to a big game hunter in the field at

- 1) A permanent lodge, house, or cabin on private land owned by the person; or
- 2) A state or federal cabin on state or federal land.

those businesses to register their boats available for rent. The State of Alaska also restricts the areas in which a guide-outfitter may provide services. Rental boats available for day-rentals would most likely be restricted to the areas near the business from which the boat was rented, so those area restrictions could apply. However, some rental boats are available for multi-day rentals, and those clients may travel beyond the immediate area of the business that provided the boat. If the intention of the outfitter licensing and rental boat registry is to understand and manage the impact of rental boats and halibut harvest from rental boats on local communities, the Council should consider how to address multi-day rentals that may provide access for unguided anglers to multiple communities.

The Council would need to consider whether to apply the outfitter label to all businesses with boats available for rent, for those with the opportunity to fish for halibut, or only for those whose clients intend to fish for halibut. There may be enforcement concerns with any or all of the options, these would be discussed in an analysis of alternatives. The Council could also consider requiring unguided angler logbooks in association with outfitters in order to collect catch data from this sector.

## **7 Conclusions**

The Council's purpose and need statement for considering a registry for unguided halibut rental boats proposes that differences in regulation and the perceived growth in halibut harvest by unguided anglers may result in increased growth in the non-charter sector that may negatively affect other sectors. To examine this potential, this paper examines the patterns in halibut harvest for the guided and unguided sport fishery sector in areas 2C and 3A. Total recreational halibut harvest declined in both areas from 2003 to 2016. In area 2C, the guided halibut harvest has ranged from a high of 1.999 million pounds in 2008 to a low of 0.344 million pounds in 2011, however the unguided sport harvest in area 2C has varied but remained near 1 million pounds from 2003 – 2016. In 2011, the proportion of halibut caught by unguided anglers in area 2C exceeded the proportion caught by guided anglers for the first time. The decline in guided halibut catch and the change in overall proportion may explain the perception that non-charter catch is increasing despite the overall stability shown by the catch data from area 2C.

In area 3A, both the guided and unguided halibut catch declined from 2003 to 2016. Guided angler catch declined from 3.382 million pounds in 2003 to 1.964 million pounds in 2016, unguided angler catch declined from 2.046 million pounds in 2003 to 1.528 million pounds in 2016. The proportion of sport halibut harvested by unguided anglers has remained relatively stable at approximately 40% of the total sport catch.

Both the State of Alaska and the Federal government have vessel registrations in place. The US Coast Guard documents vessels greater than 5 net tons and used in fishing activities on navigable waters of the US or the EEZ. The State of Alaska registers boats less than 5 net tons with the Division of Motor Vehicles. The ADF&G also registers all vessels that are used to provide sport fishing guide services on salt and fresh water. Businesses that offer saltwater sport fishing services are required by ADF&G to obtain a license, although that requirement will be rescinded in 2019. The ADF&G has indicated that it would be an incremental change to require businesses with saltwater sport fishing licenses to register any boats available for rent. Although simple, this registry would not include rental boats owned by businesses that do not have a saltwater sport fishing license.

The NMFS requires businesses that offer halibut charter fishing in areas 2C and 3A to obtain and keep a valid CHP, which must be renewed annually. It would also be an incremental change to require CHP holders to register any boats available for rent, but this simple registry would not include rental boats owned by businesses that do not offer charter halibut fishing services, and therefore do not hold CHPs.

Any new registration, whether State or Federal, would require new regulations and the attendant analyses. Changes to the State of Alaska registrations would require cooperation by the State and may require commensurate regulations approved by the State Board of Fisheries. Any new registration would also

impose some level of burden on NMFS or the State of Alaska, including start-up and recurring costs to maintain a registry.

The State of Alaska DMV registry, on May 25, 2018, contained 249 rental vessels registered by 47 businesses in IPHC areas 2C and 3A. The DMV registry also contains 38,128 boats registered a pleasure craft. Without any other information, 197 boats in area 2C and 52 boats in area 3A (249 total) may be a reasonable approximation of the number of boats available for rent.

The halibut catch by unguided anglers is accounted for in the Statewide Harvest Survey. The Statewide Harvest Survey provides ADF&G with the data needed to evaluate and manage recreational fisheries in Alaska and does not provide information about the method of access to waters by recreational anglers. Any change to the Statewide Harvest Survey would require approval by the State of Alaska and would likely result in substantial changes to the way those data are collected and analyzed by the ADF&G. The ADF&G requires all sport fish charter/guide operators to maintain a logbook for each vessel, which records the number of fish kept and released by each angler. The Council could consider requiring logbooks for unguided anglers which could collect the data desired by the Council. A logbook program may be more efficiently enacted in association with a vessel registry, but there are a number of questions that the Council should consider if they choose to consider a logbook requirement.

The State of Alaska identifies businesses that provide services, supplies, or facilities to big game hunters as “outfitters”. Businesses that provide rental boats to anglers could be considered to be outfitters under this definition, although the State limits outfitters to those businesses serving big game hunters. Requiring businesses that provide boats available for rent and requiring logbooks for those boats could provide the Council with information about the numbers of boats available and the numbers of halibut harvested from them. There are remaining questions that the Council should consider in an analysis of alternatives if the Council chooses to consider this option.

## 8 References

- NPFMC. 2018. Public Review Draft of a Regulatory Impact Review for a regulatory amendment to establish a Charter Halibut Permit Annual Renewal. April 2018. Available at <http://npfmc.legistar.com/gateway.aspx?M=F&ID=676c0fad-f8d3-4ebc-a7c1-15089a329018.pdf>.
- Romberg, W.J., 2015. Alaska statewide sport fish harvest survey, 2015. Alaska Department of Fish and Game, Division of Sport fish, Regional Operational Plan ROP.SF.4A.2015.05, Anchorage.