Public Review Draft

Environmental Assessment/Regulatory Impact Review/ Initial Regulatory Flexibility Analysis for a Regulatory Amendment to Limit Entry in the Halibut Charter Fisheries in IPHC Regulatory Areas 2C and 3A

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Abstract: This analysis examines two alternatives to limit entry into the Pacific halibut guided sport (charter) fisheries in International Pacific Halibut Commission Regulatory Areas 2C and 3A in the Gulf of Alaska. One alternative would take no action. The second alternative (the Council preliminary preferred alternative) would implement a moratorium on entry into the charter sector, as of December 9, 2005. It is intended as an interim step in the Council's long range plan to limit charter halibut harvests. Permits would be issued to persons based on minimum threshold levels of participation and certain eligible communities based on maximum threshold levels of charter halibut participation in those communities. Both types of entities would be subject to use caps.

None of the proposed actions are expected to have the potential to result in a "significant action," as defined in Executive Order 12866, or result in adverse impacts on directly regulated small entities, as defined in the Regulatory Flexibility Act. A final regulatory flexibility analysis focusing on the preferred alternative will be included in the final regulatory package submitted for Secretarial review.

Comments Due: The public may comment on the proposed action until the Council selects its final preferred alternative, currently scheduled for March/April 2007. A formal public comment period will be announced by the Secretary of Commerce upon publication of the proposed rule, expected sometime in 2008.

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ABBREVIATIONS & ACRONYMS

ADF&G	Alaska Department of Fish and Game
BOF	Alaska Board of Fisheries
CEY	Constant Exploitation Yield
E.O.	Presidential Executive Order
GHL	Guideline Harvest Level
IPHC	International Pacific Halibut Commission
IRFA	Initial Regulatory Flexibility Analysis
ISER	University of Alaska, Anchorage Institute for Social and Economic Research
lb	Pounds
M	Million
NPFMC	North Pacific Fishery Management Council
OMB	Office of Management and Budget
RFA	Regulatory Flexibility Act
RIR	Regulatory Impact Review
SBA	U.S. Small Business Administration
SWHS	Statewide Harvest Survey

Executive Summary

The Council is considering implementing a moratorium on new entry for halibut charter operators in IPHC Areas 2C and 3A. If implemented, halibut guide business operators will be required to hold a permit for each vessel they use to provide their halibut charter clients with fishing trips. The permits would be issued based on historic participation in the halibut charter fishery and endorsed for the IPHC area they may fish and the maximum number of clients they may carry. The permits will be transferable to persons meeting the U.S. ownership requirements that are under the maximum permit use cap. Eligible GOA Amendment 66 communities, through a Community Quota Entity (CQE) representing their community, could apply for additional permits, if they meet criteria for limited participation in the halibut charter fishery. The purpose of issuing permits to these communities is to provide them the opportunity to derive economic benefits from the halibut charter industry.

Problem Statement

The Pacific halibut resource is fully utilized and harvest by the charter sector is demonstrating steady growth. To provide long term stability of the charter sector and lessen the need for regulatory adjustments, which destabilize the sector, the Council is embarking on development of a new management framework. In the interim, to address allocation issues between the charter and commercial sectors, the former is operating under a guideline harvest level (GHL). Harvest data since 2004 indicate that the GHLs in Area 2C have been exceeded and are near levels established for Area 3A. This has resulted in a renewed effort to find a long-term solution. To that end, the Council formed a stakeholder committee of affected charter and commercial user groups to consider management options and formulate recommendations for Council consideration in developing a management plan for the charter sector. Some of the options previously considered include limiting entry or awarding quota share based on past participation in the fishery. To address the potential against the rush of new entrants into the charter fishery, the Council is considering establishing a moratorium on the charter sector. The moratorium is to provide an interim measure of stability in the guided sport halibut sector during the step-wise process toward a long-term solution. In doing so, however, the Council is also concerned with maintaining access to the halibut charter fishery by small, rural, coastal communities. To address this, the Council is considering establishing a separate program to allow these communities to enter the halibut charter fishery.

Proposed Alternatives

There are two primary alternatives for consideration, with several options included within Alternative 2. Alternative 1 is the no action alternative; Alternative 2 would implement a moratorium on entry into the halibut charter sector in Areas 2C and 3A. **In February 2007, the Council selected Alternative 2 as its preliminary preferred alternative, which currently includes Issues 1 – 12.** Several of these issues are presented as provisions, and the Council has selected the entire provision by selecting Alternative 2.[1] Other issues include options for consideration. The Council's preliminary preferred alternative is identified below. If there are options identified under an issue, those that are part of the Council's preliminary preferred alternative are identified with an asterisk (*).

Alternative 1. No action

***Alternative 2.** Implement a moratorium on entry into the charter halibut fisheries in Areas 2C and 3A using a control date of December 9, 2005 ***(Council preliminary preferred alternative*)**.

[1]Issues 1 – 4, 6, 8, and 9 are provisions, and they are all currently part of the Council's preliminary preferred alternative. Issues 5, 7, and 10 – 12 contain options. The options comprising the Council's preliminary preferred alternative are identified (*).

Features of the proposed moratorium (limited entry) program:[2]

Issue 1. **Permits[3] may be held by U.S. citizens or U.S. businesses** with 75 percent U.S. ownership of the business. Businesses[4] may receive multiple permits due to charter halibut activity by vessels reported by the businesses in ADF&G logbooks. Initial permit recipients may be "grandfathered" below the U.S. ownership level and above proposed use caps until any change in ownership of the business occurs.[5]

Issue 2. **Permit would be designated for Area 2C and/or Area 3A**. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip.

Issue 3. **Permit would be issued to an ADF&G licensed fishing guide business owner.**

Issue 4. **Permit applicant would be required to sign an affidavit** attesting that all legal requirements were met.[6]

Issue 5. **Transfers** of permits (permanent) would be allowed up to use caps.

Suboption 1: Prohibit transfers of issued permits for individual vessels that qualified at trip levels less than 10, 15, or 20 trips as reported in the ADF&G logbook.

Issue 6. **Leasing** of permits would not be allowed.[7]

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

*Highest number on any trip in 2004 or 2005, but not less than 4.
Suboption 1: Area 2C: cap maximum endorsements at 6, 8, 10, or 15
Area 3A: cap maximum endorsements at 10, 15, 20*, or 25

*Suboption 2: Permit holders can be issued a permit endorsement for the number of clients on board equal to the highest number on any trip in 2004 or 2005. Permits above the cap are grandfathered at that level until a permanent transfer[8] of the permit occurs; the permit is then subject to the cap on client endorsements in Suboption 1.

Issue 8. **Permits may be stacked** up to use caps.[9]

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

[3] Through initial issuance and transfers.

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

[5] Transferred permits would not be grandfathered below the US ownership cap, even upon sale of a business, but would be grandfathered above the use cap upon sale of the entire business (see Issue 11).

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

[7] Halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. The permit number must be recorded on the logbook for each trip.

[8] A permanent transfer is defined as either a transfer of the permit through NMFS RAM Division to an unrelated entity or when persons are added to an existing entity. Removing a person from a corporation or partnership would not be considered a permanent transfer.

[9] A business can use, for example, two licenses (each endorsed for 6 clients) on one vessel.

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

Issue 10. **Qualification period**

*****Option 10.1: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10*, 15*, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation[10] would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance[11] occurred. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.

Example: a business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum (24/20 = 1); 2 permits under a 10 trip minimum (24/10 = 2); or 3 permits under a 5 trip minimum (24/5 = 4, but the maximum number of vessels in that year is 3).

Option 10.2: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation[7] would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance[8] occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.

Example: Under a 5 trip threshold, a vessel with 10 trips generates 1 permit; second and third vessels with 3 trips each earn 1 permit by combining their trips.

Issue 11. **Use caps**, with grandfather[12] provision. The AFA 10% ownership rule for affiliation[13] will be applied to determine the number of permits associated with an entity under the use cap.

Option 1. 1 permit
*Option 2. 5 permits
Option 3. 10 permits

Issue 12. **Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66**

A Community Quota Entity (CQE), representing a community in which [5 or fewer or *10 or fewer] active[14] charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits.

[10] "Year prior to implementation" could also mean two years prior to implementation, depending on the starting date of the application period for permits; e.g., the threshold would also need to be met in either 2007 or 2008, for implementation in 2009.

[11] Acceptable circumstances will be adjudicated on a case by case basis through the National Marine Fisheries Appeals Division, but includes medical emergencies, military exemptions, constructive losses. An individual who was assigned to active military duty during 2004 or 2005 and who qualifies as "active " during the year prior to implementation[7] and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A.(prior to the qualifying period) shall be eligible for a moratorium permit.

[12] A business whose permit is endorsed in excess of the use cap maintains that exemption for those permits that remain in its control after other permits are sold, but those sold permits lose that grandfather status in perpetuity. Grandfathered permits that are sold in total when a business owner sells his entire business/fleet maintain that grandfathered status. Grandfathered status refers to permits, not to vessels.

[13] Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

[14] "Active" is defined as it is under Issue 10 (e.g., either at least 1, 5, 10, 15, or 20 bottomfish trips).

Area 2C – use cap of 3, 4*, 5*, or 7 requested permits per eligible community.
Area 3A – use cap of 4*, 5*, 7*, 10*, or 15 requested permits per eligible community.

Overall use caps for CQEs (different use caps may be selected for CQEs representing communities in Area 2C and 3A):

Option 1: 1, 3, or 5 times those selected for permits holders under Issue 11.
*Option 2: 2 times those selected for the CQE requested permit use cap for each area.

*Provisions for CQE requested permits:

- Designated for the area in which the community represented by the CQE is located
- Endorsed for 6 clients
- Not allowed to be sold (i.e., transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

Description of Alternative 1

Status quo in the halibut charter fishery is constructed from all of the current regulations. The GHL for the charter halibut fishery sets a target charter harvest level of 1.432 M lb net weight in Area 2C and 3.65 M lb net weight in Area 3A. Removal estimates for Area 2C were 1.95 M lbs and 3A 3.69 M lbs in 2005. Landings in 2005 were 36% and 1% over the 2C and 3A GHLs, respectively. Other management measures currently in place include a two fish bag limit, 2-hook gear limit, guide registration requirements, limits on captain and crew harvests (they were prohibited from retaining halibut during part of 2006 in Area 2C), and other State and Federal management and safety requirements. Based on recent harvest amounts, the GHL has not constrained charter catches to their target level.

Continuing the status quo would allow the amount of halibut caught and retained on charter vessels to increase. The number of clients who take charter trips is a primary factor in determining the number of halibut retained. Clients decide whether to take a trip after considering the price of the trip, their income, the cost of other available activities that could substitute for a charter trip, and preferences for charter trips relative to other activities. Since the number of people in Alaska during the summer months has increased (both residents and non-residents) in recent years, it is likely that the demand[15] for charter trips will continue to increase.

If charter harvests increase, the amount of halibut available to the Area 2C and 3A commercial halibut IFQ fisheries would be expected to decline when the CEY is constant or declining. Whether the decrease in the amount of halibut available to the IFQ fishery decreases their revenue depends on the elasticities of supply and demand. Recent studies have found that the ex-vessel price of halibut is not very responsive to changes in quantity. In terms of total revenue, decreases in the quantity harvested will not be offset by increases in price. Members of the commercial IFQ fleet continue to express concerns about the impact that a declining share of the fishery will have on their businesses, both in terms of Area 2C and 3A QS value and profitability. Post-harvest surplus will also decline with less Alaskan halibut in the market.

Continuing the status quo will likely continue the patterns of net benefit changes derived from the fishery by commercial charter operations and the clients that take trips in the future. Charter operators will make

[15] If other factors such as income and preferences to take charter trips are unchanged.

normal profits and the total compensating variation derived by clients will increase. Entry and exit in the fishery will redistribute regional economic impacts but are not expected to change total net benefits. A competitive market will continue to determine the price of trips. Those charter operators willing to accept the market price will provide trips and clients willing to accept that price will take trips.

Description of Alternative 2

The moratorium is intended to stabilize the number of charter vessels that may operate at one time while the Council considers if a more comprehensive effort limitation program is necessary. The effect of the moratorium is to limit the number of vessels to those "active" during the qualifying period. The proposed moratorium by itself will not fully control fishing effort because the permitted fleet may react by increasing the annual number of trips per vessel or by taking more clients per trip on average.

A large segment of the current charter fleet operators and commercial IFQ fishermen support implementing some form of moratorium. The Council is considering whether more comprehensive limited entry actions are needed in a follow-up amendment. Participants in the commercial IFQ fishery, as a whole, appear to be proponents of implementing stronger effort controls under future actions. Recreational fishermen and persons just entering (or wishing to enter) the charter fishery, often oppose or are less supportive of the moratorium and future actions. Winners in future allocation decisions are likely the persons that hold permits allocated under this action.

Impact of Alternative 2

Permits. The proposed moratorium would allow permits to only be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership. Currently there is no U.S. ownership requirement for businesses operating halibut charter businesses. Requiring 75 percent U.S. ownership will help ensure that producer surplus generated from the halibut charter fishery will accrue to U.S. businesses. The only exception to this rule is that initial permit recipients may be "grandfathered" below the U.S. ownership level. Any transfers will need to be sold to persons meeting the U.S. ownership requirements. This rule will insure that over time the percentage of the halibut charter industry owned by U.S. businesses will increase, if permits are initially allocated to persons not meeting the U.S. ownership requirement.

The action also allows businesses to receive multiple permits if they submitted ADF&G logbooks for more than one qualifying vessel. Allowing businesses to be initially allocated multiple permits will allow those businesses to continue their historic participation patterns.

Permit would be designated for Area 2C and/or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip. Only a couple of vessels potentially qualify for a permit in both areas based on the history of a single vessel. Designating the IPHC area where a permit may be used will restrict movement of permits from one IPHC area to another and maintain the number of permits that may operate in an area. In the near term, limiting moratorium permits to a specific IPHC area is not expected to have a substantial impact on charter businesses or guided anglers. If conditions change in the fishery and clients want to take more trips in an area, the restrictions could impact the availability and price of trips. The action will not constrain effort in specific ports. Movement of permits into specific ports could increase competition at that port. Increased competition for clients could benefit guided anglers through lower prices, but increased fishing effort could impact catch rates if localized depletion of halibut results from effort increases.

Permit would be issued to an ADF&G licensed fishing guide business owner. The initial allocation of transferable fishing privileges is typically one of the most scrutinized and contentious aspects of a limited

entry program's design. Recipients of the initial allocation, in cases where the privilege is gifted or a small fee is charged, are considered the winners of the allocation process. Those that do not qualify for the initial allocation are considered the losers. The initial allocation is important because subsequent purchasers of the privilege would be required to pay the market price (when freely transferable); that price represents an increase in profits to initial recipients because they were not required to pay for the fishing privilege.

There are at least four different methods that could be used to initially allocate moratorium permits. The first method would be to allocate permits based on historic participation in the fishery. The time it takes to develop a limited entry program through the Council process creates opportunities for persons to enter the fishery or increase their historic participation to obtain permits. This rent-seeking behavior results in economically wasteful activities (Criddle, 2006). Trends in the number of businesses and vessels participating in the 2C and 3A charter fishery seem to reflect that notion.

A lottery could also be used to initially issue permits. Lotteries typically issue the permit to a person at no charge and have been used to allocate hunting and fishing licenses in the U.S. If a lottery was used to allocate charter permits at no charge, the economic impacts for the winners and losers would be similar to those under allocations based on historic participation.

Auctions have been discussed in recent years as a method to create an efficient initial allocation (Morgan, 1995) and as a mechanism for the government to better control the use of the public resource while providing financial return to public owners of the resource (Macinko, 2002). From an economic perspective, auctions would provide an efficient method of allocating fishing privileges because they allocate permits to those persons who place the greatest value on them. Auctions could determine the market value of the permits and allow the Council and NMFS to determine the number of permits they want to issue and auction only that amount. Auctions that sell to the highest bidder would generate the greatest revenue for the government, but other types of auctions could also be developed that allow the government to meet the needs of persons without the financial resources to successfully bid (Macinko, 2002). Currently, the MSA does not give the Council the authority to auction limited entry permits to the highest bidder.[16]

The final method would have the government sell permits for a fixed price. Setting the sale price is problematic. Setting the price too high could prevent persons from buying all the permits. Too low of a price would create excess demand and persons would engage in behavior to collect rents from the fishery. Like with auctions, NMFS currently does not have the authority to sell permits.

Given the current regulatory restrictions, the Council's preference is to issue the permits to licensed sport fishing businesses based on historic participation in the charter fishery. Because the allocation is not market based, the initial distribution of permits will likely not be as economically optimal as a market based system. Permit transfers after the initial will help redistribute the permits to those persons who value them the most.

Permit applicant would be required to sign affidavit attesting that all legal requirements were met. The goal is to encourage permit applicants to provide true and accurate information on their permit application. Additional requirements to qualify for a permit are discussed under the recordkeeping and enforcement section of this amendment. Any additional recordkeeping and reporting requirements will increase the cost of doing business for the charter operators. However, the additional costs associated with signing an affidavit should be minimal. NMFS will also incur costs associated with developing,

[16]Personal comm., NOAA GC, John Lepore, 2/20/07.

distributing, and verifying information submitted on the affidavit. Those costs are also expected to be relatively small.

Transfers of permits (permanent) would be allowed up to use caps. An option is also proposed to make a subset of the permits non-transferable (Table E - 1), based on a minimum trip threshold. Transferability facilitates the development of a market in which permits are traded. After the initial allocation of permits, market forces would determine access to the fishery. Newcomers would buy permits to enter the fishery, and retirees would be paid to leave. Competition in the market for permits ensures that those most willing or able to buy permits would eventually acquire them. For an industry such as the for-hire charter sector that is characterized by a high turnover rate, transferability of permits assumes particular importance. It would allow the more efficient operators to remain or enter the fishery while the less efficient ones would be compensated for leaving the fishery.

Because of the structure of the halibut charter fishery, limiting the use of non-transferable permits by persons other than the owner will be difficult. Allowing others to use the permit (see the permit leasing section) could, at least temporary, increase effort associated with non-transferable permits.

Table E - 1 Number of businesses issued transferable and/or non-transferable permits

Min. # of trips	Permit type(s) issued to business	Option 10.1					Option 10.2				
		1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
10	Both	68	65	62	45	39	68	39	18	13	8
	Transferable only	668	671	674	627	573	668	697	718	659	603
	Non-trans. only	224	112	14	5	1	224	111	14	4	1
10 Total		960	848	750	677	613	960	847	750	676	612
15	Both	83	80	79	62	54	83	57	41	23	15
	Transferable only	587	590	591	608	556	587	613	629	647	594
	Non-trans. only	290	178	80	7	3	290	177	80	6	3
15 Total		960	848	750	677	613	960	847	750	676	612
20	Both	84	81	81	72	64	84	62	51	38	21
	Transferable only	516	519	519	528	536	516	538	549	562	578
	Non-trans. only	360	248	150	77	13	360	247	150	76	13
20 Total		960	848	750	677	613	960	847	750	676	612

Source: ADF&G Saltwater Logbook data for 2004 and 2005.

Permit prices reflect the profits generated from its use. Public testimony at recent Council meetings indicated that charter operators anticipate that permits will initially sell for about $5,000. Until a competitive market for those permits is established, the actual price will be unknown. The value of permits that allow a person to carry more clients is expected to sell for a higher price than a permit endorsed for fewer clients. The difference in permit prices should reflect the change in profits that can be generated by the two permits.

Leasing of permits (annual) would not be allowed. Prohibitions on leasing stem from a desire to keep persons from holding permits for the sole purpose of generating income from active participants. Tracking whether halibut charter moratorium permits are being leased may be difficult without a provision such as owner-on-board. Those requirements may not be practical because of the structure of the halibut charter fishery.

Business arrangements used in the fishery may make it difficult to determine with certainty whether permits are being leased to a captain for a year or if the captain is working as an employee of the owner. Given the structure of business arrangements within the halibut charter industry, enforcing a prohibition

on permit leases may be difficult without additional requirements. The Council included some restrictions under this issue with the intent of deterring leasing: halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G logbook that is assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they first must obtain an ADF&G logbook for the new vessel. The permit number must be recorded on the logbook for each trip.

Permit endorsement for number of clients on board would be set equal to the highest number of clients on any trip in 2004 or 2005, but not less than four. Options to cap the number of clients at a fixed number are also proposed for each area. Another option is proposed to allow permit holders to be grandfathered above the cap until such time that a permanent transfer of the permit occurs. Upon transfer, the permit would be subject to the fixed cap on the number of clients. The intent of this provision is to limit effort increases by restricting the number of clients a vessel may carry.

In Area 2C, only 6 rods are allowed to be fished at any given time on halibut charter vessels but more than 6 clients may be on the vessel if the vessel is permitted to carry them. ADF&G staff notes that some vessels carry more than 6 clients when only six lines are fished at one time. Limiting the number of clients that a vessel may carry could reduce revenues for owners that base their business plan on carrying more than 6 clients but allowing only 6 to fish at one time. Table E - 2 provides a summary of the number of clients that each permit allows to fish.

Table E - 2 Number of clients endorsed to fish by permit

IPHC Area	Maximum Clients	Option 10.1					Option 10.2				
		1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
2C	4	319	266	225	197	173	319	245	193	164	143
	5	187	176	163	150	140	187	172	158	147	137
	6	233	228	214	201	183	233	225	209	196	178
	7+	22	19	17	14	13	22	19	18	14	13
2C Total		761	689	619	562	509	761	661	578	521	471
3A	4	144	107	84	63	47	144	98	75	59	41
	5	68	64	56	48	43	68	60	51	42	37
	6	346	337	321	306	293	346	335	316	299	281
	7+	104	103	100	98	98	104	103	99	97	96
3A Total		662	611	561	515	481	662	596	541	497	455

Wilen (2006) has indicated that in sport charters there are likely too many boats, taking trips at less than full capacity. This practice could result in too much effort being expended finding and catching fish. The result is that trip prices are higher than they would need to be if trips were taken at full capacity. Client anglers must then pay higher trip prices to cover those costs. The reduced "efficiency" resulting from limiting the number of clients that may be carried is borne through reductions in revenue by the holders of permits endorsed for fewer clients than they can carry.

Permits may be stacked up to the use caps. Permits may be stacked or unstacked at any time. Assigning more than one permit to a vessel increases the number of clients the vessel may carry. The number of clients the vessel may carry is equal to the aggregate number of clients endorsed on the permits assigned to the vessel. The ability to stack permits provides operators the freedom to increase the number of clients carried on one vessel. Unstacking permits allows operators to increase the number of vessels they operate but vessels on average will carry fewer clients. There may be efficiency reasons to increase the number of clients a vessel may carry. Charter business operators operating at an economic

disadvantage as a result of limits on the number of clients they may carry could stack Permits to spread the trip costs over more clients. Efficiency gains could benefit guided anglers and charter operators.

Evidence of participation is based on ADF&G saltwater logbook entry with bottomfish statistical area, rods, or boat hours. Because the initial allocation of permits is based on historic participation, a data set that contains participation history of the vessels and businesses in the charter fleet is needed. After considering all data sources available, the Council concluded the best source of participation data for the halibut charter fishery is ADF&G saltwater logbooks with bottomfish activity. While ADF&G saltwater logbooks are not designed to allow halibut data to be separated from other bottomfish data, they represent the most complete and accurate data available for recent participation.

Qualification period defines the participation requirements for a permit. The Council is currently considering two options. Both options are based on the catch history of vessels operating in the saltwater bottomfish fishery as reported in ADF&G saltwater logbooks. Both options require a minimum number of trips during 2004 or 2005 and in the year prior to implementation of the program. The minimum trip requirements under consideration are 1, 5, 10, 15, or 20 trips. The two options differ in how the number of trips is calculated for businesses with multiple vessels that individually do not meet the minimum trip requirement. Option 10.1 allows all the trips by vessels for which the business submitted logbooks to be included in the number of trips calculation; while Option 10.2 separates the trips of vessels that qualify based on their own activity and those that do not. This calculation would award permits for vessels that individually meet the minimum number of trips and for vessels that collectively meet the minimum requirement.

Option 10.1: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and the year prior to implementation would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance occurred. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.[17]

Option 10.2: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and the year prior to implementation would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.[18]

Table E - 3 provides an estimate of the number of permits that would be issued to qualified businesses under the two options. Information is also presented for the number of unique logbooks that were submitted in 2005 and the number of businesses that submitted those logbooks, such that the number of permits estimated to be issued to businesses under each of the options can be compared to 2005 participation. The maximum number of permits a business may be issued is equal to the maximum number of logbooks that were submitted in a year (2004 or 2005) by the business.

[17] Example: A business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best qualifying year. He would be issued 1 permit under a 20-trip minimum (24/20 = 1); 2 permits under a 10-trip minimum (24/10 = 2); or 3 permits under a 5-trip minimum (24/5 = 4, but the maximum number of vessels in that year is 3).

[18] Example: Under a 5-trip threshold, a vessel with 10 trips generates 1 permit; second and third vessels with 3 trips combined earn 1 permit by combining their trips.

Table E - 3 Estimated number of permits that would be issued and the number of businesses receiving the permits

Minimum Number of Trips Required to Qualify	Option 10.1		Option 10.2	
	Permits	**Businesses**	**Permits**	**Businesses**
	AREA 2C			
2005 Participation	654	381		
1 or More Trips	761	446	761	446
5 or More Trips	689	380	661	380
10 or More Trips	619	327	578	327
15 or More Trips	562	291	521	291
20 or More Trips	509	255	471	255
	AREA 3A			
2005 Participation	567	450		
1 or More Trips	662	520	662	520
5 or More Trips	611	471	596	471
10 or More Trips	561	426	541	426
15 or More Trips	515	388	497	388
20 or More Trips	481	360	455	360

Source: ADF&G Bottomfish Logbook data, 2004 and 2005.
Note: The numbers reported in this table represent the maximum number that could qualify if everyone represented in this table meets the additional qualification requirement of fishing in the year prior to Council action.

In IPHC Area 2C during 2005, a total of 381 businesses submitted entries from 654 different logbooks. In Area 3A, 450 businesses submitted reports from 567 logbooks. Based on the qualification criterion being considered by the Council, between 471 (at 20 or more trips) and 761 (at 1 or more trips) permits could be issued in Area 2C. Between 455 (at 20 or more trips) and 662 (at 1 or more trips) permits could be issued in Area 3A. These estimates do not take into account the minimum trip requirement in the year prior to implementation of the program, because those data are unavailable. So, these estimates represent the maximum number of permits that would be issued.

More permits would be issued under the 1 or 5 trip alternatives than logbook entries submitted in 2005. Fewer permits would be issued under the 10, 15, and 20 trip requirements. Because the table does not take into account participation in the year prior to implementation, it is possible that a requirement of 5 or more trips could reduce the number of permits below 2005 participation levels. However, it is unlikely that the 1-trip requirement would reduce the number of permits to that level.

The number of businesses does not change under the two options at comparable trip level requirements. More permits are issued under Option 10.1 because all the trips for the business are summed to determine which vessels qualify. Under Option 10.2 only the vessels that do not qualify with their own history may combine their trips to qualify. The additional number of permits issued in Area 2C under Option 10.1 is 28, 41, 41, and 38 at the 5, 10, 15, and 20-trip level, respectively. In Area 3A, the change is smaller. It ranges from 15 at the 5-trip level up to 26 at the 20-trip level.

Under a one-trip requirement for a permit, the difference in the number of permits allocated permits versus fished in 2005 is about 100. A one-trip requirement would allow capacity (in terms of vessels and client trips) to expand over historic levels. A five-trip requirement would allow up to 35 more vessels to operate in Area 2C and 44 more vessels in Area 3A than operated in 2005. A 10-trip, 15-trip, or 20-trip requirement would reduce the number of vessels that could operate in Area 2C and Area 3A below 2005 levels. A 10-trip requirement results in a decrease of 35 to 76 vessels in Area 2C and 6 to 26 vessels in Area 3A compared to 2005 levels; a 15-trip requirement decreases the number of vessels by 92 to 133 in

Area 2C and 52 to 70 vessels in Area 3A compared to 2005 levels. A 20-trip requirement in Area 2C decreases the number of vessels by approximately 145 to 183, depending on the option selected. In Area 3A, the decrease is 86 to 112 vessels, depending on the option selected. A decrease in the number of vessels does not mean the total number of clients would decline. For example, in 2004, the average Area 2C charter carried 3.5 paying clients. In Area 3A, the average charter carried 5.16 clients. Given the number of clients endorsed for permits in those areas, it appears that more clients could be carried at the 10-trip requirement than fished in 2005.

The average number of clients that each qualified vessel would need to carry to reach 2005 participation levels ranges from 27 to 57, depending on the option selected. If a vessel carries an average of 4 clients per trip (a conservative assumption), each qualified vessel would need to take 7 to 15 trips per year to carry the number of clients that took charters in 2005. Since the charter season lasts approximately 100 days, a sufficient number of vessels appear to qualify to meet current client demand. However, there may be specific times of the year when client demand for trips exceed supply at the prevailing trip price.

Information that is currently available does not allow a formal study of the economic impacts that the charter sector has on regions or communities to be conducted. Information on charter operator's expenditures in the various communities and the products purchased, expenditures by clients as a result of taking the charter trip, and the dollars that flow to the community in terms wages and profits would be required. Collecting that information is outside the scope of this analysis.

Charter fisheries impact the economies of communities by providing jobs and increasing sales. The sales generate income for charter operations and secondary businesses and tax revenue for local, State, and Federal governments. The number of jobs and expenditures cannot be estimated in this analysis. However, the communities that have the most active charter industry would be expected to realize the most benefits.

Because the halibut resource is fully utilized, increases in charter harvests decrease the amount of halibut available to the commercial IFQ fishery. Communities that are dependent on the commercial IFQ fishery could be worse off if the charter fishery increased harvests, but the actual impacts cannot be quantified.

Changes in the number of qualified vessels that ended a trip in a specified community seem to indicate that selecting a 20-trip requirement would impact Area 2C more than Area 3A. Auke Bay, Petersburg, Sitka, and Ketchikan would realize substantial reductions in the number of permits landing in their community when compared to the 1-trip option. Many of these same communities are also active in the commercial IFQ fishery. However, because the overall amount of halibut taken by the charter fleet in Area 2C is not expected to decline, these communities could lose jobs and revenues from both the commercial and charter sectors as a result of implementing a more restrictive moratorium.

Use caps are being considered at the 1, 5, and 10 permit levels. A grandfather provision, if selected, would allow the businesses to operate at historic levels. The American Fisheries Act (AFA) 10 percent ownership rule for affiliation will be applied to determine the number of permits associated with an entity under the use cap.

Use caps limit the number of moratorium permits that may be held or used by an eligible halibut charter operator. Use caps may not be exceeded unless the entity subject to the use cap is specifically allowed to exceed a cap according to the criteria established by the grandfather provision. The caps apply to both the number of permits that a person may hold (own, lease, or control through a business arrangement) or use because NMFS will not issue permits in excess of those allowed to be used.

Table E - 4 shows the maximum number of businesses that would be grandfathered under each of the options being considered. These grandfathered businesses would not be allowed to purchase additional permits until they are below the use cap. Restricting these owners from buying permits could reduce the permit price, by eliminating efficient businesses from the market. As the number of trips required increases, the number of entities that would be grandfathered tends to decrease.

Table E - 4 Number of businesses grandfathered at various use caps

Number of Businesses Grandfathered	Option 10.1		Option 10.2	
	2C	3A	2C	3A
	1 Trip			
Option 1 (2+ Permits)	116	85	116	85
Option 2 (6+ Permits)	16	2	16	2
Option 3 (11+ Permits)	5	0	5	0
	5 Trips			
Option 1 (2+ Permits)	112	84	101	78
Option 2 (6+ Permits)	16	2	15	2
Option 3 (11+ Permits)	5	0	5	0
	10 Trips			
Option 1 (2+ Permits)	100	80	84	73
Option 2 (6+ Permits)	16	2	13	2
Option 3 (11+ Permits)	4	0	5	0
	15 Trips			
Option 1 (2+ Permits)	89	75	75	68
Option 2 (6+ Permits)	15	2	12	2
Option 3 (11+ Permits)	3	0	1	0
	20 Trips			
Option 1 (2+ Permits)	81	73	69	63
Option 2 (6+ Permits)	14	2	11	1
Option 3 (11+ Permits)	2	0	1	0

Source: ADF&G Bottomfish Logbooks, 2004 and 2005.
Note: This table represents the maximum number of businesses that could be grandfathered. It assumes all vessels that qualified for a permit based on 2004 or 2005 activity would also have sufficient activity in the year prior to implementation to qualify.

The 10 percent ownership rule was used in the AFA to define an entity. The AFA definition states that any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity they shall be considered to be the same entity. The AFA definition will also be used to determine the permits associated with an entity under the use cap. NMFS will need to collect information to determine the ownership structure of businesses. Businesses will also be required to notify NMFS any time their ownership structure changes. This information will be held by NMFS as confidential information and not released to the general public.

It is assumed that most persons gaining permits through transfer are efficient charter operators. Constraining the most efficient operators' use of permits is expected to reduce producer surplus of charter businesses. Consumer surplus could also be reduced if these operators could have provided trips that generate more client utility than other businesses. However, the Magnuson Stevens Act directs Councils to ensure that entities do not control an excessive share of a fishery. A cost of ensuring that no one entity controls an excessive share of the fishery is the potential of reduced net benefits.

Community provisions are addressed under Issue 12. Issue 12 includes provisions which specifically provide for small, rural community participation in the halibut charter limited entry program. Communities in Area 2C and 3A that meet the criteria selected will be eligible to request a specified number of non-transferable halibut charter limited entry permits from NMFS at no cost, similar to businesses that initially qualify to receive a permit under the general program. The eligibility criteria are designed with the intent of narrowing the eligible communities to those that do not already have a specified minimum level of participation in the halibut charter fisheries in 2004 or 2005.

Recognizing that substantial growth in the charter industry has been limited to relatively few larger, more accessible communities in Area 2C and 3A, businesses in these communities would likely receive the majority of limited entry permits allocated under the proposed moratorium program. The community provisions under Issue 12 are intended to remove a new economic barrier (cost of the halibut charter permit) for small, isolated communities with undeveloped or under-developed charter industries to participate in the halibut charter industry. The intent is to encourage and support existing or new businesses to operate out of small rural communities in Area 2C and 3A that have under-developed halibut charter industries.

The beneficiary of the community provisions (i.e., holder of the charter halibut permit) is the Community Quota Entity (CQE) representing an eligible community. A CQE is a non-profit entity originally established under GOA Amendment 66, formed by the community in order to participate in the commercial halibut and sablefish IFQ program. An eligible community must form a CQE and have it approved by NMFS in order to request halibut charter permits under this program. In effect, the CQE would be issued the permit and would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. Permits requested by CQEs would be subject to additional restrictions that vary from those of other permit holders, primary of which is that the permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

Under the range of options for consideration in Issue 12, depending on the eligibility criteria selected, a range of 13–19 Area 2C communities and 10–14 Area 3A communities could qualify to receive halibut charter permits, for a total of 23–33 communities. (Note that these communities must also form CQEs to participate, only 9 of which have been formed in Area 2C and Area 3A combined to-date.) Depending on the limits (use caps) selected for the number of requested permits, a maximum of 39 – 133 new permits could be issued to CQEs in Area 2C and 40 – 210 new permits in Area 3A.

Council preliminary preferred alternative

In February 2007, the Council identified Alternative 2 as its preliminary preferred alternative. In some cases, the Council did not choose one option under its preliminary preferred alternative, but noted several options under serious consideration. The **Council's preliminary preferred alternative, under Issues 1 through 11**, would issue a maximum of 562 to 619 permits in Area 2C and 515 to 561 permits in Area 3A to fishing guide business owners. The permits would be issued based on bottomfish statistical area, rods, or boat hour activity reported in ADF&G saltwater logbooks. Leasing would not be allowed, but it is recognized that enforcement of the no leasing provision may not be possible and could result in increased usage of a permit.

Permits may be owned by persons meeting a 75 percent U.S. ownership requirement, with persons under the requirement being grandfathered at the time of initial allocation. Requiring U.S. ownership will help ensure that the normal profits earned by the fleet will stay in the U.S. economy.

Permits would be endorsed with the maximum number of clients that could be taken on a halibut charter trip. The endorsement would be determined based on the maximum number of clients the qualifying

vessel carried on any one halibut charter trip in 2004 or 2005. Each permit would be endorsed for a minimum of 4 clients and the Council is considering capping the endorsements at 8 clients in Area 2C and 20 clients in Area 3A. The Council is also considering a suboption that would grandfather persons over the cap at the maximum number of clients carried in 2004 or 2005 until the permit is permanently transferred, at which time the grandfather rights are removed. A maximum of 3 to 4 vessels would be over the proposed Area 2C client endorsement cap and 13 would be over the Area 3A cap. The client endorsement cap is expected to reduce the total number of clients that could be carried in a year by 0.6 percent to 1.3 percent per day in Area 2C and 3.5 percent to 6.4 percent in Area 3A, if all the permits eventually are sold and lose their grandfather privilege. It is unlikely that all of those permits would be sold in the near future.

A use cap of 5 permits would be implemented, meaning no entity (using the 10 percent affiliation rule) would be allowed to control or use more than 5 permits, unless they were issued more than 5 permits at the time of initial allocation. Preliminary data shows that 15 to 16 entities would be over the Area 2C use cap at initial issuance and 2 entities would be over the Area 3A cap. Additional ownership data must be collected by NMFS before actual estimates of the number of entities over the cap, using the 10 percent rule, can be provided. Persons grandfathered in above the cap would be allowed to sell all of their permits, as a package, along with the halibut charter business. Stacking of permits up to the use cap would be allowed. The purpose of stacking a permit would be to increase the number of clients that may be carried on a halibut charter vessel. Implementing a use cap helps ensure that no one entity controls an excessive share of the permits.

The purpose of the proposed moratorium is to provide an interim measure of stability in the guided sport sector in the step-wise process towards a long-term solution. Limiting new entry into the fishery by requiring a moratorium permit should provide some stability for the sector. Identifying participation with a moratorium permit should provide a solid foundation on which to build future management programs. While increased harvests by the guided sport sector are driving the long-term solutions being considered by the Council, the moratorium is not expected to limit charter harvests. The fleet will have room to expand from the current level of harvest by more fully utilizing the qualified vessels and increasing the average number of clients carried (moving the average closer to the endorsement cap). Through these measures alone, the fleet could increase the number of clients they carry (and catch if the mean catch per angler is constant) by a minimum of about 2 times their current levels. If the number of vessels and clients per trip constrain the fleet, they could increase the average number of trips per day through creative marketing or operational structures.

The Council's preferred moratorium structure (or any structure proposed) is expected to allow increased charter harvests over the next several years. Increases in charter harvests will lead to increased total compensating variation earned by charter clients. The fleet should continue to operate as competitors since a large number of fairly homogeneous operators with excess capacity will exist in the fleet. The competition for clients will mean that over the long-term charter operators will earn little or no producer surplus.

All other things being equal, the Area 2C and 3A harvests by the commercial IFQ fishery will decline. Because they operate in a fishery where they are not competing for catch, they will continue to earn some producer surplus, but the total amount will be reduced due the inelastic ex-vessel price of halibut. Because the anticipated revenue stream of IFQs will decline as a result of decreased catch, the value of Area 2C and 3A QS will decline to reflect that reduction. To the limited extent that decreases in Area 2C and 3A catch increases ex-vessel halibut prices, the QS/CDQ values in Areas 3B through 4E should increase to reflect the larger net revenue stream. Post-harvest surplus (consumer surplus) will decline as consumers of commercially caught halibut find less halibut in the market.

Changes in the net National benefit derived from increased charter harvests will depend on the difference between the compensating variation earned by charter clients and the port-harvest surplus earned by consumers of commercially caught halibut. If the change in compensating variation is larger, net National benefits will increase by allowing additional charter harvests. If the change in post-harvest surplus is larger than the change in compensating variation, then net National benefits will decline.

Changing the locations of fishing expenditures will result in shifts in regional benefits. The change in regional benefits cannot be estimated by considering only the charter or the commercial sector, since they tend to operate out of many of the same communities. Increasing the charter harvests is expected to increase the amount of client and charter business expenditures in the communities that attract the additional business. If the increased charter harvest results in decreased commercial expenditures, the community may be better or worse off, depending on the relative magnitude of the expenditures. Regions or communities in which the fleet takes fewer trips or catches less fish will likely realize reduced expenditures. The reduction in expenditures will reduce personal income and jobs in the community. Overall, the net National benefits are not expected to change as a result of shifts in regional benefits. Appendix 2 provides a general overview of the activity by community in the charter and commercial fisheries.

The **Council's preliminary preferred alternative under Issue 12** would allow 18 communities in Area 2C and 14 communities in Area 3A to request a limited number of halibut charter permits from NMFS at no cost. The limit (use cap) on the number of permits that each CQE could request from NMFS under the preliminary preferred alternative ranges from 4 or 5 permits per eligible Area 2C community and 4 to 10 permits per eligible Area 3A community. Thus, if 18 Area 2C communities qualify and form CQEs, the maximum number of new permits that could be created for CQEs representing eligible Area 2C communities is 72 – 90 permits, depending upon the use cap option selected. In Area 3A, in which 14 communities qualify, the maximum number of new permits that could be created is 56 – 140 permits.

Under the Council's preliminary preferred alternative under Issue 10 (Option 10.1 and using a 10-trip threshold), 619 permits are estimated to be issued in Area 2C and 561 permits in Area 3A under the general program. Thus, under Issue 12 and depending upon the use cap selected, the pool of Area 2C permits could be increased by 11.6% - 14.5%, with those additional permits issued to CQEs. The pool of Area 3A permits could be increased by 10.0% - 25.0%. Use caps on the total number of permits each CQE could hold (whether requested or purchased permits) are also proposed. The Council selected an overall use cap of two times the use cap selected for the requested CQE permits in each area. This use cap would apply to all 35 GOA Amendment 66 communities, meaning the 3 Amendment 66 communities that do not qualify to receive new permits at no cost would be subject to the same overall use cap as those that do qualify.

Issue 12 is described and analyzed in Section 2.5.12, including a summary of the Council's preliminary preferred alternative. A summary of the overall effects of the options under consideration in Issue 12 on the various sectors is provided in Section 2.5.12.6. Creating additional permits to be held by CQEs would conflict in part with the goal to limit new effort in the charter halibut sector, and could potentially result in further negative impacts on the commercial halibut sector and the communities that benefit from the commercial fishery. This effect may be partially offset by the number of permits issued under the general charter moratorium program, which depends on the qualification criteria selected. In general, it is a policy decision by the Council to determine the appropriate number of permits created for use by CQEs, in order to balance the dual goals of limiting entry and reducing an economic barrier to future access for small, rural communities.

The market for charter permits could be affected by the provision to allow CQEs to hold charter permits, as charter operators seeking to enter the fishery may choose to apply for use of a permit through the

community CQE as an alternative to purchasing their own permit. While the pool of potential buyers may be reduced, the number of permits available for sale on the open market would not be affected (CQE requested permits are not transferable), which may result in downward pressure on the price of permits for charter operators seeking to purchase a permit. This would affect both the existing charter sector and new entrants into the fishery.

The existing charter sector could also be affected by an influx of new or expanded charter operations through CQE permits, depending upon the level of participation by rural communities. As the CQE must use the permit in its member community, charter operators in other communities may not be substantially affected, even with the overall increase in competition. However, there may be some negative affects on existing charter operators in the Amendment 66 communities, as they realize increased competition within their community. In part, the eligibility criteria are intended to exclude Amendment 66 communities whose charter halibut market is already relatively developed or saturated.

Guided anglers may benefit from an overall increase in the supply of charter opportunities and the geographic diversity of charter operations available in rural areas through the CQE permits. An increased supply of permits may also result in downward pressure on the price of a charter trip for a guided angler.

The implementation of this provision is anticipated to maintain access to the halibut charter fishery, and an associated fisheries-based economic structure, for specified small, rural communities. CQE-held charter permits may enable residents from these communities, or residents of other communities, to participate in a fishery from which they might otherwise be excluded due to the cost of purchasing a permit.

Implementation and enforcement issues

Permit issuance. To qualify for a halibut charter moratorium permit, a person must demonstrate a minimum number of bottomfishing trips as reported in the ADF&G logbook in 2004 or 2005 and the year prior to implementation. For this reason, NMFS will need access to the person's historical logbook and business information to determine the number of permits issued and associated client and area endorsements. A current State of Alaska statute prevents direct access of ADF&G logbook or ADF&G business license information by NMFS or NOAA Office of Law Enforcement (OLE). Federal access to these sources of information would require the State of Alaska legislature to amend the State confidentiality statute.

At the December 2006 and February 2007 Council meetings, ADF&G indicated that it is seeking a legislative change to the confidentiality statute during the 2007 legislative session. If the legislative change is not adequate or fails to pass the State of Alaska Legislature prior to the application period for the moratorium, NMFS would need to obtain charter business and logbook information directly from permit applicants. This option is much less desirable than the direct access provided by a statuary change because it increases the burden on both the operator and agencies, and does not allow NMFS to contact persons with eligible catch history.

Persons applying for a charter moratorium permit would be required to provide a complete application to NMFS during a designated application period which would not be less than a 90-day period. Applicants who have made claims that are inconsistent with the logbook record will be provided an evidentiary period of 60 days. Upon expiration of the 60-day evidentiary period, an Initial Administrative Decision (IAD) that either grants or denies the applicant a moratorium permit will be issued by the Regional Administrator. An applicant may appeal the IAD through the NOAA Office of Administrative Appeals (OAA).

Appeals. Permit applicants that are denied a moratorium permit or transfer may appeal the IAD through the OAA. Alternative 2 would allow persons to obtain a permit through the appeals process if they experienced situations involving "unavoidable circumstances" with explicit inclusion of medical emergencies, constructive losses, and military service. These hardships are difficult to define, and a discussion about the specific types of unavoidable circumstances is provided in Section 2.6.2. Criteria used for defining hardships in the groundfish LLP program is also provided in this section and may provide guidance to the Council and Office of Administrative Appeals.

The Council could also indicate its preference for the issuance of interim (non-transferable) permits to an appellant. Interim permits allow an appellant to fish while an appeals case is being reviewed. The disadvantage to not issuing interim permits is that persons with justifiable hardship claims may not be able to operate during the appeals process.

The number of unavoidable circumstance claims would likely be linked with the level at which the Council sets the minimum qualification criteria and the scope of unavoidable circumstances allowed by regulation. A more restrictive qualification criterion would likely increase the number of persons that appeal.

Business ownership information. Alternative 2 specifies that all persons receiving a moratorium permit either through initial qualification or transfer would need to meet a 10 percent rule of affiliation that is similar to the one promulgated under the American Fisheries Act. Persons would need to annually disclose affiliation and ownership through an application and affidavit to NMFS. Enforcement of this provision would require NMFS to have the authority to suspend a permit until the business provides the necessary annual documentation. The application would require disclosure of the applicants name, signature, business tax ID (to aid in enforcement), business mailing address, business telephone number, business e-mail, name of the managing company, and declaration of U.S. citizenship.

Persons transferring a permit would need to complete a notarized application containing contact information and business ownership information, as well as signing an affidavit declaring U.S. citizenship, meeting the business ownership requirements, and attesting that the information on the application is true, accurate, and complete. NMFS will electronically track permit holders and insure permits are not issued to a person in excess of the use caps.

Leasing prohibition. Private business arrangements are extremely difficult for NOAA OLE to enforce because documentation is often not available, and a large amount of enforcement resources are required to prosecute leasing situations. In many cases, a charter business may hire a captain to take clients fishing. Contracts with captains are business arrangements that can extend within a year, or over a number of years, and may be terminated at any time. These common business arrangements make it difficult to determine with certainty whether permits are being leased to a captain for a year or if the captain is working as an employee if the owner. Section 2.6.3 provides a detailed description of the purpose and enforcement concerns associated with the leasing provision.

Given the problems associated with enforcing a prohibition on leasing, the Council included some provisions under Issue 6 in Alternative 2 that are intended to deter leasing. Specifically, halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G logbook assigned to the person holding the permit. If the permit holder wants to use the permit on a different vessel, he/she must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. In addition, the permit number must be recorded on the proper logbook for each trip.

Enforcement of client endorsement. Several enforcement options were considered by NMFS, including limiting the number of clients onboard the vessel, line limits, and limiting the total number of halibut that

may be harvested. Enforcement based on the number of harvested halibut is most desirable because it provides a high level of accountability at sea, at the dock, and post season. The client endorsement would be linked to the collective daily bag limit associated with the number of charter anglers endorsed on the moratorium permit or aboard the vessel; whichever provides for the fewest halibut. For the regulation to be enforceable, the number of harvested halibut on the vessel should not exceed the client endorsement through the "gifting" of skipper and crew fish. For this reason, retention of halibut by skipper and crew needs to be eliminated or controlled by limiting the total number of harvested halibut allowed on a vessel to the collective bag limit for the number of clients (up to the use cap) onboard the vessel. Section 2.6.4.1 provides an analysis of enforcement issues considered for the client endorsement.

Administrative costs. The moratorium program will increase administrative and enforcement burdens on agency resources. This burden can be translated into costs imposed on the agency that include the hiring of new staff or the redirection of current staff resources. Redirection of staff resources would reduce the ability of the agency to administer current management programs and enforcement activities. To provide adequate enforcement coverage for the charter fishery, NOAA OLE would need to have an enforcement presence and administrative support for the following communities: Petersburg, Sitka, Juneau, Anchorage, Homer, and Seward. Thus, the cost estimates include annual costs for seven enforcement officers and one full time attorney to prosecute permit violations. In addition to the enforcement costs, there are start-up and annual administrative costs associated with administering the program. In total, the Federal agency costs for implementing the program are estimated to be about $1.23 million. Section 2.6.6 provides an assessment of the program costs.

Implementation and enforcement issues requiring clarification

The Council should consider providing further guidance at final action on the following implementation or enforcement issues:

- The Council should state whether it wants to issue interim permits to someone appealing their permit status.

- There are difficulties with enforcing the client endorsements provided for under Issue 7. A harvest limit for a vessel that is linked to an angler's bag limit and client endorsement on the moratorium permit is the most enforceable option. The charter moratorium client endorsement would be tied to the IPHC bag limit in such a way that the total number of halibut harvested on the vessel could not exceed the collective daily bag limit for charter anglers endorsed on the permit or aboard the vessel. Unless directed otherwise, NMFS would likely use this approach to enforce the client endorsements selected under Issue 7.

- The Council could provide further guidance as to the extent of constructive loss, medical hardships, and other hardships that should be considered by NOAA Office of Administrative Appeals during the permit appeals process. The Council could adopt language similar to that implemented under the groundfish LLP (described in Section 2.6.2.4).

1.0 ENVIRONMENTAL ASSESSMENT

This Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) addresses an amendment to federal fishery regulations affecting the charter halibut fishery. The National Environmental Policy Act (NEPA), Executive Order 12866, and the Regulatory Flexibility Act (RFA) require a description of the purpose and need for the proposed action, as well as a description of alternative actions that may address the problem. The purpose and need is addressed in Chapter 1.2. Chapter 1.3 describes the alternatives considered for analysis. Chapter 1.4 describes the affected environment. Chapter 1.5 discusses the biological and environmental impacts of the alternatives as required by NEPA, as well as impacts on endangered species and marine mammals. The RIR and IRFA are contained in Sections 2 and 3, respectively.

1.1 Introduction

This analysis assesses the potential biological, social, and economic impacts of implementing regulations to limit entry into the halibut charter fisheries in International Pacific Halibut Commission (IPHC) Areas 2C and 3A (Figure 1).

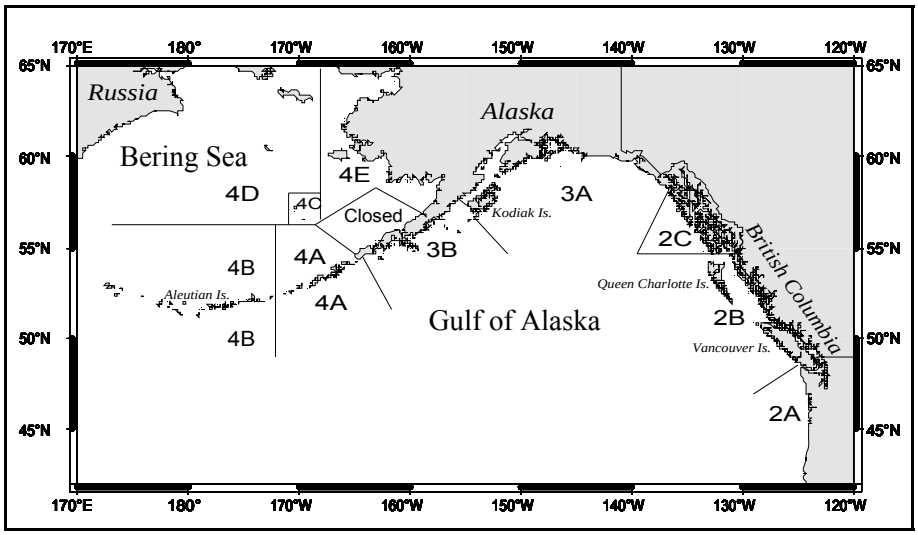


Figure 1 IPHC regulatory areas for the commercial halibut fishery (Source: IPHC)

Federal agencies share management of Pacific halibut *Hippoglossus stenolepis*. The domestic fishery is managed by the IPHC as provided by the Convention Between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982 (Halibut Act). The Act authorizes the Council to:

> *"...develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both which are in addition to and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in Section 303(b)(6) of the Magnuson Act. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligation in existing Federal law, reasonably calculated to promote conservation, and carried in such manner that no particular*

individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges..."

In general, the language in the Magnuson-Stevens Fisheries Conservation and Management Act (MSA), the Halibut Act, and the Convention has been interpreted to assign responsibility to the Council on halibut management issues concerning allocations and limited entry. As reported by McCaughran and Hoag (1992), the Halibut Act granted authority to the Secretary of Commerce through the councils to allocate fishing privileges among US fishermen. The Councils did not become involved in halibut management until NOAA decided that the Commission should no longer consider regulations that relate to domestic allocation. An exchange of letters between NOAA and a Washington State congressman left the division in authority ambiguous. Therefore, an agreement among the IPHC, Pacific and North Pacific Councils, and NMFS decided that all conservation issues be carried out by the IPHC and that purely domestic allocative decisions be made by the Councils (McCaughran and Hoag 1992).

Executive Orders 12866 and 12962, NEPA, Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and RFA mandate that certain issues be examined before a final decision is made. These analytical requirements are addressed in this analysis.

1.2 Purpose and Need for the Action

Charter halibut harvests, along with other non-commercial harvests, are unrestricted because there is no specific allocation to the sectors. Therefore as the charter fishery expands, its harvests reduce the allocation to the commercial halibut fishery and, subsequently, the value of quota shares (QS) in the commercial halibut IFQ Program. This results in a reallocation to the charter sector from the commercial sector.

Since 1993, the Council has investigated different methods to cap growth of charter halibut harvests in Areas 2C and 3A, where developed charter fisheries occur. Various types of limited entry programs have been considered by the Council in previous analyses (NPFMC 1997, 2001, 2003, 2005, 2006, and 2007), but were rejected primarily due to lack of adequate data for individual charter businesses and the Council's previous interest in managing these fisheries under a quota share program, another form of limited entry[19]. Alaska Department of Fish and Game (ADF&G) charter halibut logbook data were collected during 1998-2001. This data collection was discontinued due to an increasing discrepancy between the logbook reported harvest for Pacific halibut and Statewide Harvest Survey estimates, which were not observed for other fish species in Area 3A, and was somewhat lesser in magnitude for the Area 2C fisheries[20]. Charter halibut logbook data reporting requirements began again in 2006 under a revised data collection protocol.

This analysis was initiated in 2006, after the Council reviewed the recommendations of its Charter Halibut Guideline Harvest Level Committee and Charter Halibut Stakeholder Committee for a solution to the reallocation of halibut harvests from the commercial sector to the charter sector. A (moratorium) limited entry program was recommended as one step in controlling charter harvest.

1.3 Problem Statement

The Pacific halibut resource is fully utilized and harvest by the charter sector is demonstrating steady growth.To provide long term stability of the charter sector and lessen the need for regulatory adjustments, which destabilize the sector, the Council is embarking on development of a new management framework.

[19] See Appendix 1 for a detailed history.

[20] September 21, 2001 memo from Allen Bingham to Kevin Duffy, ADF&G

In the interim, to address allocation issues between the charter and commercial sectors, the former is operating under a guideline harvest level (GHL). Harvest data since 2004 indicate that the GHLs in Area 2C have been exceeded and are near levels established for Area 3A. This has resulted in a renewed effort to find a long-term solution. To that end, the Council formed a stakeholder committee of affected charter and commercial user groups to consider management options and formulate recommendations for Council consideration in developing a management plan for the charter sector. Some of the options previously considered include limiting entry or awarding quota share based on past participation in the fishery. To address the potential against the rush of new entrants into the charter fishery, the Council is considering establishing a moratorium on the charter sector. The moratorium is to provide an interim measure of stability in the guided sport halibut sector during the step-wise process toward a long-term solution. In doing so, however, the Council is also concerned with maintaining access to the halibut charter fishery by small, rural, coastal communities. To address this, the Council is considering establishing a separate program to allow these communities to enter the halibut charter fishery.

1.4 Description of the Alternatives

The Council adopted the following alternatives and options in June 2006, based on recommendations from its committees, staff, and the public. The Council revised the language of the options in response to a staff discussion paper on the options in December 2006. The final suite of alternatives was adopted by the Council in February 2007, and a preliminary preferred alternative was adopted for analysis at that time.

1.4.1 Alternative 1. No action

The Council may choose to take no further action to control entry or access to the charter halibut fishery at this time. The publication of the December 9, 2005 control date for determining historical or traditional participation in the charter sport fishery for halibut does not commit the Council or Secretary to any particular management regime or criteria for entry to the charter halibut fishery. Charter vessel operators are not guaranteed future participation in the charter halibut fishery regardless of their date of entry or intensity of participation in the fishery before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not make use of such a date.

1.4.2 Alternative 2. Implement a moratorium on entry into the charter halibut fisheries in Areas 2C and 3A using a control date of December 9, 2005 (Council preliminary preferred alternative[21])

Issue 1. Permits[22] may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership of the business. Businesses[23] may receive multiple permits due to charter halibut activity by vessels reported by the businesses in ADF&G logbooks. Initial permit recipients may be "grandfathered" below the U.S. ownership level and above proposed use caps until any change in ownership of the business occurs.[24]

[21]The Council's preliminary preferred alternative (selected in February 2007) includes Issues 1 – 12. If there are options identified under an issue, those that are part of the Council's preliminary preferred alternative are marked with an asterisk (*).

[22] Through initial issuance and transfers.

[23] A business licensed by the State of Alaska as a sport fish guide operator.

[24]Transferred permits would not be grandfathered below the US ownership cap, even upon sale of a business, but would be grandfathered above the use cap upon sale of the entire business (see Issue 11).

Issue 2. Permit would be designated for Area 2C and/or Area 3A. If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip.

Issue 3. Permit would be issued to an ADF&G licensed fishing guide business owner.

Issue 4. Permit applicant would be required to sign an affidavit attesting that all legal requirements were met.[25]

Issue 5. Transfers of permits (permanent) would be allowed up to use caps.

Suboption 1: Prohibit transfers of issued permits for individual vessels that qualified at trip levels less than 10, 15, or 20 trips as reported in the ADF&G logbook.

Issue 6. Leasing of permits would not be allowed.[26]

Issue 7. Permit Endorsement for Number of Clients on Board

*****Highest number on any trip in 2004 or 2005, but not less than 4.
*****Suboption 1: Area 2C: cap maximum endorsements at 6, 8*****, 10, or 15
Area 3A: cap maximum endorsements at 10, 15, 20*****, or 25

*****Suboption 2: Permit holders can be issued a permit endorsement for the number of clients on board equal to the highest number on any trip in 2004 or 2005. Permits above the cap are grandfathered at that level until a permanent transfer[27] of the permit occurs; the permit is then subject to the cap on client endorsements in Suboption 1.

Issue 8. Permits may be stacked up to use caps.[28]

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

Issue 10. Qualification period [29]

*****Option 10.1: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10*, 15*, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation[30] would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance[31] occurred. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.

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

[26] Halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. The permit number must be recorded on the logbook for each trip.

[27] A permanent transfer is defined as either a transfer of the permit through NMFS RAM Division to an unrelated entity or when persons are added to an existing entity. Removing a person from a corporation or partnership would not be considered a permanent transfer.

[28] A business can use, for example, two licenses (each endorsed for 6 clients) on one vessel.

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

[30] "Year prior to implementation" could also mean two years prior to implementation, depending on the starting date of the application period for permits; e.g., the threshold would also need to be met in either 2007 or 2008, for implementation in 2009.

[31] Acceptable circumstances will be adjudicated on a case by case basis through the National Marine Fisheries Appeals Division, but includes medical emergencies, military exemptions, constructive losses. An individual who was assigned to active military

Example: a business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum (24/20 = 1); 2 permits under a 10 trip minimum (24/10 = 2); or 3 permits under a 5 trip minimum (24/5 = 4, but the maximum number of vessels in that year is 3).

Option 10.2: Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation[7] would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance[8] occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period.

Example: Under a 5 trip threshold, a vessel with 10 trips generates 1 permit; second and third vessels with 3 trips each earn 1 permit by combining their trips.

Issue 11. Use caps, with grandfather[32] provision. The AFA 10% ownership rule for affiliation[33] will be applied to determine the number of permits associated with an entity under the use cap.

Option 1. 1 permit
*Option 2. 5 permits
Option 3. 10 permits

Issue 12. Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66

A Community Quota Entity (CQE), representing a community in which [5 or fewer or *10 or fewer] active[34] charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits.
Area 2C – use cap of 3, 4*, 5*, or 7 requested permits per eligible community.
Area 3A – use cap of 4*, 5*, 7*, 10*, or 15 requested permits per eligible community.

Overall use caps for CQEs (different use caps may be selected for CQEs representing communities in Area 2C and 3A):

Option 1: 1, 3, or 5 times those selected for permits holders under Issue 11.
*Option 2: 2 times those selected for the CQE requested permit use cap for each area.

*Provisions for CQE requested permits:

- Designated for the area in which the community represented by the CQE is located
- Endorsed for 6 clients
- Not allowed to be sold (i.e., transferred)

duty during 2004 or 2005 and who qualifies as "active " during the year prior to implementation[7] and who demonstrated an intent to participate in the charter fishery in Area 2C or 3A.(prior to the qualifying period) shall be eligible for a moratorium permit.

[32] A business whose permit is endorsed in excess of the use cap maintains that exemption for those permits that remain in its control after other permits are sold, but those sold permits lose that grandfather status in perpetuity. Grandfathered permits that are sold in total when a business owner sells his entire business/fleet maintain that grandfathered status. Grandfathered status refers to permits, not to vessels.

[33] Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

[34] "Active" is defined as it is under Issue 10 (e.g., either at least 1, 5, 10, 15, or 20 bottomfish trips).

- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

1.5 Affected Environment

The marine environment of the Gulf of Alaska (GOA) is made up of physical, biological and human components that may be affected by the groundfish fisheries and the halibut fishery off Alaska. The physical components include geological, oceanographic and climatic conditions. None of the alternatives has the potential to affect the physical component of the marine environment since they are limited to management measures in the guided sport hook-and-line fisheries. The most complete, detailed descriptions of the physical and marine habitat of the GOA are in the PSEIS (NMFS 2004a). The effects of fishing on the marine habitat and EFH are analyzed in section 4.9.6 of the PSEIS. The proposed alternatives address a limit on the entry into the guided sport halibut sector, using hook-and-line fishing gear. Because these alternatives would not impact benthic marine habitat or EFH, no additional analysis on habitat or EFH has been conducted. No endangered or threatened species would potentially be affected by either alternative.

1.5.1 Potential Impacts on Pacific Halibut Stocks

Abundance. The IPHC sets area catch limits in proportion to halibut abundance. This harvest philosophy protects against overharvest of what may be separate, but unknown, genetic populations, and spreads fishing effort over the entire range to prevent regional depletion. Small scale local depletion does not have a significant biological effect for the resource as a whole. The IPHC considers the halibut resource to be a single population. Egg and larval drift and subsequent counter migration by young halibut cause significant mixing within the population. Ultimately, counter migration and local movement tend to fill in areas with low halibut density, although continued high exploitation will maintain local depletion. However, biomass estimates and local movement rates are not available to manage small areas.

As described by Clark and Hare (2005), exploitable biomass is estimated by fitting a stock assessment model using available data from the commercial fishery and scientific surveys in each area. Total CEY is calculated by applying a fixed harvest rate (22.5 %) to the exploitable biomass estimate. The fishery CEY is calculated by subtracting an estimate of all other non-commercial removals from the Total CEY (Figure 2). The IPHC sets a catch limit only for commercial fisheries using longline gear.

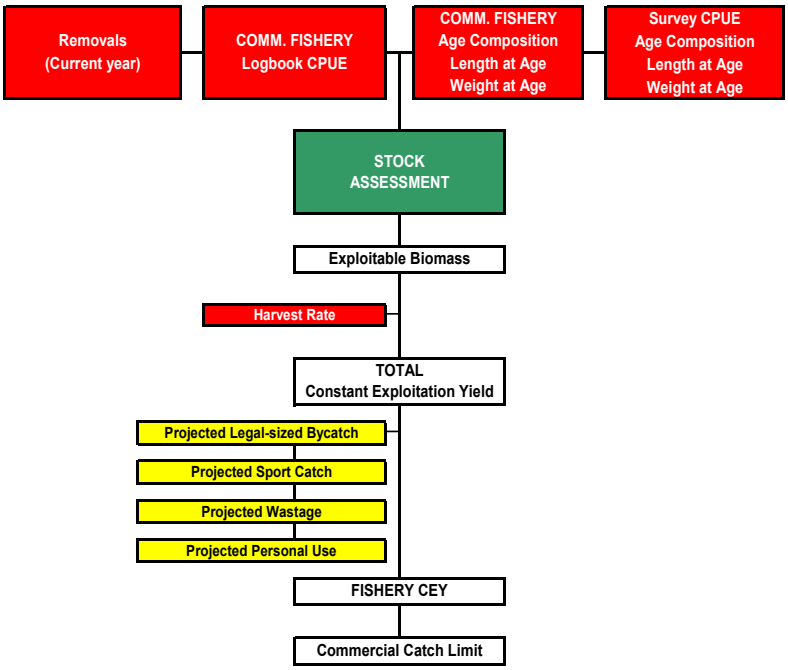


Figure 2 IPHC stock assessment and catch limit setting process

The most recent halibut stock assessment was conducted by the IPHC in December 2006. The halibut resource is considered to be healthy, with total catch near record levels. The estimate of coast wide exploitable biomass is 382 M net lb (IPHC 2005). The estimates of abundance are little changed in most areas. The 2006 Area 2C estimate is down by about 10 percent because of a lower commercial CPUE in 2005 and another low survey CPUE in 2005 following last year's 20 percent drop.

The following is excerpted from Clark and Hare (2006). Growing concerns about net migration from the western to the eastern Gulf of Alaska have led the staff to doubt the accuracy of the closed-area assessments that have been done for many years. A coastwide assessment with survey apportionment was presented to the IPHC, in addition to the closed-area assessments, and was used to calculate the available yield in each area. The two assessments produced very similar estimates of total abundance (total exploitable biomass about 400 M lb, total available yield about 80 M lb) but the distribution among areas was quite different, with the coastwide assessment showing more biomass and available yield in Areas 3B and 4 than the closed-area assessments and less in Area 2. Area 3A is about the same in both assessments.

Table 1 shows projected CEY on the basis of the 2006 coastwide stock assessment, a 20% coastwide target harvest rate, and the biomass distribution estimated from the 2004-2006 survey CPUE by area. The IPHC did not adopt staff recommendations for the 2006 projections for Area 2C and, instead, adopted a CEY of 8.3 M lb.

Table 1 CEY projections for 2008-2012 for Pacific halibut regulatory areas (Mlb)

	2C	3A
2007	6.6	35.2
2008	7.3	38.6
2009	8.0	42.2
2010	8.6	45.7
2011	9.2	48.4
2012	9.4	49.8

Source: Hare and Clark 2006

The Commission believed that further examination of options for partitioning the coastwide biomass estimate for each area before it adopted the new approach. Thus, the IPHC relied on previous methodology of separate regulatory assessments as the basis for determining 2007 catch limits. Lower catch rates in the eastern portion of the stock prompted the IPHC to recommend more restrictive catch limits for Area 2C. A stakeholder committee will meet with staff to learn more about the coastwide model and make recommendations to the IPHC on adopting the new model for Area 2C in 2008. Using an area-wide approach, yields are projected to *increase in Area 2C* (after being adjusted downward as a result of the new migration model) and *decrease in Area 3A* over the next five years. The projections assume a constant harvest rate of.22.5% in Areas 2C and 3A. The coastwide assessment results are depicted in Figure 3. For comparison, assessment results for Area 2C and 3A are presented in Figure 4. While the area trends are probably accurate, the absolute biomass estimates are not (Clark, pers. commun.).

The IPHC adopted commercial quotas for 2007 totaling 65.17 Mlb, compared with 55.26 M lb in 2006. The 2007 commercial quota in Area 2C was set at 8.51 M lb, compared with 10.63 M lb in 2006. The 2007 commercial quota for Area 3A was set at 26.2 M lb, compared with 25.2 M lb in 2006.

Additional descriptive information on halibut surveys, stock assessments, and research that were considered by the Council during its deliberation can be found in detail in the 2006 Report of Assessment and Research Activities (IPHC 2006). Further details on halibut management, production history, and life history are described in Section 3.7.2 of the Groundfish Programmatic SEIS (NMFS 1998a) and in this analysis.

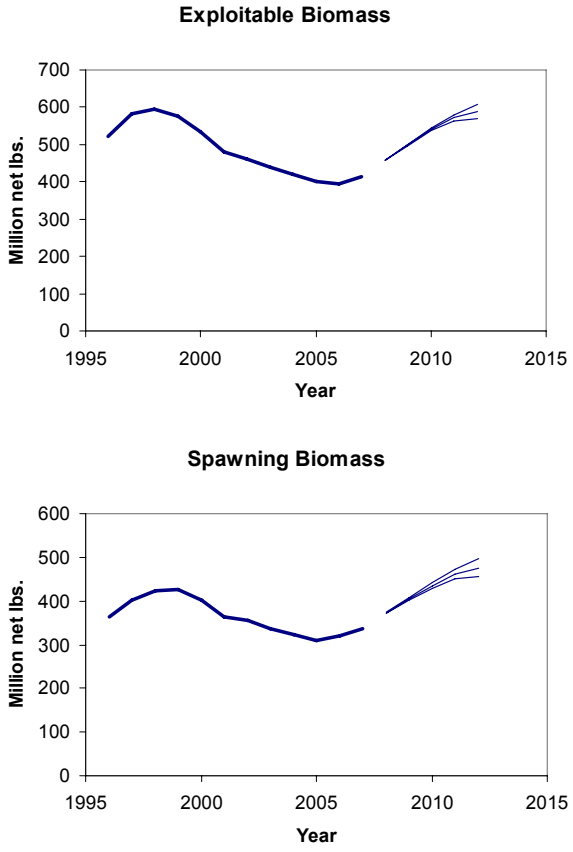


Figure 3 Coastwide exploitable and spawning biomass estimates of Pacific halibut
(Source: IPHC 2007)

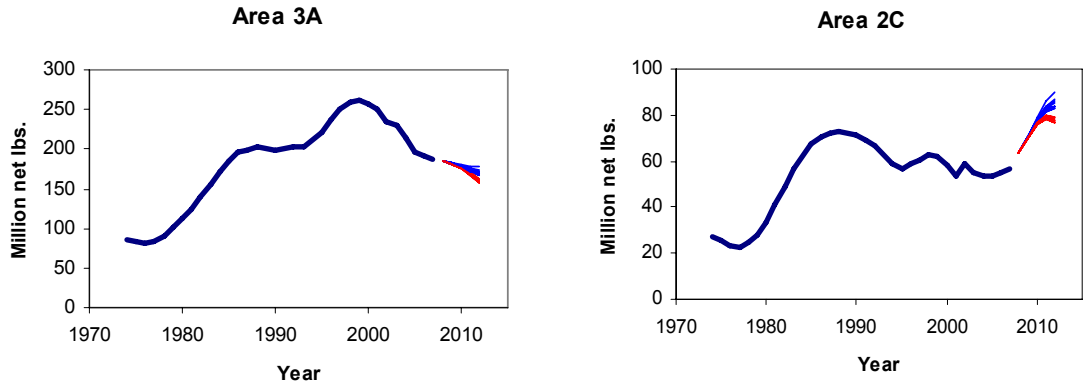


Figure 4 Areas 2C and 3A exploitable biomass estimates of Pacific halibut

(Source: IPHC 2007)

Fisheries. The Pacific halibut resource is fully utilized. Three major cultural use traditions occur in Alaska for halibut: commercial, sport (guided and non-guided), and subsistence (Table 2). The 2006 removals of Pacific halibut in Areas 2C and 3A by sector are listed in (Table 3) and depicted in Figure 5. The distinctions between sport and subsistence are clouded by differing legal and cultural interpretations by both resource managers and users, although current gear restrictions may be used to post facto assign a user category to a landing. The IPHC did not have a formal regulatory definition of subsistence prior to 2002; however, it did attempt to track subsistence harvest taken under a personal use category, leaving only sport harvests under the sportfishing category. In 2002, the IPHC adopted regulatory language defining subsistence ("Customary and Traditional Fishing in Alaska"). Federal regulations now recognize and define a legal subsistence fishery for halibut in Alaska (70 FR 16742, April 1, 2005). Subsistence removals totaled 598,000 lb (net weight) and 429,000 lb in 2006 in Area 2C and 3A, respectively (Fall et al. 2007). Methods included public outreach, mailed household surveys, and community visits.

Table 2 2006 removals of Pacific halibut in net weight

(thousands of pounds, preliminary)

Area	2C	3A
Commercial	10,374	24,908
Total Sport	3,033	6,088
Guided Sport	2,027	3,947
Non-guided Sport	1,004	2,141
Bycatch Mortality:		
Legal-sized fish	216	1,246
Sublegal-sized fish	125	1,693
Personal Use	598	429
Wastage:		
Legal-sized fish	21	50
Sublegal-sized fish	284	704
IPHC Research	95	473
Total	14,746	35,591

Table 3 Harvests of Pacific halibut in Areas 2C and 3A 1995-2006 (M lb)

AREA 2C	Commercial						Sport						Bycatch Mortality				Wastag	
Year	Quota	Removals*	Change from '95	Price ($/lb)	ex-vessel value ($M)	Percent of total removals	Guided sport GHL	Guided sport removals	Change from '95	% comb. guided+ commer.	Unguided Sport	Change from '95	Legal sized fish	Sub-legal fish	Change from '95	Subsis-tence	Legal sized fish	Sub-Legal sized
1995	9.00	7.77				78%		0.99		11%	0.77		0.36			0	0.05	0.08
1996	9.00	8.87	14%			78%		1.19	20%	12%	0.94	23%	0.34		-6%	0	0.04	0.14
1997	10.00	9.92	28%			79%		1.03	5%	9%	1.14	49%	0.26	0.10	-74%	0	0.04	0.14
1998	10.50	10.20	31%			77%		1.58	61%	13%	0.92	20%	0.22	0.14	-78%	0.17	0.04	0.18
1999	10.49	10.14	31%			80%		0.94	-5%	8%	0.90	18%	0.23	0.12	-49%	0.17	0.07	0.17
2000	8.40	8.44	9%	$2.72	$22.96	74%		1.13	15%	12%	1.13	47%	0.23	0.12	-38%	0.17	0.04	0.13
2001	8.78	8.40	8%	$2.27	$19.07	76%		1.20	22%	13%	0.72	-6%	0.22	0.12	-45%	0.17	0.04	0.16
2002	8.50	8.60	11%	$2.22	$19.09	76%		1.28	29%	13%	0.81	6%	0.18	0.16	-49%	0.17	0.03	0.11
2003	8.50	8.41	8%	$2.97	$24.98	72%		1.41	43%	14%	0.85	11%	0.17	0.17	-50%	0.628	0.03	0.10
2004	10.50	10.30	33%	$3.04	$31.31	71%	1.43	1.75	77%	15%	1.19	55%	0.15	0.21	-41%	0.677	0.03	0.27
2005	10.93	10.63	37%	$3.17	$33.70	73%	1.43	1.95	98%	16%	0.85	10%	0.14	0.2	-39%	0.598	0.03	0.23
2006	10.63	10.47	35%	$3.72	$38.95	71%	1.43	2.03	106%	16%	1.00	31%	0.14	0.2	-28%	0.598	0.02	0.28
AREA 3A	**Commercial**						**Sport**						**Bycatch Mortality**				**Wastag**	
Year	Quota	Removals*	Change from '95	Price ($/lb)	ex-vessel value ($M)	Percent of total removals	Guided sport GHL	Guided sport removals	Change from '95	% comb. guided+ commer.	Unguided Sport	Change from '95	Legal sized fish	Sub-legal sized	Change from '95	Subsis-tence	Legal sized fish	Legal sized fish
1995	20.00	18.34				66%		2.85		13%	1.67		4.75			0.097	0.13	0.41
1996	20.00	19.69	7%			73%		2.82	-1%	13%	1.92	15%	2.42		-49%	0.097	0.18	0.41
1997	25.00	24.63	34%			73%		3.41	20%	12%	2.10	26%	1.15	1.58	-76%	0.097	0.07	0.67
1998	26.00	25.70	40%			75%		2.98	5%	10%	1.72	3%	1.49	1.36	-69%	0.074	0.15	0.58
1999	24.67	25.32	38%			77%		2.53	-11%	9%	1.70	2%	1.60	1.29	-66%	0.074	0.12	0.44
2000	18.31	19.29	5%	$2.55	$49.19	69%		3.14	10%	14%	2.17	30%	1.21	1.51	-75%	0.074	0.06	0.42
2001	21.89	21.54	17%	$2.07	$44.59	72%		3.13	10%	13%	1.54	-7%	1.70	1.40	-64%	0.074	0.07	0.39
2002	22.63	23.13	26%	$2.17	$50.19	76%		2.72	-4%	11%	1.48	-11%	1.18	1.10	-75%	0.074	0.14	0.48
2003	22.63	22.75	24%	$2.88	$65.52	71%		3.38	19%	13%	2.05	23%	1.36	1.43	-71%	0.28	0.07	0.62
2004	25.06	25.05	37%	$2.95	$73.90	71%	3.65	3.67	29%	13%	1.94	16%	1.52	2.08	-68%	0.404	0.08	0.68
2005	25.47	26.03	42%	$3.09	$80.43	72%	3.65	3.69	30%	12%	1.98	19%	1.32	1.81	-72%	0.429	0.16	0.57
2006	25.20	25.38	38%	$3.70	$93.91	71%	3.65	3.95	39%	13%	2.14	29%	1.32	1.81	-72%	0.429	0.05	0.70

1) Guided, 1999-2006: ADF&G table dated Nov. 20, 2006 titled "Charter Halibut Harvests in IPHC Area 2C and 3A"
2) Unguided 1999-2004: Scott Meyer (ADF&G), worksheet titled "2C-3A_HarvestTables.xls"
3) Unguided 2005-2006: ADF&G letter to IPHC dated Oct. 23, 2006
4) All other categores, 1999-2005: IPHC Bluebooks
5) All other categores, 2006: Gregg Williams, pers. Commun.IPHC Bluebooks
* includes IPHC research fish

Sport fishing for halibut in Area 2C is an important recreational activity for resident and non-resident anglers. Sport harvests rapidly increased in the late 1980s to mid-1990s due to continued increases in targeted effort (Tersteeg and Jaenicke 2005). Fishing effort is mostly concentrated around Juneau, Ketchikan, Sitka, Wrangell, and Petersburg. However, substantial effort is also expended near remote fishing lodges and smaller communities throughout the region-such as Craig, Gustavus, and Yakutat (Jaenicke 2005). As reported by Meyer (2005), participation in the marine sport fisheries in Area 3A has more than doubled in 15 years. More than half of all angler effort in marine waters statewide occurred in Area 3A. A major portion of fishing effort is directed at halibut and state-managed groundfishes, including rockfishes, lingcod, and sharks. Sport harvest of halibut exceeds that of all other marine finfishes. Harvest in Area 3A increased from 40,000 fish in 1980 to 286,000 fish in 2000. The 2003 harvest of 278,000 halibut made up 69 percent (in number) of the statewide recreational harvest. The Cook Inlet fishery, based primarily in Homer, Ninilchik, Seldovia, and Anchor Point has accounted for 67-82 percent of Area 3A since 1990.

As reported in IPHC (2005), Alaska sport harvest estimates are derived from a statewide postal survey in conjunction with creel surveys at points of landing. Estimates usually lag by one year and are derived from a combination of linear projections of halibut harvested in the previous five years, current average weights, and current in-season data. In summary, charter halibut harvests between 1995 and 2004 increased by more than 75 percent in Area 2C (from 986,000 to 1,750,000 lb) and nearly 30 percent in Area 3A (from 2,845,000 to 3,668,000 lb). Charter halibut harvests amounted to approximately 14 and 11 percent of total halibut removals in Areas 2C and 3A in 2006, compared with 7 and 9 percent in 1999.

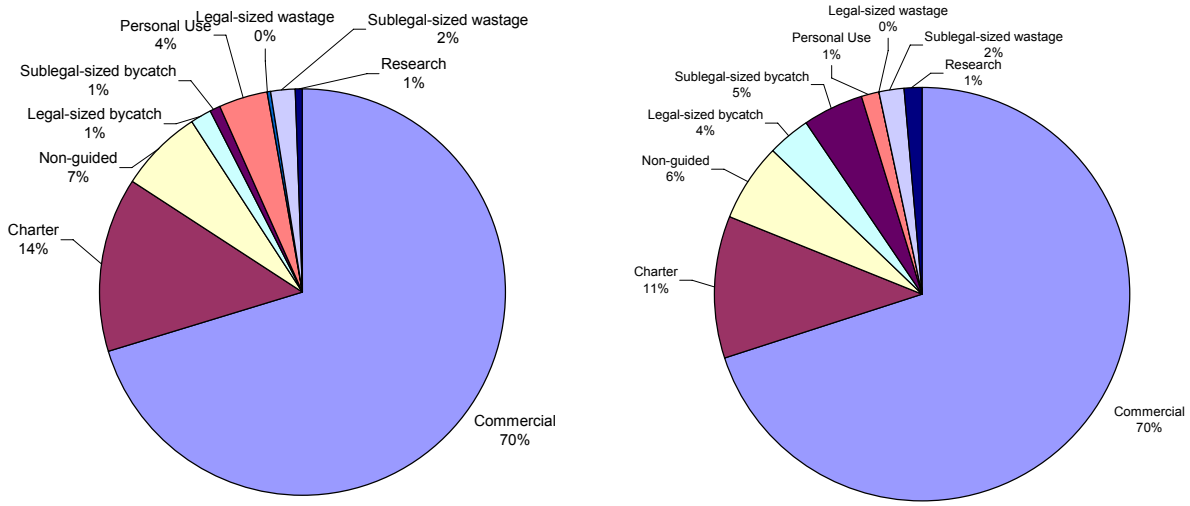


Figure 5 Removals of Pacific halibut by sector in 2006 (Area 2C on left, Area 3A on right)
(Source: IPHC)

Sport businesses and vessels in Areas 2C and 3A are depicted in Figure 5. Table 4 demonstrates the changes in number of licensed business, vessels, trips, charter halibut harvests, and angler participation over the last ten years. In Area 2C, the number and pounds of charter halibut more than doubled. While businesses remained about the same, the number of active vessels increased by 15 percent and halibut charter anglers increased by 21 percent. In Area 3A, the number and pounds of charter halibut increased by 50 and 29 percent, respectively. While businesses remained about the same, the number of active vessels increased by 13 percent and halibut charter anglers increased by 23 percent.

Table 4 Charter halibut participation, effort, and harvest during 1995-2005

2C Year	Licensed businesses	Active vessels	Total trips	Charter Ave. trip/ vessel	Number harvested	Million lb harvested	Percent harvested	Anglers Sportfish licenses	Halibut Clients*
1995	na	na	na	na	49,615	0.986		90,940	na
1996	na	na	na	na	53,590	1.187	20%	94,677	na
1997	na	na	na	na	51,181	1.034	5%	98,265	na
1998	na	569	15,541	27	54,364	1.584	61%	97,079	55,922
1999	387	591	15,700	27	52,735	0.939	-5%	100,801	56,173
2000	412	634	20,241	32	57,208	1.132	15%	105,245	72,803
2001	386	627	18,965	30	66,435	1.202	22%	103,341	69,222
2002	351	567	15,085	27	64,614	1.275	29%	106,561	52,809
2003	353	590	16,948	29	73,784	1.412	43%	105,827	59,498
2004	365	624	19,111	31	84,327	1.75	77%	121,858	67,803
2005	381	654	na	na	102,206	1.95	98%	na	na
3A Year	**Licensed businesses**	**Active vessels**	**Total trips**	**Charter Ave. trip/ vessel**	**Number harvested**	**Million lb harvested**	**Percent harvested**	**Anglers Sportfish licenses**	**Halibut Clients***
1995	na	na	na	na	137,843	2.85		103,274	na
1996	na	na	na	na	142,957	2.82	15%	106,291	na
1997	na	na	na	na	152,856	3.41	26%	106,385	na
1998	na	503	17,650	35	143,368	2.99	3%	106,809	94,611
1999	454	545	19,823	36	131,726	2.53	2%	112,215	89,449
2000	456	570	25,180	44	159,609	3.14	30%	114,131	132,604
2001	452	560	23,818	43	163,349	3.13	-7%	116,236	132,306
2002	405	491	18,573	38	149,608	2.72	-11%	118,317	91,092
2003	405	499	18,592	37	163,629	3.38	23%	116,111	90,178
2004	427	532	22,600	43	197,208	3.67	16%	126,260	116,670
2005	450	567	na	na	206,902	3.69	19%	na	na

* an increasing number of sportfish lienses are sold over the internet

Sources:

1) Charter and Clients: ADF&G

2) Commercial: NMFS RAM Division

IPHC sportfishing regulations for Pacific halibut are found at 50 CFR 300.62. The 2006 annual measures for halibut fisheries were published at 71 FR 10850, Part 24. The GHL program was implemented in 2004, and regulations are published at 50 CFR 300.65. State of Alaska fishing seasons and reporting requirements are listed below.

- Most anglers 16-59 years old must have a current year's Alaska sport fishing license. There are two exceptions for Alaska residents:
  - Alaska resident anglers 60 and older must have a free ADF&G Permanent ID Card.
  - Alaska resident disabled veterans (50 percent or greater) must have a free ADF&G Disabled Veteran's Permanent ID Card.
- Resident and non-resident anglers younger than 16 do not need a sport fishing license.
- The open season for halibut is February 1-December 31.
- The bag limit is 2 fish daily and 4 in possession.
- There is no size limit.
- When a fish is landed and killed it becomes part of the bag limit of the person originally hooking it. Once you have attained your bag limit, you are not allowed to catch and keep halibut for anyone else on the vessel that same day.
- Possession of sport-caught halibut:
  - a) No person may possess sport-caught halibut aboard a vessel when other fish or shellfish aboard the vessel are destined for sale, trade, or barter; and
  - b) until brought back to shore and offloaded, no person may fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of the number of fish caught or possessed.

- In Alaska, no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught while on board the catcher vessel (new in 2007).

Figure 6 Active charter businesses and vessels in Areas 2C and 3A
(Source: ADF&G)

Charter halibut harvests, along with other non-commercial harvests, are unrestricted because there is no specific allocation to the sectors. This results in a reallocation to the charter sector from the commercial sector. Therefore as the charter fishery expands, its harvests reduce the allocation to the commercial halibut fishery and, subsequently, the value of quota shares (QS) in the commercial halibut IFQ Program.

A September 2003 final rule established a GHL for charter halibut harvests and a process whereby the Council is notified if the GHL is exceeded. The GHL established a pre-season estimate of acceptable annual harvests for the halibut fishery in Areas 2C and 3A, beginning in 2004. To accommodate limited growth of the charter fleet while approximating historical harvest levels, the GHL for each area was based on 125 percent of the average of 1995-99 charter harvest estimates, as reported by the ADF&G Statewide Harvest Survey (SWHS). The GHLs were set at 1,432,000 lb net weight in Area 2C and 3,650,000 lb net weight in Area 3A. Upon notification that a GHL has been achieved, the Council may initiate analysis of possible harvest reduction measures and NMFS may initiate subsequent rulemaking to reduce charter harvests. While commercial quotas fluctuate directly with stock abundance, the fixed GHLs are established annually in pounds. The GHLs are responsive to reductions in stock abundance. If either area's total Constant Exploitation Yield (CEY) is reduced by at least 15 percent below the average 1999-2000 total CEY, as determined by the IPHC, then the GHL would be reduced. For example, if the total CEY in Area 2C were to fall between 15 and 24 percent below its 1999-2000 average, then that GHL would be reduced by 15 percent to 1,217,200 lb. If it fell between 25 and 34 percent, then it would be

reduced by an additional 10 percent to 1,095,480 lb. If the total CEY continued to decline by at least 10 percent, then it would be reduced by an additional 10 percent.

These "stair step" reductions were implemented because at the time of final action in 2000: (1) the status of the halibut stock was predicted to have been at its peak and declining; (2) the GHL formula allowed for a 25 percent increase in past harvests; and (3) the charter sector requested a fixed allocation to provide better predictability for planning bookings for the next summer's fishing season. The overall intent was to maintain a stable charter fishery season of historic length, using area- specific measures to control harvests to the GHLs. The relative abundance between 2000 and 2005 is not estimated to have exceeded 15 percent (B. Leaman, pers. comm.); therefore, the GHLs have not been reduced.

The original groundfish fishery management plans for the Bering Sea/Aleutian Islands and GOA designated Pacific halibut as a prohibited species to any new commercial development due to its historical usage by the longline (or setline) fishery. The commercial fishing fleet is diverse, using various types of longline gear and strategies. An individual fishing quota program was implemented in 1995 (50 CFR 300.60 through 300.65). The IFQ program enables an eligible vessel to fish any time between March 5 and November 15 in 2006. Total setline CEY (at a harvest rate of 22.5 percent for Areas 2C and 3A) for Alaska waters is estimated to be high, at just under 74 M lb, which indicates the halibut resource is very robust (IPHC 2005). The commercial fishery was the predominant sector for removals, taking approximately 74 and 72 percent of total halibut removals in Areas 2C and 3A, respectively, compared with 81 and 77 percent in 1999.

Halibut begin recruiting to longline gear at approximately 60 cm in length, but the commercial minimum size limit is 82 cm. The fishery ranges from shallow inshore waters to as deep as 275 meters along the continental shelf. The directed catch consists of individuals chiefly from 7 to 121 kg. The average size in the commercial catch in 1996 was between 9 and 20 kg depending on the area caught, and the average age was 12 years old (Forsberg, J., Unpub [1997]).

Interception of juvenile halibut (~30 cm and greater) often occurs in trawl fisheries targeting other groundfish species (such as rock sole, pollock, yellowfin sole, and Pacific cod). Incidental catch of halibut also occurs in groundfish hook and line and pot fisheries. Regulations in both Canada and U.S. currently dictate that all halibut caught incidentally must be discarded regardless of whether the fish is living or dead. These fisheries take place throughout the range of halibut and throughout most of the year. Wastage removals represent the mortality of legal-sized halibut due to lost or abandoned gear, and of sublegal-sized halibut discarded in the halibut fishery. Since the implementation of the quota share fisheries in the 1990s, the total mortality of legal-sized halibut from lost gear has remained under 0.5 M lb annually. Bycatch mortality accounts for the halibut that die from being caught in other fisheries. The 2005 bycatch mortality estimate of 12.1 M lb is the lowest since 1987 but similar to the estimates for the last several years (IPHC 2005).

Impacts on the Commercial Fishery The halibut commercial fishery has been in existence for over 100 years. The 1990s have seen a dramatic change in the management regime in the U.S. In 1995, the U.S. implemented an IFQ program, in which each licensed fisherman was given a share of the annual catch limit based on the individual's past production. It has resulted in much longer seasons, currently March 5th through November 15th, replacing the 24-hour "derby" fisheries. It has also kept catches within the prescribed commercial limits. A suballocation to the Community Development Quota (CDQ) Program provides access to this fishery for Western Alaska communities. The Metlakatla Indian Community also has a small allocation under an agreement with the Department of Interior Bureau of Indian Affairs. There are no expected impacts on the commercial fisheries under the proposed action.

The quotas for the commercial longline fisheries in Areas 2C and 3A are set once all other removals are deducted from the available yield. The increase in sport removals results in an uncompensated reallocation from the commercial sector to the sport sector (Figure 6). This reallocation has resulted in consideration of numerous actions to cap charter halibut removals, including the proposed action.

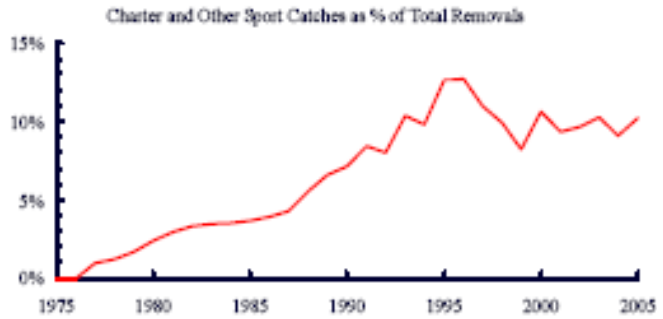


Figure 7 Sport halibut removals that reduce the commercial quota
(Source: K. Criddle)

Impacts on the Sport Fishery Sport fishing for halibut was nonexistent in the 1920s but has grown into a major industry in Canada and Alaska. The first IPHC regulations on sport fishing were instituted in 1973 and included an 8-month season with limitations on the individual's daily catch and the gear. Since that time, sport regulations have grown in complexity and have seen increased involvement by state, provincial and Federal agencies.

Sportfishing is done primarily for sport values (i.e., "sport," fun," "enjoyment," "fair competition"). Participation in a sport-quality activity is the primary cultural value. Sport regulations in general are consistent with these sport values, in that they provide for relatively inefficient gear (2-hooks, a "fair chase ethic"), limited daily bags (2-fish per day; food is not the primary purpose of the activity), and sport license requirements (user's pay for management, etc.). The sport cultural tradition in Alaska derives from Euroamerican historic traditions, and currently sport participants are primarily from Euroamerican cultural groups living in urbanized areas (but also some rural places) in Alaska and the continental U.S.

In addition to sport motives, a significant portion of Alaska residents and many nonresidents who fish for halibut under sport regulations may be motivated in large part to provide subsistence food with rod and reel. Anecdotal information suggests that many charter anglers evaluate the success of their trip by the poundage caught and whether it was cheaper to fish or buy the halibut. Halibut are not terribly exciting or difficult to catch. The bag limit of two fish may be perceived as adequate to satisfy food needs given the mean size of halibut. Whether or not there is a one to one correspondence in the cost consideration of choosing to sportfish versus purchasing commercially caught halibut remains to be tested; however, it is likely that some anglers derive additional value from stocking their freezers with fish they caught than they would have realized from purchasing commercially caught halibut.

The expected impacts of the proposed action on the charter sector will be positive for current participants who would be granted limited entry permits, as new entrants must purchase a limited entry permit before they are allowed to enter the fishery. The proposed action would have a negative effect on those entering the fishery because they will have to purchase a permit from a permit holder. The non-guided sector would not be affected by the proposed action, while sport anglers who fish on charter vessels may bear the cost of that expense through increased charter fees.

Impacts on other non-commercial uses The removals of Pacific halibut from the population that are accounted for in the stock assessment include commercial and sport catch, bycatch, wastage and personal use. Under the IFQ program, take-home fish is counted as part of commercial IFQ. Personal use fish includes the non-commercial and non-sport halibut, from a variety of sources for which little documented data are available. Sources include rod and reel catch not documented in the sport catch, illegally-set commercial gear, and illegally-retained bycatch in other fisheries, but is believed to be relatively minor.

Subsistence fishing is a traditional use in Alaska, primarily for food use by domestic family groups, including noncommercial sharing and distribution systems. A series of subsistence regulations implemented by NMFS are consistent with these values, in that they provide for established patterns of use, including customary efficient gear from the point of view of domestic family groups, relatively unrestricted seasons and bag limits except for conservation reasons (subsistence fisheries are for food and are generally self-limiting because the limited size of the subsistence sharing-consumption networks), and relatively simple reporting-permitting systems. The subsistence cultural traditions in Alaska have evolved over time, and the people who are most heavily involved in subsistence patterns are Alaska Native groups with local cultural traditions of use; in addition, non-Natives living in "rural" places (places with a mixed, subsistence-market economic system) participate in some subsistence activities. Subsistence production-distribution is commonly a major economic sector in rural communities. Mixed, subsistence-market economies are characteristic of rural villages and a few large towns in Alaska -- these are local systems of production-consumption where wild food production contributes a substantial portion of the food supply of the community (that is, about 50% or more the community's protein needs). Subsistence halibut fishing typically occurs in rural places with subsistence-market economies. A detailed description of the halibut subsistence fishery may be found in the EA/RIR adopted by the Council in 2000 and submitted to the Secretary for consideration in 2002 (http://www.fakr.noaa.gov/analyses/subsistence/halibut0403.pdf).

State regulations recognize subsistence, personal use, commercial, and sport uses of halibut. They classify all halibut harvested with a rod-and-reel as a sport harvest. Persons harvesting halibut with a rod-and-reel are required to obtain an Alaska sport fishing license. However, most halibut fishers in rural Alaska communities do not recognize their activities to be sport in nature, but as subsistence or personal use, regardless of the gear type used to obtain it. The extent to which, 1) rural fishers actually obtain sport fishing licenses to harvest halibut with rod and reels, or 2) subsistence patterns are constrained by two fish per day sport bag limit, have not been assessed. The rural halibut harvest with rod and reel is supposed to be counted through a statewide annual mailed survey to holders of sport fishing licenses by the ADF&G Division of Sport Fish. Whether this survey adequately counts the rural take has been subject to debate in recent years, as discussed further below.

Conclusions The proposed action addresses access to the Pacific halibut resource. There are no expected impacts on the halibut subsistence, personal use, or unguided sport fisheries because these takes are not limited and are not affected by any allocation decisions in other sectors. There are no expected impacts on the commercial fisheries because users are not subject to the proposed action. While the proposed action does not address direct removals of charter halibut, limiting the number of fishing platforms available to anglers would affect removals indirectly. It would not change fishing practices or the amount of halibut allowed to be retained by anglers. Some charter businesses will benefit, while others will lose under the proposed action. Charter anglers may pay higher fees, as businesses that must purchase permits pass on some of those costs. No adverse impacts to the halibut resource or the benthic environment would be expected. It would not result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure. The proposed action does not affect allowable fishing gear or locations of fishing effort. There are no significant impacts on the halibut stock expected from the proposed action.

1.5.1.1 Potential Impacts on Groundfish Bycatch

"Bycatch" in the charter halibut fishery includes 12 species of rockfishes, Pacific cod, and ling cod. The primary groundfish bycatch taken in the halibut charter fishery include limited amounts of Pacific cod and rockfishes (primarily yelloweye and black), with lesser amounts of spiny dogfish, salmon shark, and sablefish. State-managed species such as king salmon and ling cod, along with rockfishes, are also taken. These species may be listed as having been caught on a halibut targeted trip, but they may become the target species during the trip because the halibut bag limits have been reached. Additionally, the target species may change because halibut fishing during the particular trip is poor and the operator wants to satisfy the client by landing any species (S. Meyer, pers. comm.). Therefore, ADF&G staff recommended that it is not possible to assign groundfish catches to the charter halibut fishery; however, Table 5 identifies rockfish and lingcod harvests associated with charter bottomfish effort for 1996-2004.

Table 5 Estimated rockfish and lingcod harvest (number of fish) by charter anglers by area and year

	IPHC Area 2C		IPHC Area 3A	
Year	Number of charter-harvested rockfish	Number of charter-harvested lingcod	Number of charter-harvested rockfish	Number of charter-harvested lingcod
1996	14,591	10,588	17,640	5,137
1997	13,077	9,355	17,036	6,737
1998	15,516	11,690	16,884	5,070
1999	24,815	11,264	18,756	5,150
2000	26,292	11,805	25,690	7,609
2001	29,509	8,961	28,273	6,813
2002	25,346	5,749	30,946	5,830
2003	27,991	6,551	28,415	7,836
2004	45,908	9,549	41,400	9,576

Source: ADF&G, Statewide Harvest Survey data.

The issue of 'bycatch' is complex. Too often fish that are labeled bycatch are actually targeted, in both commercial and recreational fisheries. For example, in Southcentral Alaska, the sport fishery port samplers ask the anglers and charter skippers what species they were targeting. While they may identify 'halibut' as their target (because that was their species of choice), they may have specifically targeted lingcod for a portion of their trip because halibut fishing was poor. Commercial fishermen often 'top off' with bycatch species for which the directed fishery is closed (A. Bingham, pers. commun.).

The IPHC has been observing declines in halibut recruitment and predicts a decrease in the exploitable biomass in the long term. The harvest of state-managed groundfish (and in some cases, salmon) observed in the ADF&G port sampling program is usually inversely related to halibut harvest, but it is unknown if anglers switch target species when halibut fishing is poor or expend more effort to catch salmon when the salmon returns are strong. No in-depth analysis of these data has been done, and it may be impossible given the lack of information. It is likely that harvest of state-managed species will increase if the halibut stock declines in abundance, with or without the proposed alternatives.

In summary, the interaction of halibut catch and harvest of other species is poorly documented and not well understood. Any discussion will be highly speculative. This information is insufficient to predict direct effects of charter halibut harvest. Other species taken incidentally in sport charter halibut fisheries include sculpins, arrowtooth flounder and several other flatfishes, pollock, spiny dogfish, sleeper shark, salmon shark, and greenling. No harvest estimates are available for these species.

1.5.1.2 Potential Impacts on Habitat

No information is available on the impacts of the halibut fisheries on habitat. The proposed action would not increase the amount of harvest, the intensity of harvest, or the location of harvest, therefore, this action is presumed not to increase the impacts of the fisheries to EFH. Therefore, in the context of the fishery as a whole, this action will not adversely affect EFH for managed species. As a result of this determination, an EFH consultation is not required. There are no known significant impacts of the halibut charter fishery on marine habitat since there are no known significant changes in fishing practices as a result of the preferred alternative.

1.5.2 Impacts on Endangered or Threatened Species

The Endangered Species Act of 1973 as amended [16 U.S.C. 1531 et seq; ESA], provides for the conservation of endangered and threatened species of fish, wildlife, and plants. It is administered jointly by the NMFS for most marine mammal species, marine and anadromous fish species, and marine plants species and by the USFWS for bird species, and terrestrial and freshwater wildlife and plant species.

The designation of an ESA listed species is based on the biological health of that species. The status determination is either threatened or endangered. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. § 1532(20)]. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. § 1532(20)]. Species can be listed as endangered without first being listed as threatened. The Secretary of Commerce, acting through NMFS, is authorized to list marine fish, plants, and mammals (except for walrus and sea otter) and anadromous fish species. The Secretary of the Interior, acting through the USFWS, is authorized to list walrus and sea otter, seabirds, terrestrial plants and wildlife, and freshwater fish and plant species.

In addition to listing species under the ESA, the critical habitat of a newly listed species must be designated concurrent with its listing to the "maximum extent prudent and determinable" [16 U.S.C. § 1533(b)(1)(A)]. The ESA defines critical habitat as those specific areas that are essential to the conservation of a listed species and that may be in need of special consideration. Federal agencies are prohibited from undertaking actions that destroy or adversely modify designated critical habitat. Some species, primarily the cetaceans, which were listed in 1969 under the Endangered Species Conservation Act and carried forward as endangered under the ESA, have not received critical habitat designations.

After reviewing the current status of the listed species, designated critical habitat, and the potential effects of the halibut fisheries, NMFS Sustainable Fisheries concludes that this fishery off Alaska (which uses gear unlikely to generate bycatch of finfish, seabirds or marine mammals) will not affect ESA-listed species or designated critical habitat, pursuant to Section 7 of the Endangered Species Act. Therefore, the ESA does not require a consultation for this fishery. Halibut do not interact with any listed species and do not comprise a measurable portion of the diet of any listed species nor do any of the species comprise a measurable portion of their diet. No interactions between the charter halibut fisheries and any listed species have been reported. Table 6 provides the species listed as endangered and threatened under the ESA.

Short-tailed albatross. In 1997, NMFS initiated a Section 7 consultation with USFWS on the effects of the halibut fishery off Alaska on the short-tailed albatross. USFWS issued a Biological Opinion in 1998 that concluded that the halibut fishery off Alaska was not likely to jeopardize the continued existence of the short-tailed albatross (USFWS, 1998). USFWS also issued an Incidental Take Statement of two short-tailed albatross in two years (1998 and 1999), reflecting what the agency anticipated the incidental take could be from the fishery action. No other seabirds interact with the halibut fisheries. Under the authority

of ESA, USFWS identified non-discretionary reasonable and prudent measures that NMFS must implement to minimize the impacts of any incidental take.

Table 6 Species listed as endangered and threatened under the ESA that may be present in the Federal waters off Alaska

Common Name	Scientific Name	ESA Status
Northern Right Whale	*Balaena glacialis*	Endangered
Bowhead Whale [a/]	*Balaena mysticetus*	Endangered
Sei Whale	*Balaenoptera borealis*	Endangered
Blue Whale	*Balaenoptera musculus*	Endangered
Fin Whale	*Balaenoptera physalus*	Endangered
Humpback Whale	*Megaptera novaeangliae*	Endangered
Sperm Whale	*Physeter macrocephalus*	Endangered
Snake River Sockeye Salmon	*Onchorynchus nerka*	Endangered
Short-tailed Albatross	*Phoebaotria albatrus*	Endangered
Steller Sea Lion	*Eumetopias jubatus*	Endangered and Threatened [b/]
Snake River Fall Chinook Salmon	*Onchorynchus tshawytscha*	Threatened
Snake River Spring/Summer Chinook Salmon	*Onchorynchus tshawytscha*	Threatened
Puget Sound Chinook Salmon	*Onchorynchus tshawytscha*	Threatened
Lower Columbia River Chinook Salmon	*Onchorynchus tshawytscha*	Threatened
Upper Willamette River Chinook Salmon	*Onchorynchus tshawytscha*	Threatened
Upper Columbia River Spring Chinook Salmon	*Onchorynchus tshawytscha*	Endangered
Upper Columbia River Steelhead	*Onchorynchus mykiss*	Endangered
Snake River Basin Steelhead	*Onchorynchus mykiss*	Threatened
Lower Columbia River Steelhead	*Onchorynchus mykiss*	Threatened
Upper Willamette River Steelhead	*Onchorynchus mykiss*	Threatened
Middle Columbia River Steelhead	*Onchorynchus mykiss*	Threatened
Spectacled Eider	*Somateria fishcheri*	Threatened
Steller Eider	*Polysticta stelleri*	Threatened

[a/] The bowhead whale is present in the Bering Sea area only.
[b/] Steller sea lion are listed as endangered west of Cape Suckling and threatened east of Cape Suckling.

1.5.3 Impacts on Seabirds

Any Federal action that may affect ESA-listed species may be subject to a Section 7 consultation. This is usually a two step process. Initially, the "action agency" or NMFS Sustainable Fisheries makes a determination whether the proposed action is or is not likely to adversely affect the listed species. If not, and NMFS Protected resources concurs, no further consultation occurs. If the action is likely to adversely a listed species, then a formal Section 7 consultation occurs.

In addition to those listed under the ESA, other seabirds occur in Alaskan waters which may indicate a potential for interaction with halibut fisheries. The most numerous seabirds in Alaska are northern fulmars, storm petrels, kittiwakes, murres, auklets, and puffins. Additional discussion about seabird life history, predator-prey relationships, and interactions with commercial fisheries can be found in the 2004 FPSEIS. Charter halibut gear are typically rod-and-reel with a maximum of two hooks and are operated in such a fashion that interactions with seabirds are unlikely. There are no known reported takes of seabirds in charter fisheries off Alaska. None of the alternatives would affect takes of listed species and therefore, none of the alternatives are expected to have a significant impact on endangered or threatened species.

1.5.4 Impacts on Marine Mammals

The charter halibut fishery in the EEZ of Alaska is classified as Category III fishery under the Marine Mammal Protection Act. A fishery that interacts only with non-strategic stocks and whose level of take has insignificant impact on the stocks is placed in Category III. No takes of marine mammals by the charter halibut fishery off Alaska have been reported. Marine mammals are not taken in halibut charter fisheries and therefore, none of the alternatives are expected to have a significant impact on marine mammals.

1.5.5 Impacts on Biodiversity and the Ecosystem

Halibut is one of four groundfish, in terms of biomass as measured by the trawl surveys, which dominate the Gulf of Alaska ecosystem (S. Gaichas, pers. comm.). The others include arrowtooth flounder, walleye pollock, and Pacific cod (in order of importance). Halibut is an apex predator in the GOA which seems rather dependent on pollock stocks as pollock comprised over half of adult halibut's diet composition measured in the early 1990s. Most mortality on halibut is from fishing because they have few natural predators, especially as adults.

Halibut harvests by the charter fishery as well as all other fishery harvests, removes predators, prey, or competitors and thus could conceivably alter predator-prey relationships *relative to an unfished system*. Studies from other ecosystems have been conducted to determine whether predators were controlling prey populations and whether fishing down predators produced a corresponding increase in prey. Similarly, the examination of fishing effects on prey populations has been conducted to evaluate impacts on predators. Finally, fishing down of competitors has the potential to produce species replacements in trophic guilds. Evidence from other ecosystems presents mixed results about the possible importance of fishing in causing population changes of the fished species' prey, predators, or competitors. Some studies showed a relationship, while others showed that the changes were more likely due to direct environmental influences on the prey, predator, or competitor species rather than a food web effect. Fishing does have the potential to impact food webs but each ecosystem must be examined to determine how important it is for that ecosystem.

Little research has been conducted on the specific trophic interactions of halibut. With trophic interactions and inter-specific competition so poorly understood, it is not possible to clearly specify the effects to the ecosystem of the charter halibut fishery. However, given the nature of the action, the presumed effects of the alternatives on the ecosystem are insignificant.

None of the alternatives would have a significant impact on the environment. The main consequence of the proposed alternatives is to control halibut charter fisheries in IPHC Areas 2C and 3A. The economic effects of the proposed alternatives are detailed in Section 2.

Based on current information, it is reasonable to assume that the effect on the halibut resource of implementing measures to reduce charter halibut harvests, while allowing all other fishery removals to increase while limited by the quota set by the IPHC, is negligible. The IPHC has determined that resource conservation is not a factor in such allocations.

1.5.6 Impacts on the Social and Economic Environment

A description of the charter halibut fishery and detailed discussions of the socioeconomic impacts of the alternatives may be found in the RIR in Section 2. Section 3 contains an IRFA, conducted to evaluate the impacts of the suite of potential alternatives being considered, including the preferred alternatives, on small entities, in accordance with the provisions of the RFA.

Before 1973, all halibut fishing, including sportfishing, was governed by commercial fishing regulations (IPHC 1998). Sport catches were usually incidental to saltwater sportfishing for salmon. As the sport catch increased, the IPHC clarified its authority to manage the sport halibut fishery and adopted regulations for the "sport" fishery in 1973, including an 8-month season with limitations on an individual's daily catch and gear (Williams 1999). Since then, the popularity of bottomfish has surged and halibut sport fishing has supported a charter industry. Sport regulations have grown in complexity, with increased involvement by the State of Alaska, the Council, and NMFS. Estimates of halibut sport biomass are obtained through ADF&G creel census, postal surveys (SWHS), and a mandatory charterboat logbook program (SCVL) which continued from 1998 through 2001. Halibut harvests will be required to be reported in weekly logbooks beginning again in 2006.

Marine recreational fisheries are popular in Southcentral Alaska, supporting approximately 486,000 angler-days of effort for all finfish species (2000 estimate) (http://www.sf.adfg.state.ak.us/region2/groundfish/gfhome.cfm). An angler day equals one angler fishing for any part of a day. Effort has more than doubled in the last 20 years. A large portion of this recreational fishing effort is directed at halibut.

1.5.6.1 Description of Fishery Participants

Charter halibut fishery participants for Areas 2C and 3A are presented in Table 4. In summary, the number of vessels active in the 2005 charter halibut fishery totaled 654 and 567 in Areas 2C and 3A, respectively. Each vessel carries a skipper and some carry a mate; therefore, an estimate of the number of crew assuming skipper and mate is 1,308 and 1,134, respectively. The number of businesses active in the 2004 charter halibut fishery totaled 381 and 450, respectively. Sportfishing licenses totaled more than 120,000 in each area (Table 7).

Table 7 Total number of sport fishing licenses (all marine and freshwater species) sold by vendors within Areas 2C and 3A, 1993-2004, by residency

Year	Sport fishing licenses sold by vendors in **IPHC 2C**				Sport fishing licenses sold by vendors in **IPHC 3A**				Internet/Mail Sales (unknown location)
	Alaska Residents	Non-residents	Unknown Residency	Total	Alaska Residents	Non-residents	Unknown Residency	Total	
1993	27,478	50,932	2,101	80,511	38,075	51,561	2,838	92,474	984
1994	27,685	60,350	2,193	90,228	40,116	59,091	1,650	100,857	1,075
1995	26,982	63,881	77	90,940	39,382	63,834	58	103,274	1,151
1996	26,725	67,896	56	94,677	40,278	65,947	66	106,291	1,261
1997	26,724	71,515	26	98,265	38,799	67,552	34	106,385	1,518
1998	25,241	71,789	49	97,079	37,306	69,447	56	106,809	1,699
1999	24,517	76,228	56	100,801	37,025	75,159	31	112,215	2,092
2000	24,173	81,030	42	105,245	38,534	75,526	71	114,131	4,972
2001	23,743	79,503	95	103,341	39,192	76,996	48	116,236	7,712
2002	22,976	83,540	45	106,561	39,786	78,491	40	118,317	9,350
2003	23,169	82,533	125	105,827	39,828	76,220	63	116,111	11,233
2004	23,363	98,490	5	121,858	40,833	85,424	3	126,260	14,211

Note that numbers of licenses sold by internet/mail are provided as well for reference purposes, as these license sales can NOT be assigned to a geographic location. Sales by vendors in other locations throughout the state (outside of IPHC areas 2C and 3A) are NOT included (except the internet/mail sales).

1.6 Cumulative Effects

The proposed action is designed to limit entry into the charter halibut sector in Areas 2C and 3A. Any direct effects or reasonably foreseeable indirect environmental effects from the action would be minor, as the limited entry program itself would not entail changes in harvest levels, and any environmental effects, such as the removal of halibut biomass from the ecosystem, are so minor as to make it difficult to reasonably predict further indirect effects of those changes. The proposed limited entry program is intended to identify the eligible participants in any future share-based program that the Council may recommend.

Cumulative effects are linked to incremental policy changes that individually may have small outcomes, but that in the aggregate and in combination with other factors can result in major resource trends. This action would not interact synergistically with other actions or with natural trends to significantly affect the halibut resource of the Gulf of Alaska. Measures to further allocate the halibut resource to the charter sector or to individual charter businesses have been delayed to a future action. The proposed alternatives will have no effect on any halibut fishery sector or on the halibut resource. No reasonably foreseeable future actions would have impacts that would cause significant cumulative effects when combined with the effects from this action.

In January 2007, the IPHC recommended that the Secretaries of Commerce and State implement a reduction in the bag limit to 1 fish for the entire season in Area 2C and for part of the season in Area 3A to reduce charter halibut harvests that exceeded the GHLs, as a conservation measure. The Secretary of State rejected the IPHC's recommendation for management measures in Area 3A because of action taken by the State of Alaska for 2007. The Secretary also rejected the recommendation for Area 2C because the Secretary of Commerce through NMFS will develop regulations for 2007 that will achieve the same level of reduction as recommended by IPHC.

In March 2007, the Council will be considering a wide range of management measures to reduce harvest to the GHL in Area 2C for after 2007. These are viewed as additional interim measures while a long term solution to a permanent allocation is developed. Proposed interim measures include: 1) 1 trip per vessel per day; 2) no retention of halibut catch by skippers and crew; 3) annual catch limits of: (i) 4 halibut, (ii) 5 halibut; 4) 1 fish bag limit for June, July, August, or entire season; 5) trophy size limit for second fish of: (i) 45 inches, (ii) 50 inches, (iii) 55 inches, or (iv) 60 inches; 6) season closure date of: (i) August 15, (ii) August 31, (iii) September 15; 7) day of the week closure (pick a specific day); and/or 8) minimum size limit of 32 inches. Final action is expected in June 2007. The Council noticed the public that it plans to review similar management measures for Area 3A. These measures would be intended for implementation in the 2008 charter season.

The Council is currently considering the following alternatives for a permanent solution: (1) no action; (2) an allocation to the charter sector, including, but not limited to: (a) sub-allocations to smaller areas; (b) sub-allocations to underdeveloped coastal communities; and (c) individual shares based on effort; and (3) an individual fishing quota program.

Management authority to manage halibut off Alaska resides with the IPHC, NMFS, and the Council. State authority to directly regulate the halibut fishery in Convention waters is preempted by federal law. However, the State of Alaska is pursuing an amendment to the Northern Pacific Halibut Act of 1982. Such an amendment is intended to provide delegation of limited authority for States to regulate recreational fishing for halibut, upon such recommendation by the appropriate regional council and Secretary of Commerce. Such delegation would require a recommendation by a council to the Secretary, based on an analysis and NMFS rulemaking. It is expected that the proposed limited entry program would be implemented prior to delegation of authority to the State(s), if the State of Alaska's proposal is successful.

2.0 REGULATORY IMPACT REVIEW

The Regulatory Impact Review provides information on the economic and socioeconomic impacts of the proposed alternatives including identification of the individuals or groups that may be affected by the action, the nature of these impacts, quantification of the economic impacts if possible, and discussion of the tradeoffs between qualitative and quantitative benefits and costs.

The requirements for all regulatory actions, specified in E.O. 12866, are summarized in the following statement from the order:

> 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 nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that 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.

This section addresses the requirements of E.O. 12866 to provide adequate information to determine whether an action is "significant," as defined under the Executive Order. 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:

> (1) 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, the environment, public health or safety, or State, local, or tribal governments or communities;
>
> (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
>
> (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
>
> (4) 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 Problem Statement

The Pacific halibut resource is fully utilized and harvest by the guided sport sector is demonstrating steady growth. To provide long term stability of the guided sport sector and lessen the need for regulatory adjustments, which destabilize the sector, the Council is embarking on development of a new management framework. In the interim, to address allocation issues between the guided sport and commercial sectors the guided sport sector is operating under a guideline harvest level (GHL). Harvest data indicate that the GHLs in Area 2C have been exceeded and are near levels established for Area 3A. This has resulted in a renewed effort to find a long-term solution. The Council has formed a stakeholder committee of affected user groups to consider management options and formulate recommendations for Council consideration in developing a management plan for the guided sector. Some of the past options under consideration include limiting entry or awarding quota share based on past involvement in the fishery. To address the potential against the rush of new entrants into the guided sport fishery, the Council is considering establishing a moratorium on the guided sport sector.

2.2 Management Objectives of the Action

The Council has proposed implementing a halibut charter vessel moratorium as one step in addressing unregulated growth in the charter industry, as it pertains to the distribution of Pacific halibut catches among commercial and charter fishing sectors. This action is designed to build on previous decisions made by the Council that are described in section 1.2 of this document by limiting growth in the sector and to define the charter sector that would be eligible for future charter rationalization programs.

The primary purpose of this amendment is to limit the number of halibut charter vessels that may carry clients in IPHC Areas 2C and 3A. Limiting the number of charters and the number of clients they carry may help control long-term growth in halibut mortality that result from the charter sector. The moratorium may also provide a foundation on which other management measures can be built – management measures that are more effective at controlling shorter term growth in halibut mortality from the charter sector.

A moratorium that does not constrain charter harvests has little impact on the commercial or sport fisheries for halibut relative to the status quo because of the method used by the IPHC to determine the commercial fishery limits. In this method, estimates of legal-sized halibut bycatch from non-target fisheries, halibut sport catch (guided and nonguided), commercial halibut fishery wastage, and personal use (subsistence) halibut catches are deducted from the total CEY[35] to generate the Fishery CEY. The catch limits for the commercial halibut fishery are then based on the Fishery CEY. The catch limits do not necessarily equal the Fishery CEY, as IPHC considers area-specific harvest policy objectives and also applies its Slow Up/Fast Down policy in setting the commercial halibut fishery catch limits. Thus, the moratorium will have no direct effect on the harvests by the commercial IFQ or other sport fisheries for halibut until the moratorium constrains charter harvests.

2.3 Alternatives Considered

This analysis assesses the potential economic and social impacts of implementing proposed management measures to either maintain the status quo (Alternative 1) or to implement a moratorium on entry into the halibut charter sector (Alternative 2). A direct allocation to the halibut charter sector is not considered as part of this program.

The alternatives under consideration were developed over an extended period, with input from several sources (see Appendix I for a detailed discussion of this process and development). Moratorium alternatives were discussed by the Council as far back as 1995; however, the lack of data on individual operators and political will stymied implementing a moratorium. The State of Alaska initiated a charter vessel logbook program and collected halibut data from 1998 through 2001. That program was halted for a variety of reasons and replaced with a new logbook program in 2004. Data from the new logbook program are used to determine the persons that could qualify for a permit under Alternative 2.

Expected Effects of each Alternative on each Sector

The following analysis describes the effects of the status quo (Alternative 1 - No Action) and a moratorium (Alternative 2) on the charter sector, charter clients, commercial IFQ fishermen, seafood consumers, and [to a lesser extent] non-charter fishermen. Background information and options for the moratorium analysis (except for the options for qualification criteria) have been supplemented with information taken from Alternative 3 of the 2003 GHL analysis.

[35] Total CEY is the Exploitable Biomass multiplied by the Harvest Rate.

Economic considerations associated with allocating a resource among competing sectors often center around the notion of economic efficiency, which is analogous to the idea of maximum net benefits. An efficient allocation occurs when the combination of net benefits to consumers and producers in each sector is greatest. This combination is the sum of net benefits to the primary stakeholders in each user group: consumers of commercially caught halibut, commercial fishermen, sport anglers, charter operators, personal use, and subsistence. Economic theory suggests that social welfare maximizing distributions can be achieved by allocating each sector an amount of halibut that results in their marginal net benefits being equal. The goal of this action is not to determine and implement an optimal allocation, but instead the goal of the analysis is to compare net benefits.

Consumers of seafood determine the value of commercial fish through their willingness to pay. The net benefit to consumers is the difference between what they are willing to pay, and what they actually pay (the market price) to consume seafood. Net benefits to consumers of seafood, and consumers in general, are referred to as consumer surplus and is included in post-harvest surplus discussed in this document.

Consumer surplus in the recreational sector exists, regardless of whether there is a market for the recreational activity, since it is the difference between what anglers are willing to pay to sportfish and the costs incurred to do so. In the case of charter fishing, there is a market for guided trips, and the difference between what a guided angler would be willing to pay and what she or he does pay (the charter price and other costs associated with the charter trip) is the net benefit. The net benefits, or producer surplus, to charter operators is the difference between their total revenues and their costs, including opportunity cost.

The net benefit to commercial fishermen (halibut IFQ fishermen and charter operators) is the difference between what they receive for supplying the fish or trip (ex-vessel revenues and trip prices) and all costs associated with harvesting the resource, inclusive of opportunity cost. Opportunity costs represent the value of the next best business alternative that a commercial operator could have engaged in with his or her investment. Net benefits to commercial harvesters, and producers in general, are referred to as producer surplus.

Some benefits are excluded in a cost-benefit analysis when assessing only net *national* benefits. For example, the consumer surpluses of foreigners who come to Alaska to sportfish for halibut, or the benefits enjoyed by the consumers of U.S. exported commercial halibut would not be a part of the net national benefit calculation. Neither would the benefits that accrue to foreign producers be counted, since this producer surplus does not accrue to the national economy.

It can be the case that the management measure that produces the greatest net national benefit is one that disproportionately favors one sector over another, or that is substantially different from the starting point. As explained by Edwards (1990), potential efficiency is gained even if it means a substantial loss of economic surplus to one of the sectors, so long as net national benefits increase. The Kaldor-Hicks "compensation test for judging whether efficiency is increased is whether 'winners' of economic value could compensate 'losers' and still come out ahead" (Edwards 1990). Whether or not winners actually compensate the losers is irrelevant within this context.

Potential improvements in "efficiency" (e.g., the Kaldor-Hicks test results) provide no insight into "equity". However, equity among the sectors is an important, if separate issue that should be addressed. Properly construed, economic efficiency evaluations, at least implicitly, takes equity considerations into account (e.g, by differentially weighting values of competing individuals or groups). In practice this rarely, if ever, occurs because equity issues are often times difficult to render into dollar value terms, given the subjective 'weighting' preferences implied.

Distributional issues thus normally fall outside the bounds of conventional cost-benefit analyses. Both the commercial and sport fisheries contribute to regional economies. Producers in both sectors purchase inputs, such as labor, fuel, vessels, and vessel maintenance services, financial services, etc. They both pay taxes that contribute to the well-being of communities, and support associated industries, such as processors, seafood brokerages, and recreation booking agents. As consumers of sport fishing services, guided anglers also spend monies that contribute to the economic well being of communities that provide charters. National Standard 5 states that economic efficiency shall be considered, where practicable. However National Standard 5 also indicates that economic allocation should not be the sole purpose of the action. Identification of the downstream monetary impacts is helpful in revealing the distributional effects of a policy change among the various segments of an economy, and this is the scope of economic impact analysis.

Economic impact analysis (EIA) provides a snapshot of the economic interdependencies of various industries in a regional economy, and therefore allows analysts to model the downstream effects of demand changes for commodities or services. Since opportunity costs and willingness to pay do not enter into the impact assessment framework, the results of an EIA should not be confused with statements of value. It should be noted, however, that the results that yield the greatest value under a cost-benefit analysis may at times imply very disproportional allocations among stakeholders. Because notions of fairness and equity do not enter into the cost-benefit analysis framework, EIAs are useful tools for tracking "economic activity" and identifying the distribution revenue and employment *impacts* (as distinct from economic "benefits" or "costs" in the CBA sense of these terms), of alternative policies among the various players in an economy. For a more detailed discussion on the differences and appropriate uses of CBAs and EIAs, see Edwards (1990), Johnston and Sutinen (1999), or Steinback (1999).

Description of Fleet, Fishery, and Industry

A description of the charter and commercial halibut fleets were presented in Appendix 2 of the 2003 GHL/RIR/IRFA (NPFMC 2003). That information is incorporated into this analysis by reference. Baseline information on the number of fishery participants and harvest levels for the 1995 - 2006 commercial and charter fisheries is presented in Table 3 of the EA for this amendment.

Additional information on the 2006 commercial halibut IFQ fishery can be found in Appendix 2 of this amendment and on the NMFS Alaska Region web site (http://www.fakr.noaa.gov/ram/ifqreports.htm). Information provided on that site includes allocations and catch by year, landings by port where the fish were delivered and area the fish were harvested. Information is also available there on fees collected under the IFQ program, transfers, permits issued, and vessel use caps. Those data provide background on the commercial halibut fishery and to some extent the communities that support the fleet. That information is included here by reference.

Description of Military Recreational Fleet

The military has offered charter and other recreational fishing services since the early 1940s in the city of Seward. There are two facilities, the Seward Resort (Army) and the Air Force Recreation Camp.

The Seward Resort is administered as a non-profit operation by the U.S. Army Morale, Welfare, and Recreation (MWR) Program based at Fort Richardson in Anchorage. Besides offering a variety of accommodations, the resort currently operates four charter sport fishing vessels with a capacity of 14 clients per boat. Their season is from Memorial Day to Labor Day. Eligibility for use of the facilities or charter vessels is limited to active duty or retired military members or their dependents, or to people who

meet a number of other criteria associated with military service.[36] The resort employs civilian charter captains and deck hands. Charter rates are discounted (subsidized by the MWR program) and vary by client according to rank. The camp also provides free fishing services to 26 active duty service members per week. All Seward Resort vessels currently meet the state definition of a charter boat and the resort submits ADF&G logbooks for all vessels. The Seward Resort and its guides have met ADF&G business and guide registration requirements every year since implementation. ADF&G port samplers interview captains of Seward Resort charter vessels along with the rest of the charter fleet, and collect biological data at the camp's fish cleaning facilities.

The Seward Air Force Recreation Camp is operated by Elmendorf Air Force Base in Anchorage.[37] The Air Force Recreation Camp currently neither owns nor operates any sport fishing vessels of any kind, but provides fish cleaning and freezing facilities in addition to accommodations. ADF&G does collect data from non-charter boat anglers utilizing the Air Force camp fish cleaning facilities.

Through the late 1980s and much of the 1990s, the Army fleet consisted of up to fourteen 27-foot boats captained by USCG-licensed active military personnel and up to four boats in the 43'- 50' range captained by licensed and qualified civilians. Client use on the smaller boats was generally determined by lottery (no charge), and these were technically not charter vessels. During the same period, the Air Force camp operated as many as four charter boats. During the late-1990s, the Army camp downsized the lottery boat fleet and gradually converted some vessels to charter boats. The Air Force camp also downsized their fleet and by 2001 was no longer operating any charter boats. Both camps provided ADF&G with voluntary logbook data, including effort and harvests of all species, from 1987 through 1997, and submitted ADF&G logbooks every year since that program began in 1998.

As stated previously, the MWR Program continues to submit ADF&G logbooks, and the halibut harvested is counted toward the halibut charter GHL. The Council's preliminary preferred alternative would explictly exempt these vessels from the qualifications of the halibut moratorium program and would recommend to continue to account for their halibut harvest toward the GHL. Note that the Charter Halibut Stakeholder Committee also supports the exemption from the participation requirements necessary to receive a halibut charter moratorium permit, but recommends that the halibut harvest from these vessels should not be counted against the halibut charter GHL. **However, the Committee also recommended that if the Council chooses to continue to allow harvest from these military boats to count against the halibut charter GHL, then the moratorium permits issued to the military should be limited in ways similar to the Community Quota Entity (CQE) Program under Issue 12. For example, the permits issued to the military should be non-transferable and capped at 4 permits total.**

Coastal Community Considerations

Both charter and commercial fisheries are important to the economies and social structures of coastal communities in Areas 2C and 3A. A study of the regional impacts on the Lower and central Cook Inlet was conducted by Criddle et al (2003). Studies specific to other regions are unavailable. A description of economic and social contributions from commercial fishing to coastal communities is provided in a series of reports contracted by NMFS (Shirley et al. 1998, Dinneford 1999).

[36]The criteria are listed on the following website: *http://www.sewardresort.com/*
[37] *http://www.elmendorfservices.com/Pages/Seward/seward.htm*

2.4 Alternative 1: Status Quo

The status quo in the halibut charter fishery is represented by the interactions of all the programs currently in regulation. Table 4 provides background information on the number of vessels that historically operated in the fishery, the number of trips they took, and the amount of halibut they harvested. Information for the commercial IFQ fishery is also provided in that table. The GHL for the charter halibut fishery sets a target charter harvest of 1.432 M lb net weight in Area 2C and 3.65 M lb net weight in Area 3A. Other charter management measures include a two fish bag limit, 2-hook gear limit, guide registration requirements, limits on captain and crew harvests (they were prohibited from retaining halibut during part of 2006 in Area 2C), and other State and Federal management and safety requirements placed on the halibut charter fishery (NPFMC 2000).

Recent halibut landing amounts by fishermen on guided charters in Area 2C and, to a lesser extent, Area 3A have shown that the GHL will not constrain charter catches to their target level (see

). Current management measures allowed the GHL to be exceeded starting in 2004. During 2005, removal estimates for Area 2C were 1.95 M lbs and 3A 3.69 M lbs, those landing amounts were 36% and 1% over the 2C and 3A GHLs, respectively.

If the status quo is continued, the amount of halibut landed by clients on charter vessels could continue to grow. The number of halibut retained is determined, to a large extent, by the number of clients taking trips, client bag limits, and the desire of clients to take fish home. Trip demand is driven by the price of the trip, incomes of potential clients, costs of substitute activities, and preferences for charter trips relative to other activities. Since the charter industry operates in a competitive market for paying clients, trip prices are established by the forces of supply and demand (Wilen, 2004).

The number of visitors to Alaska from May 1 to September 30 has increased each year from 2001 to 2005. During that time the annual number of visitors increased from 1.20 million to 1.53 million (http://www.gov.state.ak.us/omb/results/view.php?p=178). That represents a 28% increase in the annual number of visitors. The population of Alaska also increased by 5.9 percent from April 1, 2000, to July 1, 2005 (http://quickfacts.census.gov/qfd/states/02000.html). During that period of time the population increased from 0.63 million to 0.66 million people. Given that both the number of visitors and residents has increased in recent years, demand for charter trips would be expected to continue to grow (all other things equal) in a competitive market for paying clients.

Under a steady or declining CEY the amount of halibut available to the 2C and 3A commercial IFQ fishery would be expected to decline. Changes in commercial IFQ halibut revenue will be driven by the amount of halibut they catch and the elasticities of supply and demand for IFQ halibut. Without information on future halibut prices and business costs it is not possible to predict the impacts that less halibut will have on profitability of those firms. However, public testimony on this issue indicates that commercial IFQ fishermen are concerned with the potential decline in harvests that result from increased charter harvests.

Impacts on the Commercial IFQ Fishery

Continuation of the status quo is expected to allow the halibut charter sector to increase the number clients they take fishing on an annual basis. The amount of halibut harvested will depend on the number of clients that fish, halibut bag and possession limits, and other management measures implemented. Because current management measures do not limit the number of vessels that may be used to take clients

halibut fishing or the number of clients that may be taken on a vessel[38], the status quo is not expected to constrain charter harvests to the 2C and 3A GHLs.

Growth in the charter sector's catch in the 2C and 3A areas will reduce the commercial catch by an equal amount (all other things being equal). The commercial catch limit[39] is determined after accounting for the charter sector harvest (and all other harvests) which is deducted from the CEY before the commercial catch limit is determined. Therefore, any increases in charter client's catch will reduce the amount of halibut allocated to the commercial IFQ fishery by approximately an equal amount, all other things being equal.

Estimates of halibut landings by the charter sector are currently unavailable for future years. Trends in historic harvest levels and the number of people that are potential clients seem to indicate that charter harvests will increase in the future, but the magnitude of the increase is unknown.

Charter harvests from IPHC Areas 2C and 3A are reported in

for the years 1995 - 2006. Based on those harvests, linear 10-year projections of catches are provided when three levels of growth are assumed. As stated earlier, future growth in the charter sector is not known, so different growth patterns were assumed to partially account for the uncertainty. Three rates of growth were calculated based on the average annual growth using the sets of years 1995-2006, 1997-2006, and 1999-2006. Assuming that the historic catch trends continues into the future, the average annual increase in 2C charter catch would be approximately 0.066, 0.094, and 0.168 M lbs in Area 2C under the lower, medium, and higher catch levels. In Area 3A, the average annual increase in catch rates were projected to be 0.092, 0.120, and 0.202 M lbs. Based on the 2007 Commercial Catch Limits of 8.51 M lbs in 2C and 26.2 M lbs in 3A, those increases in charter harvests, in the near term, represent about a 0.8 to 2 percent annual decline the 2C commercial catch limit and a 0.3 to 0.8 percent decline in the 3A commercial catch limit. These annual percentages would increase over time if charter catches increase and the commercial catch limit erodes.

[38] Coast Guard requirements determine how many passengers may be onboard a for-hire vessel and not halibut charter management measures. In Area 2C, State regulations permit only 6 clients to fish at one time, but more than six clients may be onboard the vessel.

[39] The amount of halibut allocated to the commercial setline and longline fisheries.

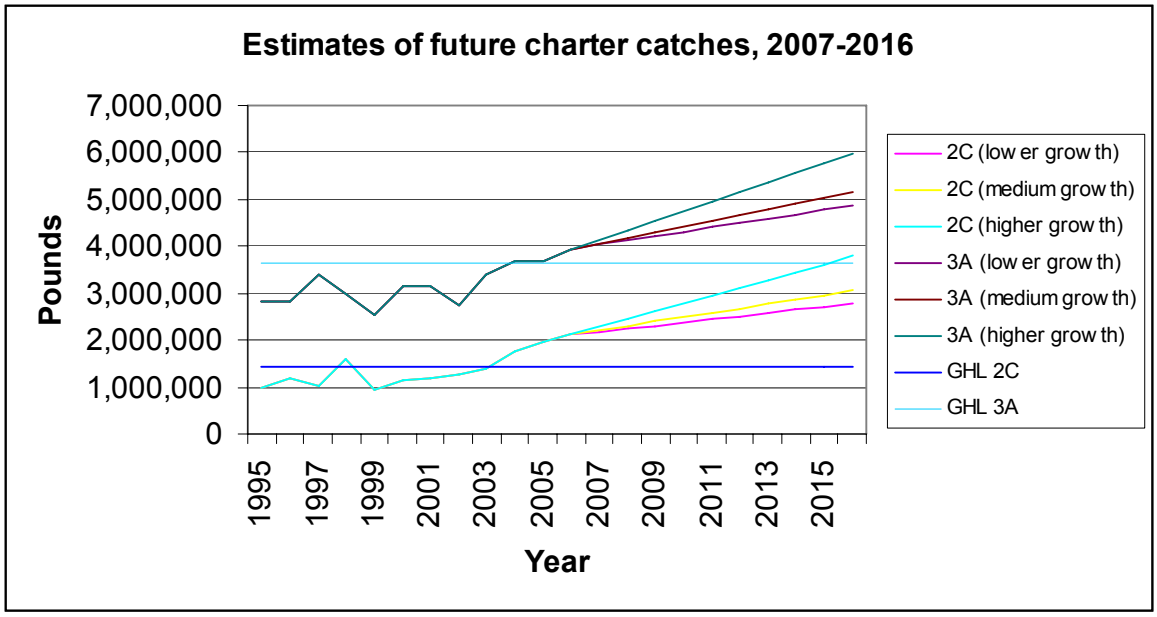


Figure 8 10-year projections of Areas 2C and 3A halibut charter harvests

Decreasing the amount of halibut that commercial IFQ holders may harvest from Areas 2C and 3A will decrease the ex-vessel revenue they derive from the fishery. The change in revenue is dependent on how responsive ex-vessel halibut prices are to the amount of halibut landed, in addition to other market factors that affect the demand for halibut. Herrmann (2006) concluded that the ex-vessel price of halibut is quite inelastic, meaning that changes in the quantity of Alaskan halibut sold from the commercial IFQ fishery does not greatly impact the ex-vessel price that fishermen receive for their catch. He concluded that a 1 percent decrease in the amount of Alaskan halibut landed would increase the real ex-vessel price of halibut by only 0.09 percent. Using the projected changes in charter halibut catches over the 10-year period to reduce the commercial catch limits, the reduction commercial production would only increase ex-vessel prices by a maximum of about $0.01 per pound. Therefore, for simplicity this analysis will assume that changes in the quantity of Alaskan commercial halibut sold as a result of this action will not cause a change in ex-vessel prices.

Using the projected charter harvests shown in
Figure 8

, for the years 2007-2016, projections of the amount of ex-vessel revenue that the commercial sector would forgo are estimated. Ex-vessel prices provided by the RAM Division for IPHC Areas 2C and 3A during 2005 were used to make these estimations. Depending on the growth rate used for charter catches, the change in commercial revenue could range from $11.5 to $29.2 million over the 10-year period of 2007 to 2016 in Area 2C. In Area 3A the change in revenue is projected to be $15.6 to $34.3 million over the same time period. The changes are also reported as the percentage reduction in revenue relative to 2006.

Table 8 Estimates of the ex-vessel revenue reductions in the commercial IFQ fisheries

Year	AREA 2C			AREA 3A		
	Slower growth	Medium growth	Faster growth	Slower growth	Medium growth	Faster growth
	Pounds					
2007	66,125	93,917	167,714	91,833	120,250	202,000
2008	132,250	187,833	335,429	183,667	240,500	404,000
2009	198,375	281,750	503,143	275,500	360,750	606,000
2010	264,500	375,667	670,857	367,333	481,000	808,000
2011	330,625	469,583	838,571	459,167	601,250	1,010,000
2012	396,750	563,500	1,006,286	551,000	721,500	1,212,000
2013	462,875	657,417	1,174,000	642,833	841,750	1,414,000
2014	529,000	751,333	1,341,714	734,667	962,000	1,616,000
2015	595,125	845,250	1,509,429	826,500	1,082,250	1,818,000
2016	661,250	939,167	1,677,143	918,333	1,202,500	2,020,000
Total	3,636,875	5,165,417	9,224,286	5,050,833	6,613,750	11,110,000
Ex-vessel value assuming ex-vessel prices of $3.17 (2C) and $3.09 (3A)						
2007	$ 209,616	$ 297,716	$ 531,654	$ 283,765	$ 371,573	$ 624,180
2008	$ 419,233	$ 595,432	$ 1,063,309	$ 567,530	$ 743,145	$ 1,248,360
2009	$ 628,849	$ 893,148	$ 1,594,963	$ 851,295	$ 1,114,718	$ 1,872,540
2010	$ 838,465	$ 1,190,863	$ 2,126,617	$ 1,135,060	$ 1,486,290	$ 2,496,720
2011	$ 1,048,081	$ 1,488,579	$ 2,658,271	$ 1,418,825	$ 1,857,863	$ 3,120,900
2012	$ 1,257,698	$ 1,786,295	$ 3,189,926	$ 1,702,590	$ 2,229,435	$ 3,745,080
2013	$ 1,467,314	$ 2,084,011	$ 3,721,580	$ 1,986,355	$ 2,601,008	$ 4,369,260
2014	$ 1,676,930	$ 2,381,727	$ 4,253,234	$ 2,270,120	$ 2,972,580	$ 4,993,440
2015	$ 1,886,546	$ 2,679,443	$ 4,784,889	$ 2,553,885	$ 3,344,153	$ 5,617,620
2016	$ 2,096,163	$ 2,977,158	$ 5,316,543	$ 2,837,650	$ 3,715,725	$ 6,241,800
Total	$ 11,528,894	$ 16,374,371	$ 29,240,986	$ 15,607,075	$ 20,436,488	$ 34,329,900
Percentage reduction in ex-vessel revenue from 2006						
2007	0.8%	1.1%	2.0%	0.4%	0.5%	0.8%
2008	1.6%	2.2%	3.9%	0.7%	0.9%	1.5%
2009	2.3%	3.3%	5.9%	1.1%	1.4%	2.3%
2010	3.1%	4.4%	7.9%	1.4%	1.8%	3.1%
2011	3.9%	5.5%	9.9%	1.8%	2.3%	3.9%
2012	4.7%	6.6%	11.8%	2.1%	2.8%	4.6%
2013	5.4%	7.7%	13.8%	2.5%	3.2%	5.4%
2014	6.2%	8.8%	15.8%	2.8%	3.7%	6.2%
2015	7.0%	9.9%	17.7%	3.2%	4.1%	6.9%
2016	7.8%	11.0%	19.7%	3.5%	4.6%	7.7%

Source: 2005 ex-vessel halibut prices from RAM. Quantity estimates were taken from Figure 8

.

Note: Changes in the quantity of commercial halibut landed were assumed to have no impact on ex-vessel prices.

Increases in the charter harvests that result in decreased commercial harvests are expected the result in small increases in the ex-vessel price of halibut (it was assumed to be zero in the estimates above), decreased post-harvest surplus[40], decreased commercial net revenue, and decreased quota share (QS) values.

Because the number of commercial IFQ fishermen is relatively low and because they hold IFQs to harvest a specific percentage of the TAC, they are expected to earn a modest level of producer surplus in both the short and long term. Reductions in the amount of halibut available to the commercial sector could result in further consolidation of the QS as harvesters try to match their holdings with harvesting capacity.

Quota share value

Because the commercial halibut fishery operates under an IFQ program, continued reductions in the commercial catch limit will negatively impact the value of commercial QS in Areas 2C and 3A. The value of the QS will depend on projected future net revenues derived from owning the QS, which will include any expectations of future changes in the commercial catch limit. As the commercial catch limit declines the amount of halibut IFQ that results from a QS unit declines. Therefore, because each QS unit equates to fewer pounds of halibut annually and the ex-vessel price of halibut is inelastic the value of the QS will decline.

Changes in QS values in other IPHC areas should be minimal as a result of this amendment because, as stated earlier, changes in the quantity of halibut sold in the commercial market will have minimal impacts on the ex-vessel price of halibut. Since the prices and quantities of halibut harvested in other Alaskan areas are either minimally impacted or not impacted by this action, the QS value in those areas are not expected to change significantly.

Post-harvest surplus

Post-harvest surplus is expected to decline under the status quo. Reductions in the supply of commercially caught halibut as a result of increased charter catches will result in less halibut being available in the market, and any post-harvest consumer or producer surplus attributed to those forgone fish would be deducted from the post-harvest surplus estimate.

Consumer surplus is the difference between the willingness to pay and the actual cost (including opportunity costs) consumers pay for halibut. Criddle (2004, 2006) shows that consumer surplus (post-harvest surplus) represents a substantial portion of the commercial net benefits under a joint commercial and charter management structure. He also indicates that post-harvest surplus is directly correlated with commercial catch. Post-harvest surplus rises when commercial catch increases and falls when commercial catch declines.

Charter Operators

Under the status quo charter operators, will continue to enter or exit the charter fishery based on their ability to lure clients to their business. Businesses that successfully market their trips to potential clients could expand their operation to meet client trip demand. Businesses that are unable to market their trips successfully will leave the market.

[40] The consumer surplus of buyers of commercially caught halibut and any producer surplus generated by buyers/processors of commercially caught halibut from the harvesting vessel.

Since the charter sector is characterized by a large number of participants and low barriers to entry, participants are assumed to operate as perfect competitors. In a perfectly competitive market, the market supply of sportfishing trips is perfectly elastic and demand for those trips is perfectly elastic. The ultimate result in this market with an increasing demand for fishing trips is an increase in the number of sportfishing trips taken, an increase in angler surplus, and an increase in charter capacity. In the short-run, the price of trips would increase along with charter operator profits. But over time the price of trips would return to their original levels as charter operators compete for clients. Therefore, in the long-run, no producer surplus[41] would be generated by the charter sector since they would return to earning normal profits (Criddle, 2004).

Charter Clients

Charter clients pay for the privilege of being taken on a guided halibut trip. The decision whether to take trip is affected by the price of the trip, other recreational opportunities, the anticipated success of the trip (number and size of halibut caught), income, and other factors. Criddle, et al. (2003) produced a study that examined the relationships between these factors and the probability that a potential charter client will take a trip in the lower Cook Inlet. The results of that study indicate that an increase in the price of a charter trip will reduce the probability that a client will take a trip. Alaska residents were less likely to take a trip when the price of a trip increases compared to non-residents.

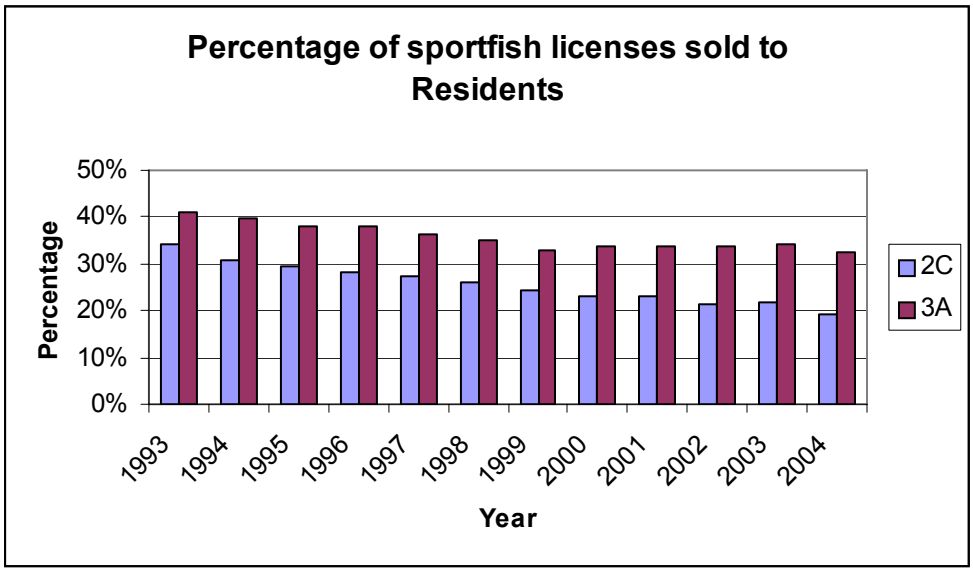
Figure 9 shows the percentage of sportfish licenses that were sold to Alaska residents from 1993 to 2004. The information in that figure indicates that overall the number of sportfish licenses sold to residents has declined over the time period. It also shows that a greater percentage of licenses are sold to residents in 3A when compared to 2C. Therefore, price increases in Area 2C are expected to have a greater impact on a potential client's decision to take a trip than in Area 3A. Increases in the anticipated weight and number of halibut harvested on the trip increased the probability that both resident and non-resident clients would take a trip. However, Alaska residents are more responsive to increases in halibut weights and number of halibut caught than non-residents. The marginal utility of a trip was shown to increase at a decreasing rate as the expected weight of halibut harvested increases. Catches of salmon species on a saltwater fishing trip were also shown to be substitutes for halibut trips. The probability of taking a trip increased as a function of income, age, and education. The probability of taking a trip is also higher for males. These results are specific to the Lower and Central Cook Inlet saltwater sport fishing. However, the directional impacts of the results conform well to economic theory and are assumed to apply to other areas of the state.

Under the status quo, the factors that alter the probability that a charter client will take a halibut trip are not directly affected. Given that those factors are not changed as a result of the status quo (including the price of a trip), the total compensating variation (consumer surplus) is expected to increase as the number of clients taking a trip increases. Estimates of compensating variation for the 197,556 saltwater sport

[41] The difference between revenue earned from clients and the costs (operating and opportunity) of doing business.

fishermen (both guided and unguided) in the Lower and Central Cook Inlet in 1997 was $19.5 million dollars (Criddle, et al, 2003). This value over-estimates the compensating variation of the Lower and Central Cook Inlet halibut charter fishery, because it includes all saltwater sport fishing activity. However, because it excludes charter activity in other 2C and 3A areas, the compensating variation from those charter clients would need to be included in the estimate.

Figure 9 Percentage of sportfish licenses sold to Alaska residents by year 1993-2004



Regional Impacts

The economic activity resulting from the charter and commercial halibut fisheries generates income and employment for residents of the communities where the expenditures occur. The economic benefits under the status quo will likely differ from those under a binding moratorium. However, changes in regional economic benefits generally do not cause changes in net national benefits. Appendix 2 provides information on the communities where charter trips terminated in 2004 and 2005. Information is also provided in that appendix to show the percentage of Area 2C and 3A commercial halibut QS held by residents of various communities. Those tables indicate that in many cases the charter and commercial fisheries operate in the same communities. When a community is home to both charter and commercial activity, the reduction in expenditures by one sector will be off-set (to some degree) by the increased activity of the other sector.

Under the status quo, the amount of personal income and jobs generated by the charter sector is expected to increase. The economic activity reported in the University of Alaska Fairbanks angler survey (Lee et al. 1998; Herrmann et al. 2001) and the ADF&G angler survey conducted in 1997 (Howe et al. 1998) were used to estimate regional economic impacts for the Kenai Peninsula Borough (Criddle et al. 2003). The results of that analysis showed that the 197,556 saltwater sportfishing trips in 1997 generated $28.5 million in expenditures, $12 million in personal income, and 822 jobs. These values over-estimate the

impact of the halibut charter sector in the Kenai Peninsula because the values include unguided sportfishing trips. However, the impacts do not account for the regional impacts generated by trips in other 3A and 2C communities. That analysis also provides estimates of the impact that changes in expected charter catch and increases in trip prices will have on compensating variation, expenditures for sportfishing trips, personal income, and employment. Because the status quo is not expected to impact trip prices or halibut catches, that information is more relevant under a management system that alters those trip attributes.

Self-guided anglers and subsistence harvesters

Continuation of the status quo is not expected to impose costs or provide additional benefits to self-guided anglers or subsistence harvesters. Because the halibut allotment for those two groups is accounted for before the commercial allocation, the amount of catch by the commercial sector does not impact the halibut available to these groups. The charter harvests are accounted for at the same step in the IPHC allocation process as these groups. Therefore, the charter harvests do not impact these groups.

2.5 Alternative 2: Limited Entry (Moratorium) Program

The Council is considering implementation of a moratorium on new entry into the halibut charter fishery to moderate future increases in fishing capacity while the Council determines what is necessary to stabilize charter landings of halibut in IPHC Areas 2C and 3A. A moratorium, if adopted, should provide a basis for the development of a more comprehensive effort limitation program for this segment of the fishery. The moratorium may be a prudent first step while the Council evaluates the need for a more comprehensive effort limitation program that could provide better long-term control of fishing capacity and effort. At its February 2007 meeting, the Council selected Alternative 2 as its preliminary preferred alternative.

A moratorium is a form of limited access management that is, in this case, intended to stabilize the number of charter vessels while the Council considers if a more comprehensive effort limitation program is necessary. In principle, its direct effect is to limit the number of vessels in the fishery to a number equal to those "active" during the qualifying period. Under open access, the number of vessels entering the fishery may continue to increase. This could diminish the overall economic performance of the fishery (Wilen, 2006) and may adversely affect commercial IFQ fishermen by reducing their IFQ amounts.

The proposed moratorium is essentially a limited entry system by license limitation that in itself will not fully control fishing effort because the existing fishing fleet may react by increasing overall fishing effort (number of trips or average number clients per trip). But a moratorium could better stabilize fishing effort than no moratorium, because only the permitted vessels would be allowed to increase effort.

In the course of public meetings and from public letters and testimony, it became clear that a large segment of the charter fleet owners and commercial IFQ fishermen support implementing some form of moratorium. Members of the commercial IFQ fishery, as a whole, appear to be stronger proponents of implementing stronger effort controls under future actions. Recreational fishermen and persons just entering (or wishing to enter) the charter fishery, often oppose or are less supportive of the moratorium.

The Council will determine whether a more comprehensive limited entry system is needed through actions taken under the planning process for a follow-up amendment. If future actions are taken to rationalize the charter fishery, the moratorium permit holders (or a subset of that group) will likely be the

winners in future allocation decisions. Persons that do not hold moratorium permits are more likely to be excluded from future rationalization.

This moratorium action is designed to be as streamlined as possible so that the moratorium can be expeditiously implemented. Because of the desire for timely implementation, the program is limited to a few specific options. Future actions that are being considered could be more complicated, contentious, and time consuming to implement.

The following sections will address each of the proposed features of the moratorium.[42] A total of 12 issues will be addressed. Some of the issues are more statements of intent, rather than options to be considered. The discussion of those issues will be relatively short. Other issues have greater impacts on the industry. Those issues will be discussed in greater detail.

2.5.1 Issue 1

> ***Permits***[43] *may be held by U.S. citizens or U.S. businesses with 75 percent U.S. ownership of the business*[44]*. Businesses may receive multiple permits due to charter halibut activity by vessels reported by the businesses in ADF&G logbooks. Initial permit recipients may be "grandfathered" below the U.S. ownership level and above the proposed use caps until any change in ownership of the business occurs*[45]*.*

The permit conditions identified by the Council will add a U.S ownership requirement a person must meet in order to operate a halibut charter business in IPHC Areas 2C and 3A. Currently, the only requirements to own and operate a guide business in the State of Alaska are found in Section 16.40.260 of the Alaska Statues (AS). Those requirements do not include U.S. ownership provisions. Language from AS 16.40.260 is provided in the box below.

[42] Military (Morale, Welfare, and Recreational) boats are exempted from limited entry, but harvests still count against the GHL.

[43] Through initial issuance and transfers

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

[45] Transferred permits would not be grandfathered below the U.S. ownership cap, even upon sale of a business, but would be grandfathered above the use cap upon sale of the entire business (see Issue 11).

(a) The department shall issue an annual sport fishing operator license to a person who:
- **(1) holds a current business license under AS 43.70 to provide services to sport fishermen;**
- **(2) presents proof satisfactory to the department of a general liability insurance policy or marine protection and indemnity insurance policy, covering the services provided by the person and person's employees to sport fishermen, that provides coverage of at least $100,000 for each incident, and $300,000 for all incidents in a year;**
- **(3) pays the license fee prescribed by AS 16.05.340(a); and**
- **(4) satisfies all additional requirements adopted in regulation by the Board of fisheries.**

(b) A person may not provide sport fishing services unless the person holds a current sport fishing operator license and has current insurance coverage as required in (a)(2) of this section.

(c) A person who holds a current sport fishing operator license may contract to provide sport fishing guide services to a sport fisherman through an employee who holds a current sport fishing guide license under AS 16.40.270.

(d) A person who holds a current sport fishing operator license may not directly provide sport fishing guide services to a sport fisherman unless the person also holds a current sport fishing guide license under AS 16.40.270(b).

(e) A person who holds a sport fishing operator license may not aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40, including regulations relating to the proper method to release fish, by a sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person.

Many halibut charter business owners also operate the charter vessel. Those owners are required to comply with State and U.S. Coast Guard requirements for operating a for-hire vessel carrying clients. One requirement to operate the vessel is that the person must be a resident of the United States, Canada, Mexico or a resident alien. Owners that do not provide the actual guide services are not required to meet those additional requirements under current laws.

Implementing the permit requirements identified by the Council will ensure that any transfers of permits must be made to U.S. Citizens or U.S. businesses with 75 percent U.S. ownership of the business. This regulation will prohibit nonresident aliens and citizens of Canada and Mexico that were not initially issued a permit from owning halibut charter businesses that fish in Area 2C and 3A. These persons could continue to own and operate halibut charter businesses operating in other areas of the State. Since net national benefits only include consumer and producer surplus from U.S. residents. Excluding non-residents from purchasing permits may increase net benefits to the Nation.

The issue also states that persons may be issued multiple permits based on the bottomfish trip history of vessels as reported in Alaska Department of Fish and Game (ADF&G) Saltwater Logbooks[46] that were submitted by the charter business in a timely manner. This indicates that a business that submitted logbook data for two qualified vessels, for example, would be issued two distinct permits. Each of those permits would be transferable independent of the other. Allowing businesses to sell permits independently does not add additional vessels to the charter fleet, but it may allow increases in effort through more optimal distribution of permits among charter operators.

2.5.2 Issue 2

Permit would be designated for Area 2C and/or Area 3A. *If a business owner qualifies for a permit in both areas based on the history from a single vessel, he would be issued a separate permit for both areas. Only one permit could be used on any given trip.*

[46] Bottomfish trips reported in ADF&G logbooks will be referred to as logbooks in this document.

Permits would be issued for IPHC Area 2C and/or 3A, but almost all permits will be designated for either one or the other area. Designating the IPHC area in which a permit may be used will restrict movement of permits from one IPHC area to another. Restricting movement will reduce the potential number of halibut charter vessels that could operate in that area. In the near term, limiting moratorium permits to a specific IPHC area is not expected to have a substantial impact on charter businesses or guided anglers. The permits issued for each area are expected to be about the same or greater than the number of vessels that operated in recent years. If conditions change in the fishery and clients want to take substantially more trips in an area, the restrictions could eventually impact the availability and price of trips.

The amount of protection[47] specific ports within that area receive will depend on the number of permits issued in that IPHC area and number of permits needed to operate guide operations in other ports. If several permits are issued that are not needed to provide charter clients trips in the port they were earned, they could be moved to other ports in that IPHC area and increase competition in that port. Increased competition for clients could benefit guided anglers through lower prices, but increased fishing effort could impact catch rates if localized depletion of halibut results from the effort increase.[48]

The ADF&G provided data that allows preliminary estimates of the number of permits that would be issued in each area to be generated. Based on that data, seven businesses submitted logbook entries for both Areas 2C and 3A. A brief summary of those operations is provided. Three businesses submitted logbook entries for three vessels that made trips in 2C and 3A during the 2004 and 2005 qualifying period. **One vessel would qualify for an Area 3A permit under any option and an Area 2C permit if 1-trip was required**. **A second vessel would qualify for an Area 3A permit at the 1, 5, or 10 trip levels, and an Area 2C permit at any level.** The third vessel did not fish both areas in the same year but would qualify for a 3A license under the Council's 1 or 5 trip alternatives or a 2C endorsement at the 1 trip threshold, depending on the year they selected for qualification. If a vessel qualifies for more than one area the charter operator would be issued a permit for both areas. In addition to those three vessels, four other businesses reported trips in both 2C and 3A but did not have a single vessel operate in both areas. These businesses would be issued one or more permits for 2C and other permits for 3A (if they meet the minimum trip requirements).

2.5.3 Issue 3

Permit would be issued to an ADF&G licensed fishing guide business owner

The initial allocation of transferable fishing privileges is typically one of the most scrutinized and contentious aspects of a limited entry program's design. Recipients of the initial allocation, in cases where the privilege is gifted or a small fee is charged, are considered the winners of the allocation process. Those that do not qualify for the initial allocation are considered the losers. The initial allocation is important because subsequent purchasers of the privilege would be required to pay the free market price (when freely transferable), that price represents a windfall to initial recipients because they were not required to pay for the fishing privilege.

There are at least four methods that could be used to initially allocate moratorium permits.

- Historic Participation in the Fishery
- Lottery

[47] "Protection" refers to limits placed on the number of new businesses and vessels that may operate out of a port, and the impacts those operations could have on competition for clients, fishing grounds, and port infrastructure.

[48] Localized depletion may be less of an issue as the size of charter vessels increases and the range that vessels operate in becomes larger. ADF&G Sport Fish Division staff has indicated that charter vessels are regularly ranging up to 60-80 nautical miles from the ports of Homer, Seward, Whittier, and Valdez.

- Auction
- Sale by Government at a Fixed Price

The first method would be to allocate permits based on historic participation in the fishery. Historic participation could be based on holding a fishing permit or active participation in the fishery. The time it takes to develop a limited entry program under the Council process creates opportunities for persons to enter the fishery or increase their historic participation to obtain permits during the initial allocation. This rent-seeking behavior results in economically wasteful activities (Criddle, 2006). Trends in the number of businesses and vessels participating in the 2C and 3A charter fishery seem to reflect that notion. Historic participation tables presented in the EA indicate that during 2000 and 2005 the numbers of vessels and businesses increased. Those are years when halibut charter limited entry programs were active topics in the Council process. Public testimony has also indicated that some long-term operators are staying in the fishery with the hope of being issued a permit they can sell.

The Council has developed moratorium and license limitation programs for groundfish, crab, and scallop fisheries. Each time the allocation was based on historic participation in the fishery. The groundfish and crab moratoriums allocated permits to vessel owners if they had made one landing of groundfish/crab over a specific period of time. The groundfish license limitation built upon the moratorium by removing some latent permits and adding area and gear endorsements.

A lottery could also be used to initially issue permits. Lotteries for hunting permits are used for specific species and areas in Alaska and other areas of the Country. Lotteries typically issue permits to the persons whose name is drawn at no charge. If a lottery was used to allocate charter permits at no charge, the economic impacts for the winners and losers would be similar to those described under allocations based on historic participation.

Auctions have been discussed in recent years as a method to create an efficient initial allocation (Morgan, 1995) and as a mechanism for the government to better control the use of the public resource while providing financial return to public owners of the resource (Macinko, 2002). From an economic perspective, auctions would provide a very efficient method of allocating fishing privileges because they allocate permits to those persons who place the greatest value on them. It would also determine the market value of the permits. Auctions would also allow the Council and NMFS to determine the number of permits they want to issue and auction that amount. Auctions that sell to the highest bidder would generate the greatest revenue for the government, but other types of auctions could also be developed that allow the government to meet the needs of persons without the financial resources to successfully bid (Macinko, 2002).

As part of its recent reauthorization, the MSA was modified to allow Fishery Management Councils to recommend auctions or other programs to collect royalties when developing a "limited access privilege program". A limited access privilege program is defined in the MSA as a "Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person". Because the proposed moratorium program does not allocate a quantity of fish expressed as units or units representing a percentage of the TAC, the MSA does not provide the option to auction or sell moratorium permits proposed in this action.

The final method would have the government sell permits for a fixed price. One problem with this method is NMFS would need to determine the appropriate price for the permits. Because NMFS does not have detailed cost and revenue data for the charter operators, it would be difficult for NMFS to set the price. Setting the price too high would prevent persons from buying all the permits. Too low of a price would create excess demand and persons would engage in behavior to collect rents from the fishery. Like

with auctions described above, the Council currently does not have the authority to recommend and NMFS does not have the authority to implement a regulation that would sell moratorium permits proposed in this action to collect royalties.

Given the current regulatory restrictions, the Council's preference is to issue the permits to licensed sport fishing business owners based on historic participation in the fishery. Because the allocation is not market based, the initial distribution of permits will likely not be as economically optimal as a market based system. Permit transfers after the initial allocation will help redistribute the permits to those persons who value them the most.

Licensed captains and crew hired to operate vessels would not be included in the initial allocation. Most license, permit, and IFQ programs developed by the Council issue the initial allocation to the owner of the business. IFQ systems, in some cases, recognized the contribution of captains with allocations of a percentage of the quota. The Council has elected not to include those individuals in the initial allocation of this program. The business owners (licensed sport-fishing business in this program) have generally been issued permits under limited entry programs because they were deemed to have taken the greatest financial risk.

2.5.4 Issue 4

Permit applicant *would be required to sign affidavit attesting that all legal requirements were met.*[49]

This requirement was developed as part of the procedure for gathering information and issuing a permit. The goal is to encourage permit applicants to provide true and accurate information on their permit application. It also provides a record of owners stating they are entitled to the permit based on having met the legal requirements for its issuance. It eliminates new, conflicting, or redundant requirements by simply referring to other legal requirements.

Additional requirements to qualify for a permit are discussed under the recordkeeping and enforcement section of this amendment. The reader is referred to that section for additional discussion.

Finally, any additional recordkeeping and reporting requirements will increase the cost of doing business for the charter operators. However, the additional costs associated with signing an affidavit should be minimal. NMFS will also incur costs associated with developing, distributing, and verifying information submitted on the affidavit. Those costs are also expected to be relatively small, and by requiring the applicant sign the affidavit, it could reduce costs associated with enforcement and monitoring the applicant's activities.

2.5.5 Issue 5

Transfers *of permits (permanent) would be allowed up to use caps.*

Suboption 1: Prohibit transfers of issued permits for individual vessels that qualified at trip levels less than 10, 15, or 20 trips as reported in the ADF&G logbook.

Transferability facilitates the development of a market in which permits are traded. After the initial allocation of licenses, market forces would determine access to the fishery. Newcomers would buy permits to enter the fishery, and retirees would be paid to leave. Competition in the market for permits ensures that those most willing or able to buy permits, usually the most efficient and profitable fishermen, would eventually acquire them, whatever the initial distribution. For an industry such as the for-hire sector that is characterized by a high turnover rate, transferability of permits assumes particular importance. It would allow the more efficient operators to remain in or enter the fishery while the less efficient ones would be compensated for leaving. Under this process, the price of permits would start to partly reflect the value generated from its use. Public testimony at the Council meetings has indicated that participants in the fishery anticipate that permits will initially sell for about $5,000 each. Until a competitive market for those permits is established, the actual price will be unknown. The value of permits that allow a person to carry more clients is expected to sell for a higher price than a permit endorsed for fewer clients. For example, a permit that is endorsed for 4 clients would be expected to sell for less than a permit that allows 6 clients per trip. The difference in permit prices should reflect the change in profits that can be generated by the two permits. A more complete discussion of the number of clients that may be carried at one time is provided in the "Permit Endorsement for Number of Clients on Board" section (Issue 7).

This issue states that persons holding a permit will be allowed to sell to another person meeting the requirements to hold the permit. In this program, the buyer must meet the U.S. ownership requirements and the permit use cap requirements. Both of these transfer limitations may reduce the market price of

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

permits. However, the U.S. ownership provision will help to ensure that producer surplus from the charter fishery will flow to U.S. firms. The use cap restriction will help ensure that one person does not acquire too large of an interest in the fishery by buying permits.

Suboption 1 would create a class of permits that are non-transferable[50]. Permits would be classified at initial issuance as transferable or non-transferable based on the number of trips taken by the vessel that generated the initial permit. Vessels that did not take the required minimum number of trips in a calendar year during the qualifying period would be issued a non-transferable permit.

The Council has indicated that one reason they are considering allocating non-transferable permits is to make selecting an option that would allow more persons to qualify for an initial allocation more palatable. Allowing more persons to qualify would reduce the opposition to the program, and making some permits non-transferable could help to constrain halibut charter harvests by the permits that are no longer used by the original recipient. For example, the difference in number of permits that would be issued under Option 10.1 at the 5-trip and 15-trip level is 127 permits in 2C and 96 permits in 3A (see Table 14). If each vessel was required to take 15 trips to qualify for a transferable permit under Option 10.1 5-trips, then 255 non-transferable permits would be issued in Area 2C and 166 in Area 3A. The number of non-transferable permits is larger than the additional permits issued by selecting a 5-trip qualification criterion, but limiting transfers could prevent some permits from being used more fully. Quantitative estimates of the amount of halibut that would be harvested under the two options cannot be predicted. However, the non-transferable permits would be expected to decrease effort in the fishery over-time as they become inactive.

Allowing permits to be used on vessels that are not owned by the permit holder could expand the use of non-transferable permits. The problem is similar to the problems encountered when trying to prevent leasing a permit (see Issue 6). Persons holding a non-transferable permit could hire a captain and vessel to carry clients. The person holding the permit would only be required to maintain the State Business License and obtain ADF&G logbooks to report the activity of the vessel(s) using the permit. This practice is not uncommon in the fishery and could be used to keep non-transferable permits active in the fishery longer than they would if this practice was not used.

The number of permits under each option that would be non-transferable and the percentage of total number of permits that are non-transferable are shown in **Table 9**.

Table 9 Non-transferable permits under each option

	Number of Permits			Percentage of Permits		
Council Alternative	**2C**	**3A**	**Total**	**2C**	**3A**	**Total**
	Vessels qualified with less than 10 trips					
Option 10.1 (1 trip)	218	127	345	29%	19%	24%
Option 10.1 (5 trips)	146	76	222	21%	12%	17%
Option 10.1 (10 trips)	77	26	103	12%	5%	9%
Option 10.1 (15 trips)	48	20	68	9%	4%	6%
Option 10.1 (20 trips)	34	15	49	7%	3%	5%
Option 10.2 (1 trip)	218	127	345	29%	19%	24%
Option 10.2 (5 trips)	118	61	179	18%	10%	14%
Option 10.2 (10 trips)	35	6	41	6%	1%	4%
Option 10.2 (15 trips)	13	8	21	2%	2%	2%
Option 10.2 (20 trips)	8	2	10	2%	0%	1%

[50] Transfers are defined as the permanent sale of the permit or when persons are added as owners of the entity holding the permit. Removing owners from the entity holding the permit would not be considered a transfer.

	Vessels qualified with less than 15 trips					
Option 10.1 (1 trip)	272	178	450	36%	27%	32%
Option 10.1 (5 trips)	200	127	327	29%	21%	25%
Option 10.1 (10 trips)	130	77	207	21%	14%	18%
Option 10.1 (15 trips)	74	31	105	13%	6%	10%
Option 10.1 (20 trips)	55	25	80	11%	5%	8%
Option 10.2 (1 trip)	272	178	450	36%	27%	32%
Option 10.2 (5 trips)	172	112	284	26%	19%	23%
Option 10.2 (10 trips)	89	57	146	15%	11%	13%
Option 10.2 (15 trips)	33	13	46	6%	3%	5%
Option 10.2 (20 trips)	22	4	26	5%	1%	3%
	Vessels qualified with less than 20 trips					
Option 10.1 (1 trip)	327	217	544	43%	33%	38%
Option 10.1 (5 trips)	255	166	421	37%	27%	32%
Option 10.1 (10 trips)	185	116	301	30%	21%	26%
Option 10.1 (15 trips)	129	70	199	23%	14%	18%
Option 10.1 (20 trips)	75	36	111	15%	7%	11%
Option 10.2 (1 trip)	327	217	544	43%	33%	38%
Option 10.2 (5 trips)	227	151	378	34%	25%	30%
Option 10.2 (10 trips)	144	96	240	25%	18%	21%
Option 10.2 (15 trips)	88	52	140	17%	10%	14%
Option 10.2 (20 trips)	37	11	48	8%	2%	5%

Source: ADF&G Saltwater Logbook data 2004-2005.
Note: The information in this table does not account for the requirement to make landings in the year prior to implementation. That requirement will reduce the total number of permits and the number of non-transferable permits.

Fewer non-transferable permits are issued when the number of trips required to qualify for a permit increases and fewer trips are required to earn a transferable permit. Fewer non-transferable permits are issued under Option 10.2 compared to Option 10.1 when more than 1 trip is required to qualify. The reason that fewer non-transferable permits are issued is because the vessels closest to not qualifying under Option 10.1 do not receive a permit under Option 10.2. So, under Option 10.1 they would be issued a non-transferable permit and under 10.2 they would not be issued any permit. Depending on the alternative selected the maximum number of non-transferable permits are projected to range from 10 (1 percent of the total permits issued) to 544 (38 percent of the total permits issued).

Implementing a program that allocates both transferable and non-transferable permits will impact permit holders differently, depending on the type(s) of permit(s) they are issued. **Table 10** shows the number of businesses that would be issued transferable, non-transferable, or both types of permit by alternative. Persons that are only issued transferable permits would be allowed to continue operating their business and if they decide to leave the halibut charter business they would be compensated for leaving. Persons that are issued both types of permit would be able to sell at least one of their permits. Businesses issued both types of permits could have a variety of structures. Those structures could range from being issued one transferable permit for their main vessel and a non-transferable permit based on the history of a vessel they used only during the peak season, when their main vessel was under repair, or some other scenario. In these cases the permit holder could sell the transferable permit and retain the non-transferable permit. They would need to decide if the revenue forgone by not using the backup vessel outweighs the income generated by selling the permit. Finally, many of the persons that would be issued only non-transferable permits would not have been issued a permit if a higher trip threshold was required to qualify. These persons may be recent entrants to the halibut charter businesses, participants that charter part time, or diversified operations that provide other fishing, hunting, or sightseeing charters. These persons would be

given the opportunity to remain in the fishery without being required to buy a permit, but they would not be compensated when they leave the fishery.

Table 10 Number of businesses issued transferable and/or non-transferable permits

Min. # of trips	Permit type(s) issued	Option 10.1					Option 10.2				
		1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
10	Both	68	65	62	45	39	68	39	18	13	8
	Transferable only	668	671	674	627	573	668	697	718	659	603
	Non-trans. only	224	112	14	5	1	224	111	14	4	1
10 Total		960	848	750	677	613	960	847	750	676	612
15	Both	83	80	79	62	54	83	57	41	23	15
	Transferable only	587	590	591	608	556	587	613	629	647	594
	Non-trans. only	290	178	80	7	3	290	177	80	6	3
15 Total		960	848	750	677	613	960	847	750	676	612
20	Both	84	81	81	72	64	84	62	51	38	21
	Transferable only	516	519	519	528	536	516	538	549	562	578
	Non-trans. only	360	248	150	77	13	360	247	150	76	13
20 Total		960	848	750	677	613	960	847	750	676	612

Source: ADF&G Saltwater Logbook data for 2004 and 2005.

2.5.6 Issue 6

***Leasing** of permits (annual) would not be allowed.*[51]

Leasing of permits (and IFQs) is generally discouraged in fisheries under Council authority. Prohibitions on leasing stem from a desire to keep persons from holding permits for the sole purpose of generating income from the active participants. The Groundfish LLP program discourages leases by only allowing the permit to be transferred once per year. The NMFS transfer application also asks if there is an agreement to return the license to the seller or to transfer it to any other person, or if there is any condition requiring the resale or conveyance of the license.[52] The IFQ program for halibut and sablefish has an owner-on-board requirement for most vessel classes to encourage only fishers to buy into the fleet. Persons subject to owner-on-board must carry government issued photo identification while onboard the vessel.

Tracking whether halibut charter moratorium permits are being leased may be difficult without a provision such as owner-on-board. However, that type of requirement may not be practical because of the structure of the halibut charter fishery. In some cases, a charter business may hire a captain(s) to take clients fishing. Contracts with captains are business arrangements that can be extended within a year, or over a number of years, and may be terminated at any time with proper notice. The hired captain may or may not own the vessel used to take clients fishing. If the captain owns the vessel and the permit holder hires him to take their clients fishing, distinguishing this operation from a lease arrangement may not be possible.[53] These business arrangements may make it difficult to determine with certainty whether permits are being leased to a captain for a year or if the captain is working as an employee of the owner. Given

[51]Halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. The permit number must be recorded on the logbook for each trip.

[52]http://www.fakr.noaa.gov/ram/LLP_trans_form.pdf

[53] Note that the proposed moratorium program does not require that a permit holder own a vessel or be on board the vessel in order to use the permit.

the structure of business arrangements within the halibut charter industry, enforcing a prohibition on permit leases may be difficult without additional requirements.

Given the above complexity with enforcing a prohibition on leasing, the Council added a footnote to this provision, noting the implementation approach intended under the moratorium. In brief, halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. The permit number must also be recorded on the logbook for each trip. While these provisions are not expected to completely prevent leasing, they are intended to deter some private leasing arrangements. A discussion of this approach is provided in Section 2.6.4.3 of the implementation section.

2.5.7 Issue 7

Permit Endorsement for Number of Clients on Board

Highest number on any trip in 2004 or 2005, but not less than 4.

Suboption 1: *Area 2C: cap maximum endorsements at 6, 8, 10, or 15*
Area 3A: cap maximum endorsements at 10, 15, 20, or 25

Suboption 2: Permit holders can be issued a permit endorsement for the number of clients on board equal to the highest number on any trip in 2004 or 2005. Permits above the cap are grandfathered at that level until a permanent transfer[8] of the permit occurs; the permit is then subject to the cap on client endorsements in Suboption 1.

The intent of this action is to limit the number of clients a vessel may carry on a trip. Each permit would be endorsed with the maximum number of clients the vessel would be allowed to carry while charter fishing for halibut. The maximum number of clients carried by the vessel generating the permit determines the maximum number of clients that may be carried in the future. If the vessel carried 4 or fewer clients during 2004 or 2005, the resulting permit would be endorsed for up to 4 clients per trip.

Table 11 provides a summary of the number of clients that each permit allows the holder to carry. The number of permits is reported for each Council option being considered. The number of permits issued under each of the five trip level requirements is listed under the primary options. A summary row was added to the table to show the number of permits that would be issued to businesses whose vessels never carried more than four clients during the qualifying period.

A small number of businesses did not report the number of clients carried on the vessel in their logbook entry. In those cases the number of clients reported in the table is 0, and the maximum number of clients endorsed on the permit was set at four in the table. During the application process for the permits, persons will be given the opportunity to correct errors in the data. At that time they can provide information that would be considered to update their client endorsement. NMFS will have the final decision on the number of clients endorsed on those permits.

Table 11 Number of permits endorsed to carry the specified number of clients by IPHC area and Council alternative

		Option 10.1					Option 10.2				
IPHC Area	Maximum Clients	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
2C	0	9	5	5	3	3	9	5	5	3	3
	1	6	3	1	1	0	6	2	0	0	0
	2	30	21	18	16	11	30	17	12	9	5
	3	40	30	21	18	15	40	27	19	14	12
	4	234	207	180	159	144	234	194	157	138	123
	Sum (0-4)	319	266	225	197	173	319	245	193	164	143
	5	187	176	163	150	140	187	172	158	147	137
	6	233	228	214	201	183	233	225	209	196	178
	7	7	5	5	4	4	7	5	5	4	4
	8	9	8	8	7	7	9	8	8	7	7
	9	3	3	2	1	1	3	3	3	1	1
	10	1	1	1	1	1	1	1	1	1	1
	12	1	1	0	0	0	1	1	0	0	0
	13	1	1	1	1	0	1	1	1	1	0
	2C Total	761	689	619	562	509	761	661	578	521	471
3A	0	20	17	12	12	10	20	17	12	12	10
	2	13	9	6	3	2	13	7	4	3	1
	3	29	14	10	5	4	29	13	8	5	4
	4	82	67	56	43	31	82	61	51	39	26
	Sum (0-4)	516	377	300	216	158	516	341	264	200	134
	5	68	64	56	48	43	68	60	51	42	37
	6	346	337	321	306	293	346	335	316	299	281
	7	19	19	18	17	17	19	19	18	17	17
	8	18	18	17	17	17	18	18	17	17	17
	9	4	4	4	4	4	4	4	4	4	4
	10	6	5	4	4	4	6	5	4	4	4
	11	5	5	5	5	5	5	5	5	5	5
	12	5	5	5	5	5	5	5	5	5	4
	13	3	3	3	3	3	3	3	3	3	3
	14	6	6	6	6	6	6	6	6	6	6
	15	3	3	3	3	3	3	3	3	3	3
	16	8	8	8	8	8	8	8	8	8	8
	17	6	6	6	6	6	6	6	5	5	5
	18	3	3	3	2	2	3	3	3	2	2
	19	2	2	2	2	2	2	2	2	2	2
	20	3	3	3	3	3	3	3	3	3	3
	21	3	3	3	3	3	3	3	3	3	3
	22	1	1	1	1	1	1	1	1	1	1
	23	2	2	2	2	2	2	2	2	2	2
	25	3	3	3	3	3	3	3	3	3	3
	28	1	1	1	1	1	1	1	1	1	1
	30	1	1	1	1	1	1	1	1	1	1
	33	1	1	1	1	1	1	1	1	1	1
	38	1	1	1	1	1	1	1	1	1	1
	3A Total	662	611	561	515	481	662	596	541	497	455

Source: ADF&G Bottomfish logbook data from 2004 and 2005.

Note: The rows showing 0 clients means that client data was not reported in the logbook. A total of 6 vessels in 2004 and 3 vessels in 2005 did not report information on the number of clients that were carried in IPHC Area 2C; in 3A a total of 19 vessels did not report the number of clients in 2004 and 6 did not report the information in 2005. Those vessels, when qualified, were assigned a 4-client permit. During the application, they would be given the opportunity to provide information to obtain the proper endorsement.

Vessels assigned a permit endorsed for less than six clients (depending on the alternative selected between about 300-500 permits in Area 2C and 80 - 210 permits in Area 3A) would be forced to operate at less than the capacity of "six-pack" vessels in the fleet. These vessel operators would realize similar costs for fuel and other vessel expenses, as vessels carrying more clients, but fewer clients on the vessel would reduce their revenue.

Table 12 aggregates the permits that were over the maximum number of clients proposed in Suboption 1. The table shows that in Area 2C between 0 and 22 permits would be impacted by the cap. More permits are affected when the cap is set at lower levels and a less restrictive allocation formula is used to determine qualifiers for the initial allocation. At the 6-client cap, between 13 and 22 permits would be affected by the cap. The 8-client cap would affect two to six permits. From 0 to two permits would be limited at the 10 client cap and no permits are constrained at the 16 client cap.

In Area 3A, the proposed client caps are set at 10, 15, 20, or 25 people per trip. The 10 client cap would limit 54 to 57 permits to fewer passengers than the maximum number they carried during 2004 and 2005. A cap of 15 clients would limit 33 to 35 permits, a 20-client cap would limit 13 permits under every option, and the 25-client cap would limit 4 permits under every option.

Table 12 Number of permits over the proposed client caps in Area 2C and 3A

IPHC	Maximum	Option 10.1					Option 10.2				
Area	Clients	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
2C	7+	22	19	17	14	13	22	19	18	14	13
	9+	6	6	4	3	2	6	6	5	3	2
	11+	2	2	1	1	0	2	2	1	1	0
	16+	0	0	0	0	0	0	0	0	0	0
3A	11+	57	57	57	56	56	57	57	56	55	54
	16+	35	35	35	34	34	35	35	34	33	33
	21+	13	13	13	13	13	13	13	13	13	13
	26+	4	4	4	4	4	4	4	4	4	4

Source: ADF&G Bottomfish logbook data from 2004 and 2005.

In Area 2C, only 6 rods are allowed to be fished at any given time on halibut charter vessels, but more than 6 clients may be on the vessels if the vessel is allowed to carry them under USCG and State regulations. ADF&G staff members have knowledge of vessels that carry more than 6 clients when only six lines are fished at one time. Area 2C vessels could be allowed to continue carrying more than six clients, but only allowed 6 to fish at one time, or they could be limited to only carrying 6 clients at one time. Limiting the number of clients that a vessel is allowed to carry could reduce revenues for owners that base their business plan on carrying more than 6 clients but allowing only 6 to fish at one time.

The costs of imposing limits on the number of clients that may be carried are borne by the holders of permits that are endorsed for fewer clients. In a competitive market they will be unable to increase trip prices above that charged by other charter operators in the area to cover these costs, unless they are able to market unique attributes of their trips. Charter operators that can carry more clients per vessels will benefit from this measure. They will be able to generate more revenue per trip, if they charge similar prices or a trip, which is expected in a competitive market for trips. It is possible that commercial IFQ fishermen could also benefit, if the constraint slows the growth in charter catches in the future. However, given the excess capacity that is likely to exist in the fleet after implementation of the moratorium, this outcome is unlikely.

Using the maximum number of clients on a trip, during the qualifying period, to generate an endorsement will increase the capacity of the fleet, relative to the average number of clients carried during the qualifying period. **Table 13** provides estimates of the additional capacity in the fleet in terms of

maximum number of clients that could be carried in a day and the number of trips (permits) that would be required to carry those clients on a six-pack vessel. The information shows that the increase in maximum number of clients that could be carried range from 420 to 624 in Area 2C and 760 to 919 in 3A. While these estimates represent the maximum increase in client capacity, the actual increase in client numbers carried would be expected to smaller, because of the difficulties associated with booking a completely full trip every time the vessel leaves port.

Table 13 Difference in aggregate number of clients that would be endorsed on permits using maximum clients carried versus average number of clients

Alternative	2C	3A	Total
	Number of clients		
Option 10.1 1 trip	624	919	1,543
Option 10.1 5 trips	599	900	1,499
Option 10.1 10 trips	527	841	1,368
Option 10.1 15 trips	479	790	1,269
Option 10.1 20 trips	412	756	1,168
Option 10.2 1 trip	624	919	1,543
Option 10.2 5 trips	606	905	1,511
Option 10.2 10 trips	543	850	1,393
Option 10.2 15 trips	486	795	1,281
Option 10.2 20 trips	420	760	1,180
Equates to increasing the number of trips per day (6 clients per trip)			
Option 10.1 1 trip	104	153	257
Option 10.1 5 trips	100	150	250
Option 10.1 10 trips	88	140	228
Option 10.1 15 trips	80	132	211
Option 10.1 20 trips	69	126	195
Option 10.2 1 trip	104	153	257
Option 10.2 5 trips	101	151	252
Option 10.2 10 trips	91	142	232
Option 10.2 15 trips	81	133	213
Option 10.2 20 trips	70	127	197

Source: ADF&G Saltwater logbooks, 2004 and 2005.

2.5.8 Issue 8

***Permits** may be stacked up to the use caps*[54]

More than one permit may be assigned to a vessel. The advantage of assigning more than one permit to a vessel is that it would allow the vessel to carry the number of passengers equal to the aggregate number of clients that the permits are endorsed to carry. For example, a vessel that had three permits that are each permitted to carry 6 clients would be allowed to carry up to 18 clients, if the U.S. Coast Guard and the State of Alaska licensed the vessel and captain for that activity.

Licenses may be stacked or unstacked at any time. The ability to stack licenses provide operators the freedom to increase the number of clients carried on one vessel or increase the number of vessels carrying fewer clients.

[54]A business can use, for example, two licenses (each endorsed for 6 clients) on one vessel.

As discussed in the section that defines the number of clients that may be carried on a vessel, there may be efficiency reasons to increase the number of clients a vessel may carry. If guide operators find they are operating at an economic disadvantage by only being allowed to carry four clients, it may be a prudent business decision to stack an additional license on the vessel to spread the trip costs over more clients. Depending on the overall demand and supply of trips, this action could benefit guided anglers and charter operators.

2.5.9 Issue 9

Evidence of Participation *is an ADF&G logbook entry with bottomfish statistical area, rods, or boat hours.*

Because the Council selected historic participation as the method used to allocate permits, it needed a data set that contains the participation history of the vessels and businesses in the charter fleet. After considering all data sources available, the Council concluded the best source of participation data for the halibut charter fishery is ADF&G Saltwater Logbooks with bottomfish activity. All Alaskan fishing guide businesses operating in saltwater are required to obtain, complete, and submit logbooks. ADF&G Saltwater Logbooks require that entries covering bottomfish trips include the primary 6-digit statistical area fished, maximum number of rods fished, boat hours fished, number of fish kept, and number of fish released. An example of the logbook and the instructions for completing the logbook may be viewed at the ADF&G web site.[55]

ADF&G Saltwater Logbooks (prior to 2006) were not designed to allow halibut data to be separated from other bottomfish data. The information presented in this analysis will over estimate the participation in the halibut charter fishery by the extent that non-halibut bottomfish trips are reported in the logbooks. However, because the predominant bottomfish species targeted in saltwater is halibut, it is assumed that bottomfish data will provide a reasonable proxy for halibut activity.

ADF&G Saltwater Logbook entries with bottomfish statistical area, rods, or boat hours were used to generate the data provided in this document. Those data are the closest proxies for participation in the halibut charter fishery that is currently available. However, public testimony has indicated that some charter operators would qualify based on the area fished, when they were not fishing for halibut. This type of error would increase the number of permits issued.

2.5.10 Issue 10

Qualification Period

The Council has narrowed their list of alternatives for determining which persons will be issued permits to two (Option 10.1 and Option 10.2). Both options are based on the catch history of vessels operating in the saltwater bottomfish fishery in 2004 or 2005. They both also have an additional requirement that the vessel meet a minimum trip requirement in the year prior to implementation of the program. The minimum trip requirements are 1, 5, 10, 15, or 20 trips. The two options differ in how the number of trips is calculated for businesses with multiple vessels that individually do not meet the minimum trip requirement. Option 10.1 allows all the trips by vessels the business submitted logbooks for to be included in the number of trips calculation, while Option 10.2 separates the trips of vessels that qualify based on their own activity and those that do not.

[55] docushare.sf.adfg.state.ak.us/docushare/dsweb/Get/Version-25308/Sample_SWLogbook05.pdf.

Option 10.1: *Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation would be issued a permit(s) based on the number of trips summed for all vessels in his best year of the qualification period, unless an unavoidable circumstance[8] occurred. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period[56].*

Option 10.2: *Each licensed guide business owner(s) who reported a minimum of 1, 5, 10, 15, or 20 bottomfish logbook trips during 2004 or 2005 and year prior to implementation[7] would be issued a permit(s) for each vessel based on the number of trips in his best year during the qualification period, unless an unavoidable circumstance[8] occurred. Trips by vessels operated by a licensed guide business owner that do not individually meet qualification criteria may be combined to meet the criteria. A business would be limited to the number of permits equal to the highest number of vessels used in any one year during the qualifying period[57].*

Table 14 provides an estimate of the number of permits that would be issued to qualified businesses. The table contains information on each of the minimum number of trip options. Information was also presented for the number of unique logbooks that were submitted in 2005 and the number of businesses that submitted those logbooks. The total number of permits that a business may be issued is constrained to the maximum number of logbooks that were submitted in a year (2004 or 2005). That requirement eliminates permits that would have been issued when a business changed vessels between 2004 and 2005. For example, if a business submitted 50 logbook entries for vessel "A" in 2004 and vessel "B" in 2005, without that provision the business would be issued two permits. Issuing the business two permits would contradict the Council's goal of limiting growth in the number of vessels in the fishery. Therefore, businesses are restricted to a maximum number of permits equal to or less than the maximum number of vessels that submitted logbooks for 2004 or 2005.

In Area 2C during 2005, a total of 381 businesses submitted entries from 654 different logbooks. In Area 3A, 450 businesses submitted reports from 567 logbooks. Based on the qualification criterion being considered by the Council, between 471 and 761 permits could be issued in Area 2C. Between 455 and 662 permits could be issued in Area 3A. These estimates do not take into account the minimum trip requirement in the year prior to implementation of the program, because those data are unavailable.

Under Options 10.1 and 10.2, in Areas 2C and 3A, more permits would be issued under the 1 or 5 trip alternatives than there were logbook entries in 2005. Fewer permits would be issued under the 10 and 20 trip requirements. Because the table does not take into account participation in the year prior to implementation, it is possible that a requirement of 5 or more trips could reduce the number of permits below 2005 participation levels. However, it is unlikely that the 1-trip requirement would reduce the number of permits to that level.

[56] Example: A business owner operated 3 vessels with 6, 10, and 8 trips, respectively (summed trips = 24) in his best year. He would be issued 1 permit under a 20 trip minimum (24/20 = 1); 2 permits under a 10 trip minimum (24/10 = 2); or 3 permits under a 5 trip minimum (24/5 = 4, but the maximum number of vessels in that year is 3).

[57] Example: Under a 5-trip threshold, a vessel with 10 trips generates 1 permit; second and third vessels with 3 trips each earn 1 permit by combining their trips.

Table 14 Estimated number of permits that would be issued and the number of businesses receiving the permits

Minimum Number of Trips Required to Qualify	Option 10.1		Option 10.2	
	Permits	**Businesses**	**Permits**	**Businesses**
	AREA 2C			
2005 Participation	654	381		
1 or More Trips	761	446	761	446
5 or More Trips	689	380	661	380
10 or More Trips	619	327	578	327
15 or More Trips	562	291	521	291
20 or More Trips	509	255	471	255
	AREA 3A			
2005 Participation	567	450		
1 or More Trips	662	520	662	520
5 or More Trips	611	471	596	471
10 or More Trips	561	426	541	426
15 or More Trips	515	388	497	388
20 or More Trips	481	360	455	360

Source: ADF&G Bottomfish Logbook data, 2004 and 2005.
Note: The numbers reported in this table represent the maximum number that could qualify if everyone represented in this table meets the additional qualification requirement of fishing in the year prior to Council action.

Table 15 shows the number of additional permits that would be issued if Option 10.1 was selected instead of Option 10.2. The number of businesses does not change under the two options at comparable trip level requirements. The reason that more permits are issued under Option 10.1 is that all the trips for the business are summed to determine which vessels qualify. Under Option 10.2, only the vessels that do not qualify with their own history may combine their trips to meet the minimum trip requirements. For example, if a business reported logbook entries for 2 vessels in 2005, one vessel had 19 landings and the other vessel had 1 landing. Under Option 10.1 the business would be issued 2 permits at the 1-trip, 5-trip, and 10-trip level. They would also be issued 1 permit at the 20-trip level. Under Option 10.2 the business would be issued 2 permits at the 1-trip level, 1 permit at the 5-trip and 10-trip level, and 1 permit at the 20-trip[58] level.

The additional number of permits issued in Area 2C under Option 10.1 is 28, 41, 41, and 38 at the 5, 10, 15, and 20-trip level, respectively. In Area 3A, the change is smaller. It ranges from 15 at the 5-trip level up to 26 at the 20-trip level.

[58] The trips from both vessels could be combined at the 20-trip level because neither vessel qualified at that level.

Table 15 Number of additional permits issued using Option 10.1

Minimum Trip Requirement	Permits	Businesses
	Area 2C	
1 or More Trips	0	0
5 or More Trips	28	0
10 or More Trips	41	0
15 or More Trips	41	0
20 or More Trips	38	0
	Area 3A	
1 or More Trips	0	0
5 or More Trips	15	0
10 or More Trips	20	0
15 or More Trips	18	0
20 or More Trips	26	0

Source: ADF&G logbook data, 2004 and 2005.

Table 16 shows the difference in the number of permits allocated to charter sector, when compared to the number of vessels and businesses operating in 2005. Recall that more vessels operated in 2005 than any other year (1993-2005). If permits were issued for a vessel that took one or more trips, about 100 more permits would be issued for each area than vessels that carried clients during 2005 (due to qualifying based on one year of activity in 2004 or 2005). A one-trip requirement for a permit would allow capacity (in terms of vessels and client trips) to expand over historic levels.

A five-trip requirement would allow up to 35 more vessels to operate in 2C and 44 more vessels in 3A than operated in 2005. The number of businesses initially holding those permits would decrease by one in 2C and increase by 21 in 3A.

A 10-trip requirement would decrease the number of vessels that could operate in 2C and 3A below 2005 levels. The decrease is 35 to 76 vessels in 2C, compared to 2005, and 6 to 26 vessels in 3A. The 20-trip requirement in Area 2C decreases the number of permits by 145 to 183 depending on the option selected. In 3A, the decrease is 86 to 112 permits, depending on the option selected.

Table 16 Difference in permit estimates compared to 2005 participation

	Option 10.1		**Option 10.2**	
	Permits	Businesses	Permits	Businesses
	Area 2C			
1 or More Trips	107	65	107	65
5 or More Trips	35	-1	7	-1
10 or More Trips	-35	-54	-76	-54
15 or More Trips	-92	-90	-133	-90
20 or More Trips	-145	-126	-183	-126
	Area 3A			
1 or More Trips	95	70	95	70
5 or More Trips	44	21	29	21
10 or More Trips	-6	-24	-26	-24
15 or More Trips	-52	-62	-70	-62
20 or More Trips	-86	-90	-112	-90

Source: ADF&G logbook data, 2004 and 2005.

It is important to note that a decrease in the number of vessels does not mean that the total number of clients that could be carried would decline. It is assumed that vessels were not operating at full capacity every trip, so more clients could be carried by the same number of vessels. For example, in 2004, the average 2C charter carried 3.5 paying clients. In 3A, the average charter carried 5.16 clients. Given the number of clients endorsed for permits in those areas, it appears that the more clients could be carried at the10-trip requirement than fished in 2005.

To further illustrate the point that sufficient capacity will likely remain in the charter fleet to carry more clients than fished in 2005, Table 17 was developed. This table shows the average number of client trips that each permit (vessel) would need to carry to reach historic participation levels. Depending on the option selected, the average number of trips each vessel needs to take to meet 2005 levels ranges from 27 to 57. Since the charter season lasts approximately 100 days the moratorium would allow a sufficient number of vessels to qualify to meet current client demand. However, there may be specific times of the year when client demand for trips exceed supply at the prevailing trip price. For example, it is not possible to predict if the supply of trips under Option 10.2 and the 20-trip requirement would issue enough permits to cover client demand during the July 4th holiday.

Table 17 Participation in the 2004 and 2005 fisheries compared to moratorium alternatives

	Total Trips		**# of Vessels**		**Avg. # of client trips taken per vessel**		**Avg. # of client trips reach 2005 level**	
Year/Option	2C	3A	2C	3A	2C	3A	2C	3A
Historic Participation in 2004 and 2005								
2004	20,215	23,278	654	567	31	41		
2005	20,920	23,306	624	532	34	44		
Qualified Participation Level in Best Year (2004 or 2005)								
1 trip (option 10.1)	24,743	27,749	761	662	33	42	27	35
5 trips (option 10.1)	24,580	27,628	689	611	36	45	30	38
10 trips (option 10.1)	24,136	27,274	619	561	39	49	34	42
15 trips (option 10.1)	23,556	26,780	562	521	42	51	37	45
20 trips (option 10.1)	22,912	26,268	509	481	45	55	41	48
1 trip (option 10.2)	24,743	27,749	761	662	33	42	27	35
5 trips (option 10.2)	24,521	27,586	661	596	37	46	32	39
10 trips (option 10.2)	23,981	27,197	579	541	41	50	36	43
15 trips (option 10.2)	23,342	26,654	515	497	45	54	41	47
20 trips (option 10.2)	22,638	26,021	471	455	48	57	44	51

Source: ADF&G logbook data, 2004 and 2005.

Information on the number of permits that would be issued under the various alternatives and the maximum number of clients that vessels would be allowed to carry allows estimates of the maximum number of clients that can be carried in a day to be estimated. To determine the maximum number of clients that could be carried in a year under a moratorium, assumptions would need to be made regarding the maximum number of trips that could be taken in a year. It is not possible to determine exactly what that number should be, so a range of days fished are used to provide a range of outcomes. Assuming that the halibut charter season lasts for 100 days, the range of options considered was 55 to 100 days in 15-day increments. These estimates assume that each vessel only takes one trip per day. However, this will slightly under-estimate the total because logbook data shows that in IPHC Area 2C, 98.11 percent of the trips were taken on days the vessel only took one trip. A total of 1.87 percent of the trips were taken on days when two trips were taken. Finally, 0.03 percent of the trips were taken on days when three or more trips were taken. In IPHC Area 3A, 95.59 percent of the trips were taken on days the vessel only took one

trip. A total of 4.32 percent of the trips were taken on days when two trips were taken. Finally, 0.08 percent of the trips were taken on days when three or more trips were taken.

Based on these assumptions, **Table 18** shows the potential number of clients that could be carried in a year and the percentage increase in number of clients that could take a halibut charter trip, relative to 2004 reported client trips. The information shows that the most restrictive allocation in Area 2C would allow approximately twice as many clients to take a charter trip, when compared to 2004 activity. The least restrictive alternative would allow approximately 5.5 times as many clients to be carried. In Area 3A, the most restrictive allocation would allow about 1.5 times as many clients to take trips, compared to 2004 activity. The least restrictive allocation would allow about alternative would allow the number of clients to increase by over 3.5 times the 2004 levels.

Table 18 Estimated number of clients that could take halibut charter trips

Trips per Year	**Client endorsement based on maximum number of clients carried on a trip 2004 or 2005**									
	Option 10.1					**Option 10.2**				
	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
	Area 2C (67,803 Clients were estimated to take halibut charter trips in 2004 and harvest 1,750,000 pounds)									
55 Trips	208,560	191,015	172,645	157,300	142,615	208,560	184,305	163,075	147,565	133,540
70 Trips	265,440	243,110	219,730	200,200	181,510	265,440	234,570	207,550	187,810	169,960
85 Trips	322,320	295,205	266,815	243,100	220,405	322,320	284,835	252,025	228,055	206,380
100 Trips	379,200	347,300	313,900	286,000	259,300	379,200	335,100	296,500	268,300	242,800
	Area 3A (116,670 clients were estimated to take halibut charter trips in 2004 and 3,668,000 pounds)									
55 Trips	240,075	227,315	213,400	200,255	191,070	240,075	223,575	207,460	194,480	182,545
70 Trips	305,550	289,310	271,600	254,870	243,180	305,550	284,550	264,040	247,520	232,330
85 Trips	371,025	351,305	329,800	309,485	295,290	371,025	345,525	320,620	300,560	282,115
100 Trips	436,500	413,300	388,000	364,100	347,400	436,500	406,500	377,200	353,600	331,900
	Area 2C (estimated percentage increase in number of clients that could be carried over 2004 levels)									
55 Trips	308%	282%	255%	232%	210%	308%	272%	241%	218%	197%
70 Trips	391%	359%	324%	295%	268%	391%	346%	306%	277%	251%
85 Trips	475%	435%	394%	359%	325%	475%	420%	372%	336%	304%
100 Trips	559%	512%	463%	422%	382%	559%	494%	437%	396%	358%
	Area 3A (estimated percentage increase in number of clients that could be carried over 2004 levels)									
55 Trips	206%	195%	183%	172%	164%	206%	192%	178%	167%	156%
70 Trips	262%	248%	233%	218%	208%	262%	244%	226%	212%	199%
85 Trips	318%	301%	283%	265%	253%	318%	296%	275%	258%	242%
100 Trips	374%	354%	333%	312%	298%	374%	348%	323%	303%	284%

Source: ADF&G Saltwater logbook data 2004 and 2005.
Assumptions: Qualified vessels only take one trip per day and carry the maximum number of clients they are allowed to carry on each trip. Vessels, on average, can take between 55 and 100 trips per year.

Imposing the requirement that Area 2C vessels would be allowed to carry a maximum of 8 clients and 3A vessels would be allowed to carry a maximum of 20 clients, slightly changes the outcome from Table 18. Because imposing the cap on the number of clients impacts only a few vessels, the overall impacts are relatively modest in terms of the total number of clients that could take charter trips.

Table 19 shows the decrease in the number of clients that could be carried and the percent of 2004 clients the change represents. The economic impacts are likely to be greater on the specific companies that are constrained by the cap when compared to the overall impacts.

Table 19 Decrease in number of clients and percentage when client caps are imposed

Trips per Year	Client endorsement based on maximum number of clients carried on a trip 2004 or 2005, but capped at 8 in 2C and 20 in 3A									
	Option 10.1					Option 10.2				
	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips	1 Trip	5 Trips	10 Trips	15 Trips	20 Trips
	Area 2C (67,803 clients were estimated to take halibut charter trips in 2004 and harvest 1,750,000 pounds)									
55 Trips	770	770	495	440	165	770	770	550	440	165
70 Trips	980	980	630	560	210	980	980	700	560	210
85 Trips	1,190	1,190	765	680	255	1,190	1,190	850	680	255
100 Trips	1,400	1,400	900	800	300	1,400	1,400	1,000	800	300
	Area 3A (116,670 clients were estimated to take halibut charter trips in 2004 and 3,668,000 pounds)									
55 Trips	4,125	4,125	4,125	4,125	4,125	4,125	4,125	4,125	4,125	4,125
70 Trips	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250
85 Trips	6,375	6,375	6,375	6,375	6,375	6,375	6,375	6,375	6,375	6,375
100 Trips	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500
	Area 2C (estimated percentage increase in number of clients that could be carried over 2004 levels)									
55 Trips	1.1%	1.1%	0.7%	0.6%	0.2%	1.1%	1.1%	0.8%	0.6%	0.2%
70 Trips	1.4%	1.4%	0.9%	0.8%	0.3%	1.4%	1.4%	1.0%	0.8%	0.3%
85 Trips	1.8%	1.8%	1.1%	1.0%	0.4%	1.8%	1.8%	1.3%	1.0%	0.4%
100 Trips	2.1%	2.1%	1.3%	1.2%	0.4%	2.1%	2.1%	1.5%	1.2%	0.4%
	Area 3A (estimated percentage increase in number of clients that could be carried over 2004 levels)									
55 Trips	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%
70 Trips	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%	4.5%
85 Trips	5.5%	5.5%	5.5%	5.5%	5.5%	5.5%	5.5%	5.5%	5.5%	5.5%
100 Trips	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%	6.4%

Source: ADF&G Saltwater logbook data, 2004 and 2005.
Assumptions: Qualified vessels only take one trip per day and carry the maximum number of clients they are allowed to carry on each trip. Vessels, on average, can take between 55 and 100 trips per year.

It is important to note that the number of trips and percentages stay the same under each option in Area 3A. That is because the vessels that would be capped in that area qualify under all of the alternatives under consideration.

Community impacts

Table 20 shows the number of qualified vessels and businesses by the community where the trips used for qualification terminated, under Option 10.1 at the 1 and 20-trip levels. Information on all of the options being considered by the Council is provided in Appendix 2. That appendix also provides information on the distribution halibut QS by the owner's community of residence. Some vessels terminated trips in more than one community, so the totals for businesses do not equal the numbers in Table 23 under Issue 12. The information in Table 20 is presented to supplement a qualitative analysis of the impacts the proposed moratorium would have on communities. The table also indicates which communities are eligible under Amendment 66. Those communities will be discussed in greater detail under Issue 12 in Section 2.5.12. A subset of those communities may be eligible to request a limited number of halibut charter permits under the provisions in Issue 12.

Studies that are currently available do not provide information on regional economic impacts for 2C and 3A in total. Criddle et.at (2003) provides the most recent information available. That study focused on the Kenai Peninsula region and included impacts from all saltwater sport fishing. A summary of that study was provided under the status quo portion of the RIR.

Given that the halibut resource in 2C and 3A is fully utilized and the method the IPHC uses to allocate halibut to various sectors, increases in charter harvests decrease the amount of halibut available to the commercial IFQ fishery. Communities relatively more dependent on the commercial IFQ fishery could be worse off if the charter fishery increased harvests. Therefore the various options under consideration will tend to redistribute regional economic impacts, depending on relative levels of charter and commercial activity in the communities.

The change in numbers of qualified vessels that ended at trip in a specified community seems to indicate that selecting a 20-trip requirement would impact Area 2C more than Area 3A. Auke Bay, Petersburg, Sitka, and Ketchikan would realize substantial reductions in the number of permits landing in their community when compared to the 1-trip option. Many of these same communities are also active in the commercial IFQ fishery. However, because the overall amount of halibut taken by the charter fleet in Area 2C is not expected to decline, these communities could lose jobs and revenues from both the commercial and charter sectors as a result of implementing a more restrictive moratorium.

Table 20 Communities where charter trips used for qualification terminated

Community	Am. 66	Option 10.1 (1 trip)		Option 10.1 (20 trips)		Difference	
		Permits	Businesses	Permits	Businesses	Permits	Businesses
Afognak		1	1	1	1	0	0
Amook Island		2	2	2	2	0	0
Amook Pass		1	1	1	1	0	0
Anchor Point		60	57	51	49	-9	-8
Anchor River		1	1	1	1	0	0
Angoon	Yes	13	9	11	7	-2	-2
Anton Larsen Bay		6	5	4	3	-2	-2
Auke Bay		45	39	16	12	-29	-27
Bar Harbor		4	4	1	1	-3	-3
Bartlett Cove		6	6	4	4	-2	-2
Bay Of Pillars		3	2	3	2	0	0
Boardwalk		3	2	2	2	-1	0
Camp Island		1	1	1	1	0	0
Cannery Cove		6	3	5	2	-1	-1
Cape Chacon		3	3	0	0	-3	-3
Cape Ninilchik		2	1	0	0	-2	-1
Cedars Lodge		10	9	6	5	-4	-4
Chenega	Yes	1	1	0	0	-1	-1
Clover Bay		2	1	2	1	0	0
Clover Pass		14	13	10	9	-4	-4
Coffman Cove	Yes	7	6	7	6	0	0
Cordova		9	8	5	4	-4	-4
Craig	Yes	74	36	62	28	-12	-8
Cranberry Creek		1	1	1	1	0	0
Crescent Harbor		4	4	1	1	-3	-3
Dall Island		1	1	1	1	0	0
Deep Creek		114	97	88	72	-26	-25
Dog Bay Harbor		1	1	0	0	-1	-1
Eagle Creek Lodge		1	1	1	1	0	0
Eagle Harbor		1	1	0	0	-1	-1
El Capitan Lodge		7	2	7	2	0	0
Elfin Cove	Yes	31	18	28	15	-3	-3
Ellamar		1	1	1	1	0	0

Community	Am. 66	Option 10.1 (1 trip)		Option 10.1 (20 trips)		Difference	
		Permits	Businesses	Permits	Businesses	Permits	Businesses
Excursion Inlet		2	2	0	0	-2	-2
False Island		5	3	5	3	0	0
Fishermans Bend		4	4	2	2	-2	-2
Funter Bay		2	2	1	1	-1	-1
Glacier Bay		1	1	1	1	0	0
Gold Coast Lodge		1	1	1	1	0	0
Gull Cove		2	2	1	1	-1	-1
Gustavus	Yes	25	21	20	17	-5	-4
Haines		4	4	2	2	-2	-2
Halibut Cove	Yes	1	1	0	0	-1	-1
Hallo Bay		1	1	0	0	-1	-1
Hanus Bay		1	1	0	0	-1	-1
Happy Valley		8	2	8	2	0	0
Hawk Inlet		1	1	1	1	0	0
Hidden Basin		1	1	1	1	0	0
Hollis	Yes	1	1	0	0	-1	-1
Homer		203	180	176	154	-27	-26
Hood Bay		2	2	0	0	-2	-2
Hoonah	Yes	14	12	5	5	-9	-7
Iliamna Bay		1	1	0	0	-1	-1
Iron Creek		2	1	2	1	0	0
Juneau		35	27	15	13	-20	-14
Kake	Yes	1	1	0	0	-1	-1
Kalinin Bay		2	2	0	0	-2	-2
Kasitsna Bay		1	1	1	1	0	0
Kelp Bay		3	2	3	2	0	0
Ketchikan		69	56	33	23	-36	-33
Killisnoo		5	3	5	3	0	0
Kiluda Bay		1	1	1	1	0	0
Klawock	Yes	19	13	16	10	-3	-3
Knudson Cove		21	17	7	6	-14	-11
Kodiak		42	42	26	26	-16	-16
Kukak Bay		3	3	2	2	-1	-1
Kupreanof Island		1	1	0	0	-1	-1
Larsen Bay	Yes	15	8	12	7	-3	-1
Little Tutka Bay		1	1	1	1	0	0
Log Cabin Resort		1	1	1	1	0	0
Millers Landing		2	1	2	1	0	0
Morne Island		3	2	3	2	0	0
Narrows Inn		3	3	3	3	0	0
Naukati		3	3	2	2	-1	-1
Ninilchik		16	16	13	13	-3	-3
Old Harbor	Yes	10	6	9	5	-1	-1
Orr Island		1	1	1	1	0	0
Ouzinkie	Yes	1	1	0	0	-1	-1
Pasagshak Bay		1	1	1	1	0	0
Pelican	Yes	9	8	4	4	-5	-4
Petersburg		40	38	22	21	-18	-17
Point Baker	Yes	3	2	2	1	-1	-1

Community	Am. 66	Option 10.1 (1 trip)		Option 10.1 (20 trips)		Difference	
		Permits	Businesses	Permits	Businesses	Permits	Businesses
Poohs Landing		1	1	1	1	0	0
Port Alexander	Yes	6	5	5	5	-1	0
Port Lions	Yes	14	14	7	7	-7	-7
Port Protection	Yes	3	3	2	2	-1	-1
Port St Nicholas		2	1	2	1	0	0
Port Wakefield		4	2	1	1	-3	-1
Port William		1	1	1	1	0	0
Prince Rupert		1	1	0	0	-1	-1
Pybus Point		4	3	4	3	0	0
Raspberry Island		3	2	2	2	-1	0
Rocky Pass Resort		2	2	2	2	0	0
Rocky Point		1	1	1	1	0	0
S Kaigani Bay		5	2	5	2	0	0
Sadie Cove		1	1	1	1	0	0
Saginaw Bay		1	1	1	1	0	0
Salmon Falls		18	3	7	1	-11	-2
Salmon Landing		7	4	7	4	0	0
Saltery Cove		1	1	1	1	0	0
Sarkar Cove		1	1	1	1	0	0
Sea Otter Sound		1	1	1	1	0	0
Seal Bay (Sc)		3	2	3	2	0	0
Sealing Cove		6	5	5	4	-1	-1
Seldovia	Yes	12	12	10	10	-2	-2
Seward		151	122	110	84	-41	-38
Shelter Island		7	4	6	3	-1	-1
Shuyak Island		1	1	1	1	0	0
Silver King Lodge		6	6	6	6	0	0
Silver Salmon		2	2	2	2	0	0
Sitka		197	137	146	96	-51	-41
Skagway		3	3	1	1	-2	-2
Sportsman Cove		12	3	12	3	0	0
Spruce Mill New Flt		4	1	4	1	0	0
Ssbh		5	4	5	4	0	0
Swanson Harbor		1	1	1	1	0	0
Tenakee	Yes	4	3	2	2	-2	-1
Thomas Basin		4	4	2	2	-2	-2
Thorne Bay	Yes	11	7	9	6	-2	-1
Tokeen		1	1	0	0	-1	-1
Tutka Bay		1	1	1	1	0	0
Ugak Bay		6	3	3	3	-3	0
Uganik Bay		4	2	2	2	-2	0
Uyak Bay		3	3	2	2	-1	-1
Valdez		55	51	29	27	-26	-24
Wakefield		1	1	0	0	-1	-1
Warm Springs Bay		10	3	9	2	-1	-1
Waterfall		25	1	25	1	0	0
Whale Pass (Pow - Se)	Yes	6	4	4	3	-2	-1
Whale Pass (Sc)		2	2	0	0	-2	-2
Whalers Cove		3	2	3	2	0	0

Community	Am. 66	Option 10.1 (1 trip)		Option 10.1 (20 trips)		Difference	
		Permits	Businesses	Permits	Businesses	Permits	Businesses
Whiskey Gulch		4	2	2	1	-2	-1
Whitestone Harbor		1	1	1	1	0	0
Whittier		27	27	18	18	-9	-9
Williamsport		1	1	0	0	-1	-1
Wrangell		14	13	3	3	-11	-10
Yakutat	Yes	16	12	13	9	-3	-3
Yes Bay		13	2	10	2	-3	0
Zachar Bay		7	3	4	1	-3	-2

Source: ADF&G Saltwater Logbook data for bottomfish trips, 2004-2005.

2.5.11 Issue 11

***Use caps**, with grandfather provision.[59] The AFA 10% ownership rule for affiliation[60] will be applied to determine the number of permits associated with an entity under the use cap.*

Option 1. 1 permit
Option 2. 5 permits
Option 3. 10 permits

The Council is considering limiting the number of permits that may be used by a halibut charter business at one time. If the Council takes no action on use caps, halibut charter businesses would not be limited to using a specific number of moratorium permits. Three other options are being considered as the appropriate level for the use cap. The caps being considered are 1 permit, 5 permits, or 10 permits. Charter businesses that are allocated more permits than the cap would be grandfathered at their initial allocation level. These businesses would not be allowed to use any new permits until they are below the cap. The AFA 10% ownership rule for affiliation will be used to determine which permits an entity is using.

Ownership caps vs Use caps: Use caps limit the number of moratorium permits that may be held or used by an eligible halibut charter operator. Use caps may not be exceeded unless the entity subject to the use cap is specifically allowed to exceed a cap according to the criteria established by the grandfather provision. Because the use caps apply to both the number of permits that a person may hold (own, lease, or control through a business arrangement) or use, it is not necessary to have both ownership and use caps for moratorium permits.

Grandfather Provision: An eligible charter moratorium permit holder may receive an initial allocation of permits that exceeds the use cap. However, that person will not receive any permits by transfer unless that person's permit holdings are reduced to an amount below the use cap. That person would also not be allowed to submit logbook entries using an additional permit until their holdings were reduced below the use cap.

[59]A business whose permit is endorsed in excess of the use cap maintains that exemption for those permits that remain in its control after other permits are sold, but those sold permits lose that grandfather status in perpetuity. Grandfathered permits that are sold in total when a business owner sells his entire business/fleet maintain that grandfathered status. Grandfather status refers to permits, not vessels.

[60]Any entity in which 10% or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

Table 21 shows the number of businesses that would be grandfathered under each of the alternatives being considered. Option 10.1 usually results in more entities being grandfathered. A use cap set at one permit would require everyone with two or more permits to be grandfathered. Under Option 10.1 and 10.2 at the 1-trip level, 205 entities would be grandfathered above the cap. Setting the use cap at 10 permits would reduce the number of grandfathered entities to 5. As the number of trips required to qualify increases, the number of entities that would be grandfathered tends to decrease. Likewise, as the use cap increases, the number of entities grandfathered decreases.

Table 21 Number of businesses grandfathered at various use caps

Alternative	2+ Permits	6+ Permits	11+ Permits
Option 10.1 (1 trip)	205	18	5
Option 10.1.(5 trips)	197	18	5
Option 10.1 (10 trips)	181	18	4
Option 10.1 (15 trips)	165	17	3
Option 10.1 (20 trips)	154	16	2
Option 10.2 (1 trip)	205	18	5
Option 10.2 (5 trips)	180	17	5
Option 10.2 (10 trips)	158	15	2
Option 10.2 (15 trips)	144	14	2
Option 10.2 (20 trips)	132	12	2

Source: ADF&G Bottomfish Logbooks, 2004 and 2005.
Note: This table represents the maximum number of businesses that could be grandfathered. It assumes all vessels that qualified for a permit based on 2004 or 2005 activity would also have sufficient activity in the year prior to implementation to qualify.

AFA 10 % ownership rule for affiliation: The 10% ownership rule was used in the American Fisheries Act (AFA) to define what an entity is in term of pollock ownership caps. The AFA defined the 10% affiliation rule using the following language:

> "For the purposes of this subsection [210(c)3], any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity."

Therefore, if a company owns or controls 10% of another company they are considered to be the same entity for terms of calculating the use cap. The companies would then need to add the moratorium permits they hold or control to determine whether they are over the use cap.

To determine which entities the 10% rule for affiliation joins together, each entity will need to submit to NMFS their ownership structure at the time of application for permits. They will also be required to notify NMFS any time their ownership structure changes. This information will be held by NMFS as confidential information and not released to the general public. Tracking these structures will increase the reporting requirements for industry and NMFS.

It is not possible to determine the impact of this requirement, in terms of the use cap, until members of the industry submit ownership data. However, this measure was included to help ensure that members of industry do not circumvent the use cap by using other entities to hold permits for them.

Use cap impacts: The implementation of use caps will impose constraints on the number of permits that may be held or used. It is assumed that the persons that would exceed the cap through transfer or gaining control of a permit's use after the initial allocation are the most efficient charter operators. A concern that is often expressed by members of the charter is that a large tour company could enter the market for

permits. The tour company could direct their clients to their charter businesses and control a relatively large portion of the industry. It may also be possible for a large tour company to reduce (marketing) costs by integrating the charter trips into existing packages.

Constraining the most efficient operators' use of permits is expected to reduce permit prices (the most efficient operations could pay the most for permits) and reduce producer surplus of charter businesses. Consumer surplus could also be reduced if these operators could provide clients a trip that generates greater utility than other businesses. However, the MSA directs Councils to ensure that entities do not control an excessive share of a fishery. A cost of ensuring that no one entity controls an excessive share of the fishery is the possibility of reduced net benefits.

2.5.12 Issue 12

Community provisions for Area 2C and 3A communities previously identified under GOA FMP Amendment 66

A Community Quota Entity (CQE), representing a community in which [5 or fewer or *10 or fewer] active[1] charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits.

Area 2C – use cap of 3, 4*, 5*, or 7 requested permits per eligible community.
Area 3A – use cap of 4*, 5*, 7*, 10*, or 15 requested permits per eligible community.

Overall use caps for CQEs (different use caps may be selected for CQEs representing communities in Area 2C and 3A):

Option 1: 1, 3, or 5 times those selected for permits holders under Issue 11.
*Option 2: 2 times those selected for the CQE requested permit use cap for each area.

*Provisions for CQE requested permits:

- The permit is designated for the area in which the community represented by the CQE is located
- The permit is endorsed for 6 clients
- The permit cannot be sold (i.e., permanently transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

***Denotes the Council's preliminary preferred alternative under Issue 12, selected in February 2007.**
[1]Active is defined as it is defined in the general moratorium program under Issue 10 (e.g., at least 1, 5, 10, 15, or 20 bottomfish trips). The Council's preliminary preferred alternative is 10 or 15 trips. The Council will select a final preferred alternative at final action.

This section includes a description of the intent of Issue 12, baseline information on the communities at issue, and qualitative and quantitative analysis, when possible, of the effects of the proposed action. While the Council's preliminary preferred alternative is highlighted in each relevant subsection, a summary of the preliminary preferred alternative is provided in Section 2.5.12.5. A summary of the general expected effects of Issue 12 on each sector is provided in Section 2.5.12.6.

Goal of the provisions under Issue 12

Alternative 2 would create a limited entry program for halibut charter businesses in Areas 2C and 3A. Recognizing that the stated concern in the problem statement is to limit further growth in the number of charter operations in these areas, it is also recognized that this program would create a new barrier to access (i.e., the cost of a limited entry permit) into this fishery for small, rural communities with under-developed charter ports. The Council has thus included for consideration, as part of Alternative 2, several provisions under Issue 12 which specifically provide for rural community participation in the halibut charter limited entry program. Communities that meet the criteria selected will be eligible to request a specified number of halibut charter limited entry permits from NMFS at no cost, similar to businesses that initially qualify to receive a permit under the general program. In effect, Issue 12 would retain the status quo to a limited extent, for a particular set of rural communities.

National Standard 8 of the Magnuson-Stevens Act directs that "conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to: (a) provide for the sustained participation of such communities, and (b) to the extent practicable, minimize adverse economic impacts in such communities." Although the halibut IFQ program was developed under the Halibut Act, which does not require consistency with all of the Magnuson-Stevens Act's national standards, the Council believes Congress clearly intended that the Council consider the impacts of all of its management measures, including halibut management regulations, on fisheries-dependent communities.

At its December 2006 meeting, the Council revised the options and provided clarification of several issues, including the overall goal and the intended beneficiary of the proposed options. The problem statement notes that the purpose of the moratorium program is to limit entry into the growing halibut charter industry in Areas 2C and 3A. In June and December, the Council discussion on the community options focused on the fact that while Area 2C and 3A harvest has been steadily increasing, there are several small, rural communities not located on the road system in both areas that do not have a fully developed halibut charter industry. The charter industry continues to be relatively concentrated in and around a small number of larger coastal communities. In Area 2C, the vast majority of charter businesses reported Sitka (112), Juneau/Auke Bay (53), Ketchikan (43), Petersburg (37), or Craig (30), as the port of landing in 2005. These businesses made up about 57% of all of the active businesses in Area 2C in 2005.[61] In Area 3A, in 2005, most charter businesses reported the port of landing as communities on the Kenai Peninsula, primarily Homer (149), Deep Creek/Ninilchik (95), Seward (89), and Anchor Point (49), or Valdez (38). These businesses made up nearly 73% of all of the active businesses in Area 3A in 2005. Businesses reporting the port of landing in these communities comprise over 63% of the total number of businesses reporting bottomfish trips in 2005 in Areas 2C and 3A combined.

The same communities are reported as the most common ports of landing in 2004 and comprised 61% of the total number of businesses reporting bottomfish trips in 2004 in these areas combined. In 2004, the primary Area 2C communities made up a little over 52% of all of the active businesses in Area 2C; and the primary Area 3A communities made up nearly 72% of all of the active businesses in Area 3A.

Recognizing that substantial growth in the industry has been limited to relatively few communities, businesses in these communities would receive the great majority of limited entry permits allocated under the proposed moratorium program (see Table 20 in Section 2.5.10.) **The community provisions are intended to 'keep the door open' for those rural, small communities that have few alternative economic opportunities, to develop or further develop charter operations in those areas. Similar to an individual who is initially issued a permit, allowing communities to receive halibut charter permits at no cost removes an economic barrier for communities with undeveloped or under-developed charter industries to participate in the halibut charter industry.**

While some of the Council's previous programs have tied community benefits to residency in an eligible community, this is not the primary objective of the moratorium program. In December, the Council clarified that the intent of the community options is to benefit communities by encouraging or allowing new businesses to operate out of small rural communities in Area 2C and 3A that have under-developed halibut charter industries. This is different from limiting benefits to *residents* of small, under-developed charter communities by allowing them to receive a charter permit through a nonprofit community entity. The Council determined that this interpretation was too narrow to meet the broader objectives of community fisheries development and mitigation, in part, of the effects of a moratorium on small, rural communities with underdeveloped charter ports.

[61] ADF&G logbook data, 2005. Active business in this reference means a business reporting at least one charter bottomfish trip.

Given the objective above, the Council clarified that the intended beneficiary of the community provisions (i.e., holder of the charter halibut permit) is the non-profit entity chosen by the community to represent it. In this program, that entity is the Community Quota Entity (CQE) originally established under GOA Amendment 66. It is the CQE that ties the permit to the community, as the CQE is the holder of the permit under the option in Issue 12. In effect, the CQE would be issued the permit and would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. Additional information on the CQE structure is provided in the following section.

Community Quota Entity structure

Community Quota Entity (CQE) is a term of art created under GOA Amendment 66, for purposes of the commercial halibut and sablefish IFQ Program. Under that amendment, specified Gulf communities in IPHC Areas 2C, 3A, and 3B can form CQEs for the purpose of purchasing, holding, and using commercial halibut and/or sablefish catcher vessel quota share. This program was effective June 1, 2004. CQEs are defined in Federal regulations (50 CFR 679.2) as follows:

> Community quota entity (CQE) (for purposes of the IFQ Program)[62] means a non-profit organization that:
> (1) Did not exist prior to April 10, 2002;
> (2) Represents at least one eligible community that is listed in Table 21 of this part; and,
> (3) Has been approved by the Regional Administrator to obtain by transfer and hold QS, and to lease IFQ resulting from the QS on behalf of an eligible community.

GOA Am. 66 eligible communities in Areas 2C and 3A[1]

Area 2C	Area 3A
Angoon*	Akhiok
Coffman Cove	Chenega Bay*
Craig*	Halibut Cove
Edna Bay	Karluk
Elfin Cove	Larsen Bay*
Gustavus	Nanwalek
Hollis	Old Harbor*
Hoonah*	Ouzinkie*
Hydaburg*	Port Graham
Kake	Port Lions
Kassan	Seldovia
Klawock	Tatitlek
Metlakatla	Tyonek
Meyers Chuck	Yakutat
Pelican*	
Point Baker	
Port Alexander	
Port Protection	
Tenakee Springs	
Thorne Bay	
Whale Pass	

[1]As listed in Table 21 to Part 679.
*Formed a CQE as of February 2007.

While GOA Amendment 66 included Gulf communities in Areas 2C, 3A, and 3B, the proposed moratorium program is limited to Areas 2C and 3A. Under Amendment 66, there are 21 eligible communities in Area 2C and 14 in Area 3A (see text box below). An additional 7 communities are eligible under Amendment 66 in Area 3B. The community provision under Issue 12 is first limited to those 35 communities in Areas 2C and 3A that have been deemed eligible under Amendment 66 to form a CQE and participate in the commercial halibut and sablefish IFQ Program through the approved CQE.

While the CQE concept is currently applicable only to the commercial IFQ Program, use of the CQE system in the community options for the halibut charter moratorium is intended to streamline analysis and implementation. The primary advantage is that the CQE structure and the communities that may be represented by CQEs are already defined in Federal regulation, thus, some of the fundamental hurtles associated with developing such a program would already be met. In order to be determined eligible, the communities must have met a number of broad criteria, including proximity to the resource and historic participation. Thus, by starting from the Amendment 66 communities, one encompasses a broad range of eligibility criteria by definition (see below). In addition, it may not be feasible for some small communities to financially support a separate administrative entity to manage halibut charter permits;

[62]From 50 CFR 679.2: "IFQ program means the individual fishing quota program for the fixed gear fisheries for Pacific halibut and sablefish in waters in and off Alaska and governed by regulations under this part."

some efficiencies will likely be gained by allowing the existing CQE, originally formed for the management and purchase of halibut and sablefish IFQ, to also function as the halibut charter permit recipient.

To be approved as a CQE representing an eligible community or communities, a non-profit entity seeking to become a CQE must submit a completed application to NMFS. As provided for in 50 CFR 679.41(l)(3), a complete application consists of:

- the articles of incorporation under the State of Alaska;[63]
- a list of the communities represented by the CQE;
- management organization information (bylaws; personnel; description of and demonstration that the CQE is qualified to manage QS on behalf of the community; contact and tax identification information);
- a statement describing the procedures that will be used to determine the distribution of IFQ to community residents; and
- a statement of support from the governing body of the eligible community (the governing body for each community is identified in Table 21 to Part 679).

However, while there are advantages to using an already established system, there may exist concerns that the communities eligible to form a CQE were evaluated against criteria formulated specifically for the commercial halibut and sablefish sector, and that these same communities would not represent under-developed charter ports. While the commercial participation and landings threshold developed under Amendment 66 is rather broad, it does not account for historic or current charter activity.

Eligible communities under Amendment 66 must have met the following criteria:

- recognized by the U.S. Census;[64]
- population of greater than 20 but less than 1,500 according to the 2000 U.S. Census;
- not be connected to a larger community on the road system;
- located on the coast of the Gulf of Alaska;
- have a commercial landing of either halibut or sablefish by a resident between 1980–2000 according to Commercial Fisheries Entry Commission data for permit and fishing activity; and
- designated on Table 21 to Part 679 of Federal regulations.

The intent under the proposed action is that the Amendment 66 eligible communities in Areas 2C and 3A represent the starting universe of potentially eligible communities under the charter moratorium. In addition, each Amendment 66 eligible community must: **1)** meet additional criteria intended to narrow the universe of eligible communities to those that do not have a developed charter industry; and **2)** form a CQE and have it approved by NMFS prior to requesting halibut charter permits.

First, under the community charter moratorium option, an Amendment 66 community must meet additional criteria intended to narrow the universe of eligible communities to those that do not have a developed charter industry. Thus, while the Amendment 66 criteria may not represent an exact fit for the charter sector, the additional criteria included under the options is intended to better define an 'underdeveloped charter port' relative to small, rural communities. Two of the primary policy decisions under the community provisions are thus related to the definition of an 'active' charter business and the

[63]The exception is a non-profit entity formed to represent the Metlakatla Indian Village. Due to its status as an Indian Reservation, this entity may provide articles of incorporation under Federal law.
[64]This means that the U.S. Census would identify the community as a city or census designated place (CDP).

criteria for determining what constitutes an 'underdeveloped charter port.' This issue is discussed in more detail in the community eligibility section.

Second, as stated previously, in addition to being listed as an eligible community in Table 21 to Part 679, a community must have formed a CQE under the laws of the State of Alaska and had its application to represent the community approved by NMFS. Of the 35 eligible communities in Area 2C and 3A, five communities in Area 2C (Angoon, Craig, Hoonah, Hydaburg, Pelican) and four communities in Area 3A (Chenega Bay, Larsen Bay, Old Harbor, Ouzinkie) have approved CQEs as of February 2007.[65] Of the approved CQEs, only one has purchased halibut or sablefish commercial quota share to date.

Several reasons have been cited as contributing to the relatively limited community participation in the commercial CQE program thus far; one of the most significant being that communities were not included until ten years after the IFQ Program was established. While a substantial number of transfers and consolidation took place in the first several years of the IFQ Program, they have declined since implementation. For example, in 1996, there were 473 permanent transfers of Area 2C halibut QS, while in 2006,[66] there were only 137. There were 591 permanent transfers of Area 3A halibut QS in 1996, compared to 187 transfers in 2006. Similarly, the number of halibut QS holders initially issued quota share in Area 2C was 2,388; by mid-2006, there were 1,358 holders. The number of halibut QS holders initially issued quota share in Area 3A was 3,072; compared to 1,804 holders by mid-2006.[67] The IFQ sablefish fishery in the Gulf of Alaska exhibited the same trend, although not to the same extent. At the same time, quota share prices have trended upward as the market for fresh fish has expanded, from an average 1995 price of less than a dollar per pound for some types of halibut quota to upwards of $20 per pound in recent years for some types of halibut quota. Both the price and availability of quota have been cited as factors contributing to limited community participation.

Research was conducted by the Institute of Social and Economic Research (ISER) to determine the status of the commercial CQE program in various communities during 2006, with the preliminary findings presented at a conference in September 2006.[68] All but one of the communities expressed awareness of the program, and over 75% of the eligible communities reported having considered participating in the program. While a few communities reported lack of interest for various reasons, several communities and community organizations reported making substantial efforts to find a way to make the program work. Some of the obstacles cited included: lack of funds available for direct purchase of quota share; prohibitively high quota share prices; unfavorable State and private loan terms; little quota share available on the market; and restrictions on the type of QS a community is allowed to purchase. The final report is expected in spring 2007.

Another analysis, conducted by the McDowell Group for the Southeast Alaska Inter-tribal Fish and Wildlife Commission, evaluated the financial viability of the CQE program. In part, the report concluded the following: "It does not appear possible to purchase and fish halibut shares profitably at today's prices, particularly with the added overhead needed to support a CQE organization, unless the cost of capital is very low…In general, only fishermen who received halibut QS initially at no cost, or who bought it prior to the price increases of recent years, are in a position to maintain an overall average cost-of-quota low

[65] See http://www.fakr.noaa.gov/ram/cqp/CQEcontacts.pdf. While not applicable to the charter halibut moratorium program, three communities in Area 3B (Perryville, Sand Point, and King Cove) have also formed CQEs for the purposes of the halibut and sablefish IFQ program.

[66] Number of permanent QS transfers as of November 22, 2006.

[67] Initial issuance was accomplished primarily at the beginning of the IFQ Program (1994 – 1995), but also occurred later as a result of adjudicated appeals. Source: http://www.fakr.noaa.gov/ram/ifqreports.htm#qstransfer.

[68] Dr. Steve J. Langdon and Emilie Springer, Institute of Social and Economic Research, University of Alaska Anchorage, presented at *Alaska's Fishing Communities – Harvesting the Future* conference, September 21, 2006, in Anchorage, Alaska.

enough to allow them to consider additional purchases at today's prices."[69] These are some of the reasons recently cited as contributing to the relatively limited community participation in the commercial CQE program thus far. However, in order to receive halibut moratorium permits, as proposed under Issue 12, an eligible community must form a CQE under the laws of the State of Alaska and had its application to represent the community approved by NMFS.

Finally, the stated intent is that the moratorium will be an interim program, replaced by a long-term solution in the future. Thus, there was an effort to develop a simple and streamlined management approach to the design of the limited entry program in this phase. **Note, however, that a moratorium serves as a means of pre-selecting the set of beneficiaries in subsequent revisions to a limited entry program or quota share program.** Thus, the stakeholders that are recognized in the distribution of benefits (i.e., permits) in the moratorium program, whether communities or licensed sportfishing businesses, will most likely be the same set of stakeholders that will benefit from the longer-term proposals.[70]

2.5.12.1 Baseline Information on Amendment 66 Communities

Population and location

The following sections provide some baseline geographic, demographic, and economic information for the potentially eligible communities under Issue 12. Because the starting universe for eligibility is any Area 2C or Area 3A community previously identified under GOA FMP Amendment 66, data on all 35 eligible communities under Amendment 66 are provided, recognizing that the Council could select criteria that would make only a subset of these communities eligible to receive a charter permit(s).

Table 22 provides the population of each community, according to the most recent (2000) U.S. Census. This table also provides a brief description of the location of each community. Note that Akhiok is located on the southern end of Kodiak Island, and was originally reported in the analysis and final Council motion for GOA Amendment 66 as located in Area 3A. However, IPHC staff has confirmed that Akhiok (and Alitak Bay) is actually located in Area 3B.[71] Akhiok is on the border of Area 3A and 3B, and the vast majority of Kodiak Island is located in Area 3A. This is of no practical importance under GOA Amendment 66, as all communities located in either Area 3A or Area 3B are allowed to purchase commercial quota share in both areas. The community provisions in the halibut charter program, however, are explicitly limited to "*Area 2C and 3A communities previously identified under GOA FMP Amendment 66.*" Because Akhiok was identified under GOA FMP Amendment 66 as an eligible community in Area 3A, staff assumes that Akhiok is included under the halibut charter provisions considered in this amendment. This issue is discussed further in a subsequent section of this analysis, relative to restrictions proposed to require that the halibut charter permit held by a community's CQE is designated only for the IPHC area in which the community is located.

Figure 10 and Figure 11 below, are maps of the eligible communities in Areas 2C and 3A, respectively.

[69] *Community Quota Entity Financial Analysis*, McDowell Group. Prepared for the Southeast Alaska Inter-tribal Fish and Wildlife Commission. October 28, 2005.

[70] Keith Criddle, personal communication, December 12, 2006.

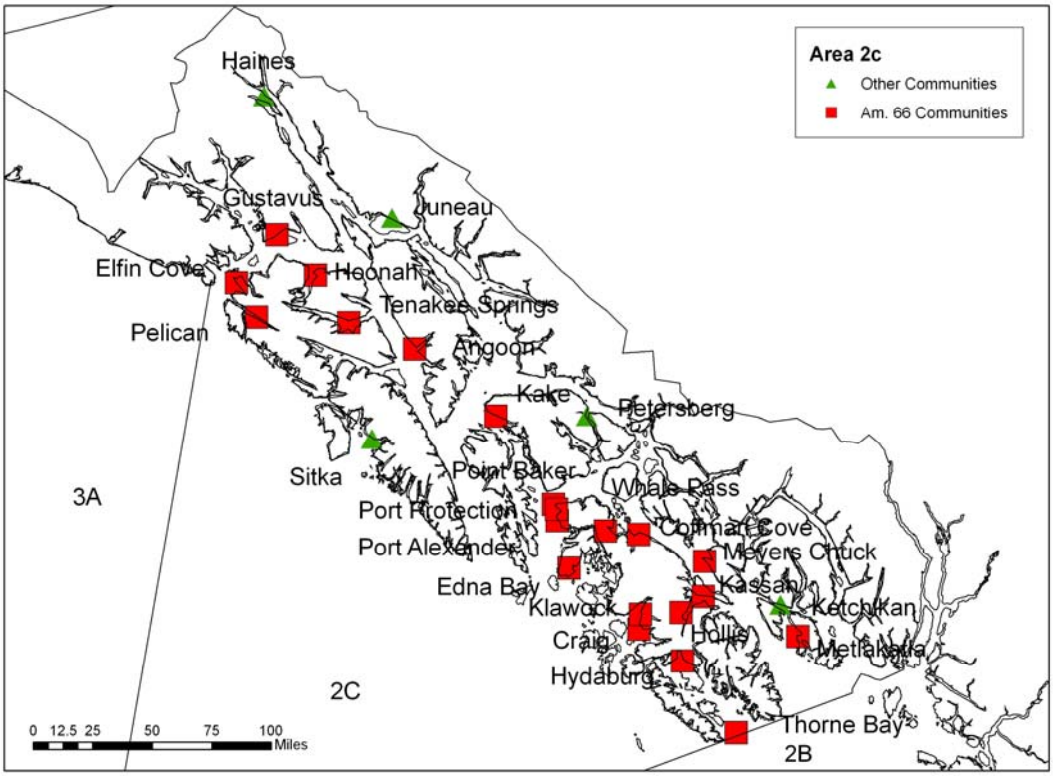
[71] Tom Kong, personal communication, November 15, 2006. According to the regulations, the 3A/3B border is defined as: "...a line extending from the most northerly point on Cape Aklek (57°41'15" N. latitude, 155°35'00" W. longitude) to Cape Ikolik (57°17'17" N. latitude, 154°47'18" W. longitude), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. latitude, 154°08'44" W. longitude), then 140° true."

Table 22 Population and location of potentially eligible communities under Issue 12

Community	Population[1]	Description of Location[2]
Area 2C		
Angoon	572	SW coast of Admiralty Island, 55 miles southwest of Juneau and 41 miles northeast of Sitka
Coffman Cove	199	northeast coast of Prince of Wales Island, 73 air miles northeast of Ketchikan
Craig	1,397	on a small island off the west coast of Prince of Wales Island, 31 road miles west of Hollis
Edna Bay	49	on Kosciusko Island, NW of Prince of Wales Island
Elfin Cove	32	Chichagof Island, 33 miles west of Hoonah
Gustavus	429	at mouth of Salmon River, 48 air miles from Juneau
Hollis	139	east side of Prince of Wales Island, 19 miles east of Craig by road, 35 miles west of Ketchikan by water
Hoonah	860	northeast shore of Chichagof Island, 40 air miles west of Juneau
Hydaburg	382	SW coast of Prince of Wales Island, 45 air miles NW of Ketchikan, 36 road miles west of Hollis
Kake	710	northwest coast of Kupreanof Island along Keku Strait, 38 air miles NW of Petersburg
Kassan	39	on the east side of Prince of Wales Island on Kasaan Bay, 30 miles NW of Ketchikan
Klawock	854	on west coast of Prince of Wales Island, 7 road miles N of Craig, 24 road miles from Hollis
Metlakatla	1,375	on the west coast of Annette Island, 15 air miles south of Ketchikan
Meyers Chuck	21	along Clarence Strait on the northwest tip of Cleveland Peninsula, 40 air miles northwest of Ketchikan
Pelican	163	NW coast of Chichagof Island on Lisianski Inlet, 80 miles north of Sitka and 70 miles west of Juneau
Point Baker	35	on the northern tip of Prince of Wales Island, 50 miles west of Wrangell
Port Alexander	81	on the south end of Baranof Island, 65 miles south of Sitka
Port Protection	63	on the northern tip of Prince of Wales Island, 50 miles west of Wrangell, in the Tongass National Forest
Tenakee	104	on the east side of Chichagof Island, on the north shore of Tenakee Inlet, 45 miles SW of Juneau
Thorne Bay	557	on the east coast of Prince of Wales Island, 47 air miles NW of Ketchikan, 60 road miles from Hollis
Whale Pass	58	on NE coast of Prince of Wales Island, north of Coffman Cove, about 64 road miles north of Klawock
Area 3A		
Akhiok	80	at the southern end of Kodiak Island at Alitak Bay, 80 miles southwest of Kodiak, actually located in Area 3B.
Chenega	86	on Evans Island at Crab Bay, 42 miles southeast of Whittier, 104 air miles SE of Anchorage
Halibut Cove	35	on and around Ismailof Is., adjacent to Kachemak Bay State Park, 6 miles across the inlet from Homer Spit
Karluk	27	west coast of Kodiak Island, on the Karluk River, 88 air miles southwest of Kodiak
Larsen Bay	115	on Larsen Bay, on the northwest coast of Kodiak Island, 60 miles southwest of the City of Kodiak
Nanwalek	177	southern tip of the Kenai Peninsula, 10 miles southwest of Seldovia and west of Port Graham
Old Harbor	237	southeast coast of Kodiak Island, 70 miles southwest of the City of Kodiak
Ouzinkie	225	on the west coast of Spruce Island, adjacent to Kodiak Island. It lies northwest of the City of Kodiak
Port Graham	171	south end of the Kenai Peninsula on shore of Port Graham, adjacent to Nanwalek, 28 air miles from Homer
Port Lions	256	located in Settler Cove, 247 air miles southwest of Anchorage
Seldovia	286	on the Kenai Peninsula across from Homer on the south shore of Kachemak Bay
Tatitlek	107	lies 30 miles east of Valdez by sea near Bligh Island
Tyonek	193	on a bluff on the northwest shore of Cook Inlet, 43 miles southwest of Anchorage
Yakutat	680	at the mouth of Yakutat Bay, 225 miles NW of Juneau and 220 miles SE of Cordova

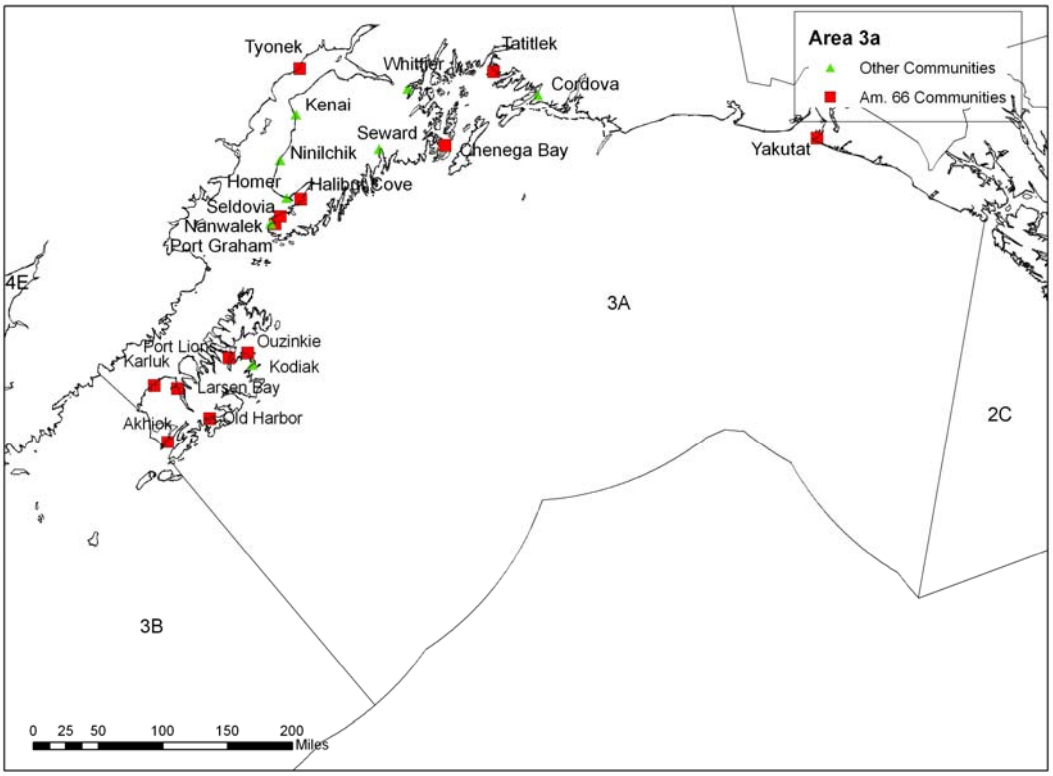
[1]2000 U.S. Census.
[2]State of Alaska, DCCED, Community Database Community Information Summaries.

Figure 10 Map of the 21 eligible GOA Amendment 66 communities in Area 2C



Source: NPFMC

Figure 11 Map of the 14 eligible GOA Amendment 66 communities in Area 3A



Source: NPFMC.

Number of bottomfish charter businesses reporting community as port of landing

The data provided in this section are from the ADF&G bottomfish logbook data. Note that ADF&G does not record the community in which a charter business is physically located or the residency of the operator; rather, it reports the port of landing. This information is relevant to the criteria used in Issue 12 to determine which Amendment 66 communities do not have fully developed halibut charter ports. The intent of the criterion selected is thus to prohibit communities that already have a specified level of charter activity from being eligible to receive a permit, regardless of whether the charter activity is generated by a business physically located in the community or by a business that is physically located elsewhere but operates in and out of the community's port. ADF&G reports nearly 200 ports of landing, many of which are not associated with a geographic community (e.g., remote lodges) and others whose community association is not well defined (e.g., named bays). ADF&G staff evaluated the data summaries provided for this analysis to determine the correct number of charter trips associated with each of the 35 CQE communities potentially eligible under Issue 12.

Table 23 shows the number of charter businesses that reported the community as the port of landing during 2001 – 2005, under various trip thresholds of at least 1, 5, 10, 15, or 20 charter bottomfish trips. While the criteria to qualify communities mirrors the qualifying years for the rest of the moratorium program (2004 and 2005), charter data across a five-year period are provided for reference. Note that the data in Table 23 are based on counting trips at the 'business level.' For example, if a business operated two vessels that each had 8 trips in the year at issue, and the minimum trip requirement is designated as 10 or more trips, the business would qualify and be counted in Table 23 in the appropriate column. In effect, a business qualifies by the sum of its trips; each individual vessel does not have to meet the threshold. The Council confirmed that this is the preferred approach at its December 2006 meeting for qualification of a permit under the general moratorium program – both options for determining the number of permits issued to a licensed guide business owner under Issue 10 are based on qualifying at the business level.

In February 2007, the Council selected a preliminary preferred alternative (Alternative 2), including the options that comprise the preliminary preferred alternative under each issue. Under Issue 10, the Council selected either 10 or 15 bottomfish trips per year as the participation threshold for qualifying for a halibut charter permit. Note that the motion explicitly states that the trip threshold for Issue 12 will mirror the trip threshold selected in Issue 10. Thus, the following are a few summary points from Table 23, based on defining an 'active' charter business as having conducted **10 or more bottomfish trips per year**:

- All but 6 of the 35 communities typically had 5 or fewer active charter businesses operating out of the community in any given year during 2001 – 2005.
- The 6 communities with the highest number of active bottomfish charter businesses were Craig, Elfin Cove, Gustavus, Hoonah, Klawock, and Yakutat.
- In the vast majority of communities (~71%), the number of charter businesses did not fluctuate by more than one business from 2001 to 2005.[72]
- Seven of the Area 2C communities and 7 of the Area 3A communities were not reported as the port of landing for any bottomfish charter business with 10 or more bottomfish trips during 2001 - 2005.

[72]This is the case comparing the number of active businesses listed for 2001 to those listed for 2005, not by comparing between each year within the range. In sum, 8 communities were reported as the port of landing for fewer businesses in 2005 than in 2001; 9 communities were reported as the port of landing for more businesses in 2005 than in 2001.

In addition, in general:

- Most communities had differing numbers of businesses depending on the trip threshold applied; thus, very few communities only had businesses that operated at 10 or more bottomfish trips per year.
- Three of the Area 2C communities and 6 of the Area 3A communities were not reported as the port of landing for any bottomfish charter business under any bottomfish trip threshold during 2001 - 2005.

Table 24 is provided to show the number of vessels operated by the businesses that qualify at the various bottomfish trip thresholds during 2001 – 2005. In other words, Table 24 shows whether the businesses in Table 23 are associated with relatively large fleets, or whether it is more common for a business to operate one or two vessels in a given year on average. Note that the vessel counts in Table 24 are not equivalent to the number of individual vessels that meet the various trip threshold levels. An example of how to read Table 23 and Table 24 together is as follows:

- Table 23 shows that, in 2005, Angoon is listed as the port of landing for a total of 6 businesses that had at least one bottomfish trip. Five of those businesses had at least 10 trips, and 4 of those businesses had at least 20 trips.
- Table 24 shows that, in 2005, those 6 businesses whose port of landing was Angoon operated 10 vessels. The 5 businesses with at least 10 trips operated 9 of those vessels, and the 4 businesses that had at least 20 trips operated 8 of those vessels.

The data show that businesses making 1 to 9 trips per year are usually operating only one vessel on average, while many some businesses making 20 or more trips per year operate multiple vessels. Across the 21 communities that had at least one active charter business in 2004 or 2005,[73] each active charter business in Area 2C operated an average of 1.6 vessels both 2004 and 2005. Each active charter business in Area 3A operated an average of 1.3 vessels both 2004 and 2005. The median number of vessels operated per active business in Area 2C in 2004 and 2005 was 1.5 and 1.7, respectively. The median number of vessels operated per active business in Area 3A in 2004 and 2005 was 1 in both years. **In sum, no community/port of landing averaged 3 or more vessels per active business; most communities averaged 1 – 2 vessels per active business.**

Note, however, that because two vessels are associated with one business does not mean that the business operated both vessels simultaneously. Data is not available at this point to show whether a business typically operated multiple vessels on the same day, or whether one vessel acted as a replacement vessel in the same season.

Note also that neither Table 23 nor Table 24 provide the estimated number of *permits* that the businesses associated with these ports would receive under the general moratorium program, absent the community provisions under Issue 12. Whether an existing business receives a permit is related to the Council's decision under Issue 10. See Section 2.5.10 for details.

[73] Active is defined as a business conducting 10 or more bottomfish trips per year (Council PPA). Recall that 14 of the Am. 66 communities were not reported as the port of landing for any bottomfish charter business that made at least 10 bottomfish trips per year in 2004 or 2005.

Table 23 Number of businesses meeting the categorized vessel trip thresholds (1+, 5+, 10+, 15+, or 20+ bottomfish trips) by port of landing, 2001 - 2005

IPHC Area	Port of Landing Site	2001					2002					2003		
		At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year
2C	ANGOON	4	4	3	3	3	7	6	5	5	3	5	4	4
2C	COFFMAN COVE	3	2	2	2	2	4	4	4	4	4	4	4	4
2C	CRAIG	26	20	18	16	14	26	20	16	15	13	23	19	17
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	22	17	14	13	12	17	11	9	9	8	17	13	12
2C	GUSTAVUS	15	14	13	13	12	14	12	10	9	9	14	11	11
2C	HOLLIS	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	HOONAH	12	9	8	5	4	6	4	3	2	2	10	5	4
2C	HYDABURG	1	1	0	0	0	0	0	0	0	0	0	0	0
2C	KAKE	5	1	0	0	0	2	0	0	0	0	1	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	10	10	7	5	5	11	9	8	6	6	10	8	7
2C	METLAKATLA	1	0	0	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	6	4	4	4	3	6	4	4	3	2	7	5	4
2C	POINT BAKER	1	1	1	1	0	1	1	1	1	0	0	0	0
2C	PORT ALEXANDER	4	4	4	4	4	4	4	4	4	4	4	4	4
2C	PORT PROTECTION	4	4	4	4	2	2	2	1	1	1	3	3	3
2C	TENAKEE	3	2	1	1	1	2	1	1	0	0	3	1	0
2C	THORNE BAY	2	2	2	2	1	4	3	1	1	1	3	2	2
2C	WHALE PASS	1	1	1	0	0	1	1	1	1	0	2	1	1
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	1	1	1	1	1	1	1	1	1	1	1	1	1
3A	HALIBUT COVE	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	7	6	6	6	6	6	5	3	3	3	6	5	5
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	5	4	4	4	3	3	3	2	2	2	5	5	4
3A	OUZINKIE	1	0	0	0	0	0	0	0	0	0	1	1	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	7	6	4	3	3	9	7	5	3	3	10	6	3
3A	SELDOVIA	10	5	4	4	4	7	4	4	3	3	6	6	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	7	6	5	5	4	7	7	6	6	5	9	9	8

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of active businesses associated with the port of landing for a specified year is shown in the "At least 1 bottomfish trip per year" column.

Note: For the purposes of business qualification, these counts assume that the trips are counted at the 'business level' (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council's preferred option under Issue 10.

Table 23 continued.

IPHC Area	Port of Landing Site	2003		2004					2005				
		15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	ANGOON	3	3	8	5	4	4	3	6	5	5	4	4
2C	COFFMAN COVE	4	4	4	4	4	4	4	5	5	5	5	5
2C	CRAIG	16	13	29	26	20	18	16	30	25	20	17	17
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	10	10	14	12	11	10	9	13	12	11	11	9
2C	GUSTAVUS	11	8	15	13	12	12	12	18	14	12	12	12
2C	HOLLIS	0	0	0	0	0	0	0	1	0	0	0	0
2C	HOONAH	4	2	9	8	8	4	2	12	7	6	6	2
2C	HYDABURG	0	0	0	0	0	0	0	0	0	0	0	0
2C	KAKE	0	0	1	0	0	0	0	0	0	0	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	5	4	10	9	6	6	4	8	7	6	5	5
2C	METLAKATLA	0	0	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	4	4	7	6	3	2	1	7	5	5	5	4
2C	POINT BAKER	0	0	1	1	1	0	0	2	2	1	1	1
2C	PORT ALEXANDER	4	4	4	4	4	4	3	4	4	4	4	4
2C	PORT PROTECTION	1	1	2	1	1	1	1	2	2	1	1	1
2C	TENAKEE	0	0	3	2	0	0	0	3	2	1	0	0
2C	THORNE BAY	2	1	4	4	3	3	2	6	6	4	4	3
2C	WHALE PASS	1	1	4	2	2	2	2	2	2	2	2	2
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	1	1	2	1	1	1	0	1	1	0	0	0
3A	HALIBUT COVE	0	0	0	0	0	0	0	1	1	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	5	4	5	5	5	4	4	6	5	4	4	4
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	3	2	5	3	3	3	1	4	3	3	2	2
3A	OUZINKIE	0	0	1	0	0	0	0	1	1	1	0	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	2	2	10	9	7	6	4	10	7	4	4	3
3A	SELDOVIA	4	4	10	5	5	4	4	10	7	6	4	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	8	7	9	8	8	8	8	10	9	8	7	7

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of active businesses associated with the port of landing for a specified year is shown in the "At least 1 bottomfish trip per year" column.

For the purposes of business qualification, these counts assume that the trips are counted at the 'business level' (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council's preferred option under Issue 10.

Table 24 Number of vessels operated by businesses that meet the various trip thresholds (1+, 5+, 10+, 15+, or 20+ bottomfish trips) by port of landing, 2001 – 2005

IPHC Area	Port of Landing Site	2001					2002					2003		
		At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year
2C	ANGOON	10	10	9	9	9	8	7	6	6	4	5	4	4
2C	COFFMAN COVE	5	4	4	4	4	6	6	6	6	6	6	6	6
2C	CRAIG	51	45	43	41	39	50	44	40	39	36	51	47	45
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	32	27	24	23	21	29	23	21	21	20	32	28	27
2C	GUSTAVUS	19	18	17	17	16	19	17	15	14	14	19	16	16
2C	HOLLIS	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	HOONAH	13	10	9	6	5	6	4	3	2	2	10	5	4
2C	HYDABURG	1	1	0	0	0	0	0	0	0	0	0	0	0
2C	KAKE	5	1	0	0	0	2	0	0	0	0	1	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	15	15	12	10	10	17	15	14	12	12	15	13	12
2C	METLAKATLA	1	0	0	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	7	5	5	5	4	6	4	4	3	2	8	6	4
2C	POINT BAKER	1	1	1	1	0	1	1	1	1	0	0	0	0
2C	PORT ALEXANDER	6	6	6	6	6	6	6	6	6	6	7	7	7
2C	PORT PROTECTION	5	5	5	5	3	3	3	2	2	2	3	3	3
2C	TENAKEE	4	3	2	2	2	3	2	2	0	0	3	1	0
2C	THORNE BAY	6	6	6	6	4	6	5	3	3	3	7	6	6
2C	WHALE PASS	1	1	1	0	0	2	2	2	2	0	3	2	2
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	1	1	1	1	1	1	1	1	1	1	1	1	1
3A	HALIBUT COVE	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	12	11	11	11	11	10	9	6	6	6	10	9	9
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	6	5	5	5	4	5	5	4	4	4	8	8	7
3A	OUZINKIE	1	0	0	0	0	0	0	0	0	0	1	1	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	8	7	5	4	4	10	8	6	4	4	11	7	4
3A	SELDOVIA	10	5	4	4	4	7	4	4	3	3	6	6	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	13	12	11	11	9	11	11	10	10	9	14	14	13

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of vessels operated by businesses associated with the port of landing for a specified year is shown in the "At least 1 bottomfish trip per year" column.

Note: These counts are not equivalent to the number of vessels that would "qualify" at the various threshold levels; these counts represent the total number of vessels operated by a business that 'qualifies' under the various thresholds in Table 23. For the purposes of business qualification, these counts assume that the trips are counted at the 'business level' (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council's preferred option under Issue 10.

Table 24 continued.

IPHC Area	Port of Landing Site	2003		2004					2005				
		15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	ANGOON	3	3	8	5	4	4	3	10	9	9	8	8
2C	COFFMAN COVE	6	6	6	6	6	6	6	5	5	5	5	5
2C	CRAIG	44	41	62	59	53	50	48	69	64	59	55	55
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	24	24	28	26	25	24	23	27	26	25	25	22
2C	GUSTAVUS	16	13	22	20	18	18	18	23	19	17	17	17
2C	HOLLIS	0	0	0	0	0	0	0	1	0	0	0	0
2C	HOONAH	4	2	11	10	10	4	2	12	7	6	6	2
2C	HYDABURG	0	0	0	0	0	0	0	0	0	0	0	0
2C	KAKE	0	0	1	0	0	0	0	0	0	0	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	10	9	17	16	13	13	11	15	14	13	12	12
2C	METLAKATLA	0	0	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	4	4	7	6	3	2	1	7	5	5	5	4
2C	POINT BAKER	0	0	1	1	1	0	0	3	3	2	2	2
2C	PORT ALEXANDER	7	7	5	5	5	5	3	5	5	5	5	5
2C	PORT PROTECTION	1	1	3	2	2	2	2	2	2	1	1	1
2C	TENAKEE	0	0	3	2	0	0	0	4	3	2	0	0
2C	THORNE BAY	6	5	8	8	7	7	6	11	11	9	9	8
2C	WHALE PASS	2	2	6	4	4	4	4	3	3	3	3	3
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	1	1	2	1	1	1	0	1	1	0	0	0
3A	HALIBUT COVE	0	0	0	0	0	0	0	1	1	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	9	8	13	13	13	11	11	13	12	11	11	11
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	6	4	7	5	5	5	3	6	5	5	4	4
3A	OUZINKIE	0	0	1	0	0	0	0	1	1	1	0	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	3	3	11	10	8	7	5	10	7	4	4	3
3A	SELDOVIA	4	4	10	5	5	4	4	10	7	6	4	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	13	12	14	13	13	13	13	14	13	12	11	11

Source: Alaska Department of Fish & Game, logbook data, 2001 – 2005. Note that Akhiok is located in Area 3B.

Note: The rows are not additive within each year. The total number of vessels operated by businesses associated with the port of landing for a specified year is shown in the "At least 1 bottomfish trip per year" column.

Note: These counts are not equivalent to the number of vessels that would "qualify" at the various threshold levels; these counts represent the total number of vessels operated by a business that 'qualifies' under the various thresholds in Table 23. For the purposes of business qualification, these counts assume that the trips are counted at the 'business level' (as opposed to the individual vessel level). For example, if a business operated two vessels that each had 8 trips in the qualifying years, and the minimum trip requirement was 10 trips, the business would qualify. The number of permits that the example business would receive would depend on the Council's preferred option under Issue 10.

Social and economic characteristics & involvement in North Pacific fisheries

Profiles for 136 fishing communities in Alaska were recently completed by NOAA Fisheries and documented in *Community Profiles for North Pacific Fisheries – Alaska* (December 2005). This document provides social and economic baseline data for Alaskan communities involved in commercial fisheries in the North Pacific, including 28 of the 35 potentially eligible communities under Issue 13. [74]

Note that while NOAA defines fishing community under the MSA to mean a place-based community that is "substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and U.S. fish processors…", data on recreational and subsistence fishing were not available early enough in the profiling selection process to be incorporated in the determination of the communities to be profiled. Thus, the profiled communities were selected on the basis of their involvement in commercial fishing, using eight different types of quantitative indicators. (Communities which met or exceeded a designated threshold in any one of the indicators were selected for profiling, with a few exceptions.) Information on recreational and subsistence fisheries was added to the profiles as possible. Updated versions of this document will account for recreational and subsistence fishing in the selection of communities for profiling.

Each community profile contains three sections: people and place, infrastructure, and involvement in North Pacific fisheries. The section on people and place describes the location, history, and basic demographic structure of the community; and the infrastructure section outlines the current economic situation, the existing government structure, and the facilities available in the community. Finally, the fishing involvement section details the nature and level of community involvement in commercial, recreational, and subsistence fishing. Data on recreational fishing generally includes the number of registered saltwater and/or freshwater sport fishing businesses (2002) and the number of sport fishing licenses sold in the community (2000) for a specified year, as provided in Table 26 below. Note that registration of a business does not denote that the business was active that year. Please reference *Community Profiles for North Pacific Fisheries – Alaska* for detailed information on 28 of the 35 communities.

Profiles for each of the 35 potentially eligible communities are also provided in the State of Alaska's Community Information Summaries.[75] The Alaska Department of Commerce, Community, and Economic Development (DCCED) compiles summaries including community location, population, taxes, climate, history, culture, demographics, utilities, schools, health care, economy, transportation, and major contacts. Table 25 provides some demographic and economic statistics for the 35 potentially eligible communities from this database, the primary source of which is the U.S. Census. Please reference the State's database directly for comprehensive information on each community of interest.

[74] Amendment 66 communities in Area 2C or Area 3A not profiled in *Community Profiles for North Pacific Fisheries – Alaska* (December 2005) are: Coffman Cove, Hollis, Kassan, Chenega Bay, Nanwalek, Tatitlek, and Tyonek.

[75] Source: www.commerce.state.ak.us/dca/commdb/CF_CIS.htm

Table 25 Demographic and economic statistics of potentially eligible communities

Community	Population (2000 U.S. Census)	DCCED 2005 cert pop.[1]	Incorporation type	ANCSA Native village corporation	Percent Native population	Housing units total	Housing units occupied	Average # persons per household	Median household income ($)	Percent unemployment
Area 2C										
Angoon	572	497	2	Kootznoowoo, Inc	86.4%	221	184	3.11	29,861	13.0%
Coffman Cove	199	156	2	n/a	6.0%	99	63	2.56	43,750	10.5%
Craig	1,397	1,102	1	Shaan-Seet, Inc	30.9%	580	523	2.63	45,298	9.0%
Edna Bay	49	41	U	n/a	4.1%	40	19	2.58	44,583	0.0%
Elfin Cove	32	29	U	n/a	0.0%	35	15	2.13	33,750	23.1%
Gustavus	429	459	2	n/a	8.2%	345	199	2.16	34,766	14.0%
Hollis	139	137	U	n/a	9.4%	95	55	2.53	43,750	3.1%
Hoonah	860	861	1	Huna Totem Corp	69.4%	348	300	2.83	39,028	20.5%
Hydaburg	382	369	1	Haida Corp	89.5%	154	133	2.87	31,625	31.3%
Kake	710	598	1	Kake Tribal Corp	74.6%	288	246	2.88	39,643	24.9%
Kassan	39	61	2	Kavilco, Inc	48.7%	39	17	2.29	43,500	20.0%
Klawock	854	780	1	Klawock Heenya Corp	58.1%	368	313	2.73	35,000	15.7%
Metlakatla	1,375	1,397	U	n/a*	89.7%	531	469	2.93	43,516	20.8%
Meyers Chuck	21	15	U	n/a	9.5%	48	9	2.33	64,375	0.0%
Pelican	163	115	1	n/a	25.8%	94	70	2.3	48,750	8.0%
Point Baker	35	22	U	n/a	8.6%	23	13	2.69	28,000	0.0%
Port Alexander	81	75	2	n/a	13.6%	79	34	2.38	31,563	9.4%
Port Protection	63	54	U	n/a	11.1%	52	31	2.03	10,938	0.0%
Tenakee	104	98	2	n/a	4.8%	144	59	1.76	33,125	13.7%
Thorne Bay	557	486	2	n/a	4.8%	327	219	2.54	45,625	14.6%
Whale Pass	58	76	U	n/a	3.4%	51	22	2.64	62,083	0.0%
Area 3A										
Akhiok	80	41	2	Akhiok-Kaguyak, Inc.	93.8%	34	25	3.2	33,438	14.3%
Chenega	86	82	U	Chenega Corp	77.9%	27	22	3.55	53,750	14.8%
Halibut Cove	35	23	U	n/a	2.9%	123	18	1.94	127,010	0.0%
Karluk	27	27	U	Koniag, Inc; Ayakulik, Inc	96.3%	24	9	3	19,167	0.0%
Larsen Bay	115	97	2	Koniag, Inc	79.1%	70	40	2.88	40,833	10.3%
Nanwalek	177	222	U	English Bay Corp	93.2%	54	45	3.93	42,500	5.1%
Old Harbor	237	200	2	Old Harbor Native Corp	85.7%	111	79	3	32,500	23.0%
Ouzinkie	225	191	2	Ouzinkie Native Corp	87.6%	86	74	3.04	52,500	11.6%
Port Graham	171	134	U	Port Graham Corp	88.3%	82	70	2.44	40,250	22.4%
Port Lions	256	220	2	Afognak Native Corp	63.7%	106	89	2.88	39,107	4.2%
Seldovia	286	287	1	Seldovia Native Assn, Inc	23.1%	232	134	2.13	45,313	10.4%
Tatitlek	107	102	U	Tatitlek Corp	85.0%	57	38	2.82	36,875	7.9%
Tyonek	193	199	U	Tyonek Native Corp	95.3%	134	66	2.92	26,667	27.3%
Yakutat	680	619	H	Yak-Tat Kwaan, Inc	46.8%	499	265	2.59	46,786	7.8%

Source: 2000 U.S. Census data, from State of Alaska, DCCED community database.

[1]2005 certified population by the Alaska Dept. of Commerce, Community and Economic Development.

n/a = not applicable.

*Metlakatla (Annette Island) is a Federally-recognized Indian reservation (tribe is the Metlakatla Indian Community), and not part of the Alaska Native Claims Settlement Act (ANCSA).

Table 26 Number of registered sport fishing guide businesses (2002) and sport fish licenses sold (2000), by community

Community	Number of registered saltwater sport fishing guide businesses (2002)	Number of registered freshwater sport fishing guide businesses (2002)	Number of sport fishing licenses sold (2000)
Area 2C			
Angoon	7	4	976
Coffman Cove	n/a	n/a	n/a
Craig	36	15	3,405
Edna Bay	0	0	11
Elfin Cove	15	13	1,025
Gustavus	14	12	1,877
Hollis	n/a	n/a	n/a
Hoonah	8	6	877
Hydaburg	2	0	11
Kake	5	2	299
Kassan	n/a	n/a	n/a
Klawock	11	2	1,742
Metlakatla	3	1	101
Meyers Chuck	0	0	27
Pelican	9	7	249
Point Baker	3	3	107
Port Alexander	3	2	64
Port Protection	1	1	0
Tenakee	4	2	206
Thorne Bay	6	6	1,163
Whale Pass	n/a	n/a	n/a
Area 3A			
Akhiok	0	0	0
Chenega	n/a	n/a	n/a
Halibut Cove	n/a	n/a	n/a
Karluk	2	4	87
Larsen Bay	10	10	75
Nanwalek	n/a	n/a	n/a
Old Harbor	7	5	17
Ouzinkie	2	2	101
Port Graham	0	0	43
Port Lions	11	8	166
Seldovia	7	0	597
Tatitlek	n/a	n/a	n/a
Tyonek	n/a	n/a	n/a
Yakutat	12	19	3,897

Source: Community Profiles for North Pacific Fisheries – Alaska, NOAA Fisheries, December 2005.

n/a = not available. This means the community was not profiled in this data source or the community was profiled but the sport fishing data were not available.

2.5.12.2 Eligible communities under Issue 12

This section provides an evaluation of the number of Amendment 66 communities that would qualify under the eligibility criteria options under consideration. Note that all options are analyzed, and the options that comprise the Council's preliminary preferred alternative from February 2007 are highlighted as such. A summary outlining the impacts of the Council's preliminary preferred alternative is provided in Section 2.5.12.5.

As currently structured, NMFS would issue the charter halibut permit to the CQE, which would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. The provisions allow the CQE to determine who it may retain to conduct the charter operation, regardless of the residency of the vessel owner or skipper. In effect, the CQE would be the holder of the permit, and it would decide how the permit is to be used, as long as it complies with the requirement that the permit must be used in the community represented by the CQE. This means that the charter trip must originate and/or terminate in the CQE community. This requirement is discussed in more detail in Section 2.5.12.4.

The intent is that the CQE would use the permit in such a way that maximizes the benefit to the community it represents, under the requirements of the program. There are a variety of ways the CQE could use the permit, for example, the CQE could contract with a business owned by a resident of the community it represents, or the CQE could purchase a vessel and hire a resident skipper or crew to conduct charter operations. The CQE could also contract with a skipper that is a resident of a different community, but require that the charter business operate out of the represented community. The only restriction is that the CQE would not be allowed to contract with a skipper to operate the business in and out of another port.

In December 2006, the Council determined that it is beneficial to allow a broader scope of potential businesses to operate within the community beyond those operated by residents. In addition, the Council was explicit in stating that the CQE, not an individual resident, is the beneficiary of the permit, to use on behalf of the eligible community. While it is likely that most CQEs would contract with a community resident and/or business to use the permit, the flexibility to designate someone other than a full-time resident may be necessary for some of the smallest communities to use the permit provided, either in the initial year after implementation or to mitigate unforeseen circumstances.

The three components for community eligibility under Issue 12 are as follows:

- Must be a GOA Amendment 66 community in Area 2C or 3A as listed in Federal regulations
- Must meet the criteria selected for bottomfish charter activity (number of businesses/trip level)
- Must have formed and approved a CQE through NMFS

Two of the primary policy decisions under the community provisions are thus related to the definition of an 'active' charter business and the criteria for determining what constitutes an 'underdeveloped charter port.' Under the current options, in order to be determined eligible under Issue 12, a CQE must represent a community in which either 5 or fewer, or 10 or fewer, active charter businesses terminated trips in the community in 2004 and 2005. 'Active' is currently defined in the Council motion the same way it will be defined in the general moratorium program under Issue 10: at least 1, 5, 10, 15, or 20 bottomfish trips reported in an ADF&G logbook during each qualifying year.

Combined, there are thus 10 different options for defining the participation criteria by which a community is evaluated for eligibility. In order for a community to be eligible to request a permit it must have:

5 or fewer active charter businesses with:		***10 or fewer active charter businesses with:**	
Option 1	≥1 bottomfish trip	Option 6	≥1 bottomfish trip
Option 2	≥5 bottomfish trips	Option 7	≥5 bottomfish trips
Option 3	≥10 bottomfish trips	***Option 8**	**≥10 bottomfish trips**
Option 4	≥15 bottomfish trips	***Option 9**	**≥15 bottomfish trips**
Option 5	≥20 bottomfish trips	Option 10	≥20 bottomfish trips

***Council preliminary preferred alternative from February 2007.**
Note: The community must meet the selected criteria in 2004 and 2005.
Note: The trip threshold to define an "active" business is linked to the Council's decision under Issue 10.

Note that the Council's preliminary preferred alternative, identified in February 2007, is that the community must have 10 or fewer active charter businesses reporting the community as the port of landing in both 2004 and 2005, with 'active' defined as either 10 or more bottomfish trips, or 15 or more bottomfish trips. The Council wanted to see the results of the data analyzed for ≥15 trips before it selected its final preferred alternative. The relevant data are provided in this version of the analysis.

Under the above criteria, if a community has *more* than 10 active businesses operating out of its port, depending on the trip threshold selected, in either 2004 or 2005, its CQE would not qualify to receive halibut charter permits. Note that in the general moratorium program, a business owner receives a permit at initial issuance if he/she had the requisite number of bottomfish trips documented in an ADF&G logbook in 2004 or 2005 and the year prior to implementation of the program (see Issue 10). In effect, a CQE wants to demonstrate little to no charter activity in each of two years in order to benefit from the program (i.e., receive a permit), while a registered guide business owner wants to demonstrate a higher level of charter activity in order to benefit from the program. The qualification criteria for CQEs are based on an identified economic development need for small, rural communities with few alternative economic opportunities; the qualification criteria in the general moratorium program are based on historical participation.

Prior to the February 2007 Council meeting, the CQE must have met the criteria in 2004, 2005, and the year prior to implementation. The requirement to meet the criteria in the year prior to implementation (which is likely either 2007 or 2008) was removed at the February meeting. The primary reason for this change was so the number of eligible communities would be certain at the time of Council final action. This list of communities can then be published in the final rule implementing the action, should it be approved by the Secretary. Retaining the requirement to meet the criteria in the year prior to implementation would have prevented knowing the list of eligible communities until the 2007 (or 2008) logbook information was processed by NMFS during the implementation phase of the program. In addition, the Council recognized that the structure of the eligibility criteria was such that it provided significant disincentives for a community to encourage new halibut charter businesses, whether operated by residents or others, to operate out of its port until after implementation of the moratorium program. This is because if a community exceeded the threshold in 2007 (or 2008, whichever is the year prior to implementation), it would not be eligible to receive permits from NMFS at no cost, similar to every other initial permit recipient. Added to this disincentive was the fact that a business that starts operating for the first time in 2007 would not receive a permit under the general moratorium program because it must also have generated the required logbook activity in 2004 or 2005.

The intent of the eligibility criteria in Issue 12 is to narrow eligibility to communities that do not already have fully developed charter ports; in effect, targeting communities that have less than a selected number

of businesses operating out of the port in recent years. The general assumption appears to be that charter business owners already operating in these communities will receive a permit under the general program (see the qualification criteria under Issue 10) and continue to be able to operate out of these communities without the added cost of purchasing a permit – thus, giving the CQE halibut charter permits is not necessary to sustain the *current* level of charter activity in this community. Thus, while the provision is currently structured such that benefits are limited to communities that have fewer than an identified number of businesses operating out of the community in a given set of years, one should also consider whether that is consistent with the number of 'active' businesses that had been using the community as its port of landing during the qualifying period that would receive permits at initial issuance. This information was provided in Section 2.5.10 and is summarized further in this section.

Note, however, that receipt of a halibut charter permit under the general program means that a business can use the permit anywhere within the IPHC area in which the permit is designated (Area 2C or Area 3A). Thus, even in a community that appears to have a 'developed' charter port based on activity in 2004 or 2005, there is no guarantee that the halibut charter permit issued to an individual business owner in the general program will continue to be used in that community's port in the future. (Note that part of the intent of the community provision under Issue 12 is to mitigate this possibility, as the charter permit would be permanently tied to the CQE, which represents the community.)

This may raise concerns with the design of the eligibility criteria, as it would likely disadvantage Amendment 66 communities (relative to other Amendment 66 communities) that are not long established charter ports but whose CQE would not qualify to receive permits because the community exceeded the number of businesses in one of the two years at issue. This issue is exacerbated by the relatively narrow window of participation history used to determine the beneficiaries of the charter halibut permit program. This may be less of an issue for communities that are well above the selected criteria, but more of an issue for communities that only slightly exceed the designated maximum. This issue may provide rationale to use the less restrictive of the two threshold options: a community must have 10 or fewer businesses, as opposed to 5 or fewer, in order to receive (gifted) charter permits. Note that this reflects the current Council preliminary preferred alternative.

There are several advantages to the approach to determining eligibility. The criteria are relatively clear and objective, and the number of eligible communities can be determined with certainty at final action. (Note, however, that the number of eligible communities that form a CQE and request halibut charter permits through this program cannot be estimated.) In addition, the use of the Amendment 66 communities as a starting point for eligibility encompasses a broad range of factors by definition, and is not limited to historical participation in the charter fishery.

Given the above discussion, this section provides an evaluation of the communities that potentially qualify under all of the eligibility criteria under consideration, including the preliminary preferred alternative, based on 2004 and 2005 ADF&G charter bottomfish logbook activity.

Note that in both of the following tables, the data are based upon counting charter trips at the 'business level.' For example, if a business operated 2 vessels that each had 8 trips in a qualifying year, and the minimum trip requirement was 10 trips, the business would be counted in Table 27 and Table 28. In effect, a business is counted as such by the sum of its trips; each individual vessel does not have to meet the threshold. This is consistent with the approach in Issue 10.

Table 27 indicates the Amendment 66 communities that have **5 or fewer** active charter businesses meeting the various trip thresholds to define an 'active' charter business, by port of landing, in 2004 and 2005. This table is based upon data provided in Table 23. **The shaded cells denote communities that do not qualify under the identified criteria. Recall that the community must meet the criteria (5 or fewer active businesses under the identified trip threshold) in both 2004 and 2005 in order to qualify.** For example, if a community was reported as the port of landing for 4 businesses in 2004 and 6 businesses in 2005, it would not qualify (see Thorne Bay as an example). Depending upon the trip threshold selected at final action, between **23 to 31** of the 35 Amendment 66 communities, would qualify to receive charter permits under this option.

Table 27 Comparison of qualifying Am. 66 communities using criteria of 5 or fewer businesses under various trip thresholds to define an active charter business, 2004 - 2005

IPHC Area	Port of Landing Site	shaded communities do NOT qualify: they have >5 businesses meeting threshold for 'active' trips in 2004 or 2005									
		2004					2005				
		At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year	15 or more Bottomfish Trips per Year	20 or more Bottomfish Trips per Year
2C	ANGOON	8	5	4	4	3	6	5	5	4	4
2C	COFFMAN COVE	4	4	4	4	4	5	5	5	5	5
2C	CRAIG	29	26	20	18	16	30	25	20	17	17
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	14	12	11	10	9	13	12	11	11	9
2C	GUSTAVUS	15	13	12	12	12	18	14	12	12	12
2C	HOLLIS	0	0	0	0	0	1	0	0	0	0
2C	HOONAH	9	8	8	4	2	12	7	6	6	2
2C	HYDABURG	0	0	0	0	0	0	0	0	0	0
2C	KAKE	1	0	0	0	0	0	0	0	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	10	9	6	6	4	8	7	6	5	5
2C	METLAKATLA	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	7	6	3	2	1	7	5	5	5	4
2C	POINT BAKER	1	1	1	0	0	2	2	1	1	1
2C	PORT ALEXANDER	4	4	4	4	3	4	4	4	4	4
2C	PORT PROTECTION	2	1	1	1	1	2	2	1	1	1
2C	TENAKEE	3	2	0	0	0	3	2	1	0	0
2C	THORNE BAY	4	4	3	3	2	6	6	4	4	3
2C	WHALE PASS	4	2	2	2	2	2	2	2	2	2
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	2	1	1	1	0	1	1	0	0	0
3A	HALIBUT COVE	0	0	0	0	0	1	1	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	5	5	5	4	4	6	5	4	4	4
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	5	3	3	3	1	4	3	3	2	2
3A	OUZINKIE	1	0	0	0	0	1	1	1	0	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	10	9	7	6	4	10	7	4	4	3
3A	SELDOVIA	10	5	5	4	4	10	7	6	4	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	9	8	8	8	8	10	9	8	7	7

Source: Alaska Department of Fish & Game, logbook data, 2004 – 2005. Note that Akhiok is located in Area 3B.

NOTE: Shaded cells denote communities that do not qualify under the selected criteria. The number of businesses is provided in each cell. Note that eligible communities would also need to form and qualify a CQE with NMFS in order to receive a charter permit under Issue 12.

Table 28 shows the same information as Table 27, except the qualification option is **10 or fewer** active charter businesses reported the Amendment 66 community as the port of landing in 2004 and 2005, if 'active' is defined as minimum activity of at least 1, 5, 10, or 20 bottomfish charter trips in a given year. This table is also based upon data provided in Table 23. **The shaded cells denote communities that do not qualify under the identified criteria. Recall that the community must meet the criteria (10 or fewer active businesses under the identified trip threshold) in both 2004 and 2005 in order to qualify.**

Depending upon the trip threshold selected at final action, between 31 to 33 of the 35 Amendment 66 communities would qualify to receive charter permits under this option. The same 32 communities qualify under the 5, 10, or 15 trip thresholds. By comparison, one additional community (Hoonah) is disqualified under the 1 trip threshold; while one additional community (Elfin Cove) qualifies under the 20 trip threshold.

Table 28 Comparison of qualifying Am. 66 communities using criteria of 10 or fewer businesses under various trip thresholds to define an active charter business, 2004 - 2005

IPHC Area	Port of Landing Site	shaded communities do NOT qualify: they have >10 businesses meeting threshold for 'active' trips in 2004 or 2005									
		2004					2005				
		At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year **(Council PPA)**	15 or more Bottomfish Trips per Year **(Council PPA)**	20 or more Bottomfish Trips per Year	At least 1 Bottomfish Trip per Year	5 or more Bottomfish Trips per Year	10 or more Bottomfish Trips per Year **(Council PPA)**	15 or more Bottomfish Trips per Year **(Council PPA)**	20 or more Bottomfish Trips per Year
2C	ANGOON	8	5	4	4	3	6	5	5	4	4
2C	COFFMAN COVE	4	4	4	4	4	5	5	5	5	5
2C	CRAIG	29	26	20	18	16	30	25	20	17	17
2C	EDNA BAY	0	0	0	0	0	0	0	0	0	0
2C	ELFIN COVE	14	12	11	10	9	13	12	11	11	9
2C	GUSTAVUS	15	13	12	12	12	18	14	12	12	12
2C	HOLLIS	0	0	0	0	0	1	0	0	0	0
2C	HOONAH	9	8	8	4	2	12	7	6	6	2
2C	HYDABURG	0	0	0	0	0	0	0	0	0	0
2C	KAKE	1	0	0	0	0	0	0	0	0	0
2C	KASSAN	0	0	0	0	0	0	0	0	0	0
2C	KLAWOCK	10	9	6	6	4	8	7	6	5	5
2C	METLAKATLA	0	0	0	0	0	0	0	0	0	0
2C	MEYERS CHUCK	0	0	0	0	0	0	0	0	0	0
2C	PELICAN	7	6	3	2	1	7	5	5	5	4
2C	POINT BAKER	1	1	1	0	0	2	2	1	1	1
2C	PORT ALEXANDER	4	4	4	4	3	4	4	4	4	4
2C	PORT PROTECTION	2	1	1	1	1	2	2	1	1	1
2C	TENAKEE	3	2	0	0	0	3	2	1	0	0
2C	THORNE BAY	4	4	3	3	2	6	6	4	4	3
2C	WHALE PASS	4	2	2	2	2	2	2	2	2	2
3A	AKHIOK	0	0	0	0	0	0	0	0	0	0
3A	CHENEGA	2	1	1	1	0	1	1	0	0	0
3A	HALIBUT COVE	0	0	0	0	0	1	1	0	0	0
3A	KARLUK	0	0	0	0	0	0	0	0	0	0
3A	LARSEN BAY	5	5	5	4	4	6	5	4	4	4
3A	NANWALEK	0	0	0	0	0	0	0	0	0	0
3A	OLD HARBOR	5	3	3	3	1	4	3	3	2	2
3A	OUZINKIE	1	0	0	0	0	1	1	1	0	0
3A	PORT GRAHAM	0	0	0	0	0	0	0	0	0	0
3A	PORT LIONS	10	9	7	6	4	10	7	4	4	3
3A	SELDOVIA	10	5	5	4	4	10	7	6	4	4
3A	TATITLEK	0	0	0	0	0	0	0	0	0	0
3A	TYONEK	0	0	0	0	0	0	0	0	0	0
3A	YAKUTAT	9	8	8	8	8	10	9	8	7	7

Source: Alaska Department of Fish & Game, logbook data, 2004 – 2005. Note that Akhiok is located in Area 3B.
NOTE: Shaded cells denote communities that do not qualify under the selected criteria. The number of businesses is provided in each cell. Note that eligible communities would also need to form and qualify a CQE with NMFS in order to receive a charter permit under Issue 12.

Table 29 Number of estimated eligible communities in Area 2C and 3A under Issue 12

Community qualifying criteria under Issue 12	Area 2C	Area 3A	TOTAL
≤5 businesses; ≥1 trip	13	10	23
≤5 businesses; ≥5 trips	14	11	25
≤5 businesses; ≥10 trips	16	11	27
≤5 businesses; ≥15 trips	16	12	28
≤5 businesses; ≥20 trips	18	13	31
≤10 businesses; ≥1 trip	17	14	31
≤10 businesses; ≥5 trips	18	14	32
Council PPA: ≤10 businesses; ≥10 trips	18	14	32
Council PPA: ≤10 businesses; ≥15 trips	18	14	32
≤10 businesses; ≥20 trips	19	14	33

The Council's preliminary preferred alternative(s) would qualify 18 communities in Area 2C and 14 communities in Area 3A, for a total of 32 communities. The same number of communities qualifies regardless of whether the trip threshold to define an active business is 10 trips or 15 trips.

Clearly, one primary factor affecting the number of eligible communities is the maximum number of businesses a community could already have to qualify (e.g., 5 or 10). For example, if an active business is defined as having at least 1 bottomfish trip per year during the qualifying period, 31 communities qualify under a threshold of 10 or fewer active businesses, but only 23 communities qualify under the threshold of 5 or fewer active businesses. The difference is reduced under the upper end of the range of options to define an active business (≥20 bottomfish trips): 33 communities qualify under a threshold of 10 or fewer active businesses, and 31 communities qualify under a threshold of 5 or fewer active businesses.

The other primary factor is the minimum number of trips used to define an 'active' business. The number of qualifying communities resulting from the minimum number of trips used to define an 'active' business varies more so under a threshold of 5 or fewer active businesses (23 to 31 communities qualify) than it does under a threshold of 10 or fewer active businesses (31 to 33 communities qualify).

In effect, the great majority (31 - 33) of Amendment 66 communities qualifies under the threshold of 10 or fewer active businesses, regardless of how many trips denote an 'active' business. All but four of the communities have fewer than 11 businesses at any trip threshold greater than or equal to one landing. In addition, two of the communities (Craig and Gustavus) have more than 10 businesses at any trip threshold considered. Elfin Cove has more than 10 businesses at any trip threshold considered except for 20 or more trips, and Hoonah has more than 10 businesses only if the trip threshold is 1 or more trips. Note that only Craig substantially exceeds the minimum number of businesses allowed (at least two to three times under most options) in order to qualify to receive halibut charter permits.

There is a much broader range (23 – 31) of potentially qualifying communities under the threshold of 5 or fewer active businesses. All but four communities have fewer than 6 businesses if the trip threshold is 20 or more trips. Three additional communities do not qualify if the trip threshold is reduced to 15 or more trips, and one additional community does not qualify if the trip threshold is reduced to 10 or more trips.

Another two communities do not qualify if the trip threshold is reduced to 5 or more trips, and another two communities do not qualify, for a total of 12 unqualified communities, if the trip threshold to denote an active business is reduced to one or more trips. Note that only Craig, Elfin Cove, and Gustavus substantially exceed the minimum number of businesses allowed (at least two times under most options) in order to qualify to receive halibut charter permits.

While these are clearly the most significant factors, the requirement to meet the criteria in both 2004 and 2005 versus 2004 or 2005 also has an effect on the number of eligible communities. The current Council motion requires that communities meet the criteria in both 2004 and 2005. Alternatively, if the requirement was relaxed to 2004 or 2005, one community (Hoonah) would become eligible under the criteria of 10 or fewer businesses when active is defined as 1 or more bottomfish trips that would otherwise not be eligible. A different community (Elfin Cove) would become eligible under the criteria of 10 or fewer businesses when active is defined as 15 or more bottomfish trips that would otherwise not be eligible. It does not affect the number of eligible communities when 'active' business is defined as at least 5, 10, or 20 charter bottomfish trips.

There is a larger difference under the criteria of 5 or fewer businesses. If the requirement was relaxed to 2004 or 2005, 2, 3, 2, and 3 additional communities would become eligible under these criteria when active is defined as ≥1, ≥5, ≥10, and ≥15 bottomfish trips, respectively.[76] It does not affect the number of eligible communities when 'active' business is defined as at least 20 charter bottomfish trips under a threshold of 5 or fewer businesses.

The following tables indicate the number of permits that could potentially be issued to individual business owners (not CQEs) that reported a potentially eligible community as the port of landing *for at least one trip* during the 2004 – 2005 qualification period in the *general program*, under Option 10.1 in Issue 10. **Table** 30 shows the results using a 1-trip threshold and 20-trip threshold as bounds. **Table 31** shows the results of the Council's preliminary preferred alternative: 32 eligible communities under Issue 12 and using Option 10.1 and a 10-trip or 15-trip threshold under Issue 10.

These data are of limited value, however, as there is no guarantee in the general program that the charter permit issued to an individual business owner that operated at one time in a specific port, will continue to be used in that community's port in the future. It also does not mean that the business is located in the community, that the business owner is a resident of the community, or that the business only operated charter trips out of that community. Several businesses operated out of more than one port during the qualification period (2004 – 2005).

[76]Thorne Bay and Larsen Bay have more than 5 active businesses (≥1 trip) in only one of the years 2004 - 2005. Thorne Bay, Pelican, and Seldovia have more than 5 active businesses (≥5 trips) in only one of the years 2004 - 2005. Port Lions and Seldovia have more than 5 active businesses (≥10 trips) in only one of the years 2004 - 2005. Hoonah, Klawock, and Port Lions have more than 5 active businesses (≥15 trips) in only one of the years 2004 - 2005.

Table 30 Maximum and minimum number of estimated permits issued to individual businesses reporting the port of landing as a potentially eligible community under the qualifying options

Community qualifying criteria under Issue 12	Estimated number of potentially eligible communities under Issue 12		# of estimated permits issued to businesses under Issue 10, Op. 10.1, using 1 trip threshold		# of estimated permits issued to businesses under Issue 10, Op. 10.1, using 20 trip threshold	
	Area 2C	**Area 3A**	**Area 2C**	**Area 3A**	**Area 2C**	**Area 3A**
≤5 businesses; ≥1 trip	13	10	31	13	n/a	n/a
≤5 businesses; ≥20 trips	18	13	n/a	n/a	67	38
≤10 businesses; ≥1 trip	17	14	83	70	n/a	n/a
≤10 businesses; ≥20 trips	19	14	n/a	n/a	95	51

Source: ADF&G charter bottomfish logbook data, 2004 – 2005.

In sum, of the potential permits to be issued, Table 30 shows that an estimated 31 – 83 permits could be issued under the general program to businesses which have reported an eligible Area 2C Amendment 66 community as the port of landing for at least one trip during the 2004 – 2005 qualifying period under Issue 10, Option 10.1 under a 1-trip minimum; an estimated 67 – 95 permits would be issued under a 20-trip minimum.77 In sum, 4% - 11% of the total estimated number of permits to be issued for Area 2C would be issued under the general program to businesses that reported an eligible Amendment 66 community as the port of landing for at least one trip during the qualification period, if the business qualified under Option 10.1 using the 1-trip threshold. If the 20-trip minimum threshold was used, the range of permits increases to 13% - 19%.

Likewise in eligible Area 3A communities, an estimated 13 – 70 permits would be issued under the general program to businesses which have reported an eligible Area 3A Amendment 66 community as the port of landing for at least one trip during the 2004 – 2005 qualifying period under Option 10.1 using a 1-trip minimum; an estimated 38 – 51 permits would be issued using a 20-trip minimum.[78] In sum, 2% - 11% of the total estimated number of permits to be issued for Area 3A under the general program would be issued to businesses that reported an eligible Amendment 66 community as the port of landing for at least one trip during the qualification period, if the business qualified under Option 10.1 using the 1-trip threshold. If the 20-trip minimum threshold was used, the range of permits increases to 8% - 11%. The increase occurs under the higher trip threshold because the trip threshold selected for the regular program would also be applied to the eligibility criteria for communities. A greater number of communities qualify under the 20-trip minimum because very few communities had more than 5, or more than 10, businesses operating out of the community that had at least 20 trips.

[77]A minimum of 13 and a maximum of 17 Area 2C communities could be eligible under a one-trip minimum, depending on the business threshold selected (either 5 or fewer; or 10 or fewer). A range of 18 to 19 Area 2C communities could be eligible under a 20-trip minimum.

[78]A minimum of 10 and a maximum of 14 Area 3A communities could be eligible under a one-trip minimum, depending on the business threshold selected (either 5 or fewer; or 10 or fewer). A range of 13 to 14 Area 3A communities could be eligible under a 20-trip minimum.

Table 31 Number of estimated permits issued to individual businesses reporting the port of landing as a potentially eligible community under the Council's preliminary preferred alternative

Community qualifying criteria under Council's PPA	Estimated number of eligible communities under Issue 12		# of estimated permits issued to businesses under Issue 10, Op. 10.1, using a 10 trip threshold		# of estimated permits issued to businesses under Issue 10, Op. 10.1, using a 15 trip threshold	
	Area 2C	**Area 3A**	**Area 2C**	**Area 3A**	**Area 2C**	**Area 3A**
≤10 businesses; ≥10 trips	18	14	84	62	n/a	n/a
≤10 businesses; ≥15 trips	18	14	n/a	n/a	79	59

Under the Council's preliminary preferred alternative, an estimated 619 permits would be issued under the general program under Option 10.1, using a 10-trip threshold; 562 permits using a 15-trip threshold (see Table 14). An estimated 84 or 79 of those permits could be issued under the general program to businesses which have reported one of the 18 eligible Area 2C Amendment 66 communities as the port of landing for at least one trip during the 2004 – 2005 qualifying period under Issue 10, Option 10.1 under a 10-trip minimum or 15-trip minimum, respectively (Table 31).[79] In sum, almost 14% of the total estimated number of permits to be issued for Area 2C would be issued under the general program to businesses that reported an eligible Amendment 66 community as the port of landing for at least one trip during the qualification period, if the business qualified under Option 10.1 using the either the 10-trip or 15 –trip threshold. The remaining 86% of the permits would be issued to businesses that reported one or more of the other 120 ports of landing.

Likewise in Area 3A under the Council's preliminary preferred alternative, an estimated 561 permits would be issued under the general program under Option 10.1, using a 10-trip threshold; 515 permits using a 15-trip threshold (see Table 14). An estimated 62 or 59 of those permits would be issued under the general program to businesses which have reported one of the 14 eligible Area 3A Amendment 66 communities as the port of landing for at least one trip during the 2004 – 2005 qualifying period under Option 10.1 using a 10-trip or 15-trip minimum, respectively (Table 31).[80] In sum, 11% of the total estimated number of permits to be issued for Area 3A under the general program would be issued to businesses that reported an eligible Amendment 66 community as the port of landing for at least one trip during the qualification period, if the business qualified under Option 10.1 using either the 10-trip or 15-trip minimum threshold. The remaining 89% of the permits would be issued to businesses that reported one or more of the other 120 ports of landing.

The same estimates are not provided for Issue 10, Option 10.2. Overall, the number of permits in the general program would decrease under Option 10.2.

[79]Eighteen Area 2C communities qualify under the Council's preliminary preferred alternative, regardless of whether the trip minimum is 10 or 15 trips. Note, however, that only 13 of the 18 eligible Area 2C communities are estimated to receive a permit(s) under the general program.

[80]Fourteen Area 3A communities qualify under the Council's preliminary preferred alternative, regardless of whether the trip minimum is 10 or 15 trips. Note, however, that only 8 of 14 the eligible Area 3A communities are estimated to receive a permit(s) under the general program.

2.5.12.3 Limits on the number of permits held by CQEs

There are two sets of limits proposed to restrict the number of halibut charter permits that can be held by CQEs: **1)** use caps on the number of requested permits, and **2)** overall (or cumulative) use caps. The first use cap limits the number of newly created permits that a CQE can apply for and receive from NMFS at no cost. The cumulative use cap limits the number of halibut charter permits that an individual CQE could hold at any one time, whether those permits were purchased by the CQE from the existing pool of limited entry permits or newly created and issued to the CQE by NMFS. Both use caps are applied per eligible community represented by the CQE.

Use cap on requested (new) permits

This section evaluates the effects of the proposed caps on the number of new permits that a CQE could request from NMFS. Thus, this cap would only apply to those communities that are deemed eligible at final action to request permits at no cost. These permits would be in addition to the existing pool of permits that results from the qualification period selected in Issue 10. While permit consolidation is a concern and can be mitigated with overall use caps, the limit on the number of newly created halibut charter permits for rural communities, in the context of the problem statement and the general purpose of a limited entry program, is relatively controversial.

The use cap options for requested (new) permits by communities are:

Area 2C = 3, 4*****, 5*****, or 7 permits per eligible community represented by a CQE
Area 3A = 4*****, 5*****, 7*****, 10*****, or 15 permits per eligible community represented by a CQE

***Council's preliminary preferred alternative.**

The Council's preliminary preferred alternative, identified in February 2007, does not narrow the use cap options significantly. The Council noticed the public that it is considering a cap of 4 or 5 permits per each eligible Area 2C community, and a cap of 4 – 10 permits per each eligible Area 3A community. Note that the Council can select a use cap at any point within the range analyzed.

There are 21 Area 2C communities eligible under Amendment 66, five of which have approved CQEs to date. There are 14 Area 3A communities eligible under Amendment 66, four of which have approved CQEs to date. Referring to Table 27 and Table 28, the minimum and maximum number of Area 2C communities that could be eligible for receiving halibut charter permits is 13 and 19, respectively. The minimum and maximum number of Area 3A communities that could be eligible is 10 and 14, respectively. **Table** 32 below shows how many potential new permits could be created and issued to CQEs under the respective use cap options, assuming that all eligible communities would create a CQE and request the maximum number of permits allowed. The options the Council has identified as its preliminary preferred alternative are noted.

Table 32 Maximum number of new halibut charter permits that could be requested by CQEs under the options in Issue 12

AREA 2C			
Use cap on requested permits (# permits per community)	Minimum estimate = 13 communities	Maximum estimate = 19 communities	**Council PPA = 18 communities**
3 permits	39	57	54
4 permits (PPA)	52	76	**72**
5 permits (PPA)	65	95	**90**
7 permits	91	133	126
AREA 3A			
Use cap on requested permits (# permits per community)	Minimum estimate = 10 communities	Maximum estimate = 14 communities	**Council PPA = 14 communities**
4 permits (PPA)	40	56	**56**
5 permits (PPA)	50	70	**70**
7 permits (PPA)	70	98	**98**
10 permits (PPA)	100	140	**140**
15 permits	150	210	210

PPA = Council's preliminary preferred alternative, February 2007. Under the PPA, the number of eligible communities in each area is based on each community meeting the criteria of ≤10 active businesses, with active defined as either ≥10 trips or ≥15 trips.

The halibut charter harvest has exhibited steady growth in the past several years in Areas 2C and 3A, and the moratorium program is intended, in part, to limit effort in the halibut charter fishery as the first step to a long-term management solution. The primary long-term solutions being discussed are a limited entry program with client day endorsements or a quota share program based on past participation in the fishery. The Council selected a control date of December 9, 2005, to implement a moratorium on entry into the charter sector, as the problem statement notes, "to address the potential against the rush of new entrants into the guided sport fishery…" The moratorium program is thus expected to minimize the potential for speculative investment and participation in the charter fishery during the interim period in which a quota share program or other solution is being developed. The National Research Council found that early adoption and adherence to control dates and moratoria on new entry, licenses, and effort greatly reduces the incentive for speculative entry.[81]

However, while the moratorium program is intended to minimize new entrants into the charter fishery, it is not expected to reduce the level of halibut charter harvest such that it is below the current guideline harvest level. This is discussed earlier in Section 2.5. ADF&G estimates that the GHLs in Area 2C and Area 3A were exceeded by 42% and 9% in 2006, respectively. While the goal of this particular measure (implementing a moratorium on new entry) is not to meet the GHL (that goal is part of the allocation decision in a subsequent analysis), it is assumed that the provisions enacted are also not intended to exacerbate the current situation. Under Issue 12, the Council may consider balancing the identified need to limit new entry in the halibut charter fishery in the context of exceeded GHLs in recent years, with the secondary identified need to maintain access to the halibut charter fishery in specified rural communities by creating additional permits.

[81] Sharing the Fish, National Research Council, 1999. p. 199.

The use cap on the number of halibut charter permits that each CQE can request is intended to limit the number of newly created halibut charter permits in excess of the pool of permits issued to individual business owners using the qualification period. As the use cap options are currently structured, recall that the maximum number of new permits that could be created for CQEs representing eligible Area 2C and Area 3A communities is 39 - 133 and 40 - 210, respectively. Under the Council's preliminary preferred alternative, in which 18 Area 2C communities would qualify, the maximum number of new permits that could be created for CQEs representing eligible Area 2C communities is 72 – 90 permits, depending upon the use cap option selected. Also under the Council's preliminary preferred alternative, in which 14 Area 3A communities would qualify, the maximum number of new permits that could be created for CQEs representing eligible Area 3A communities is 56 – 140 permits, depending upon the use cap option selected.

Recall that under the Council's preliminary preferred alternative under Issue 10 (Option 10.1 and a 10-trip threshold), 619 permits are estimated to be issued in Area 2C and 561 permits in Area 3A under the general program.[82] **Thus, applying the Council's preliminary preferred alternative under Issue 12, and depending on the CQE use cap selected, the pool of Area 2C permits could be increased by 11.6% - 14.5%, with those additional permits issued to CQEs. The pool of Area 3A permits could be increased by 10.0% - 25.0%, depending upon the use cap selected.**

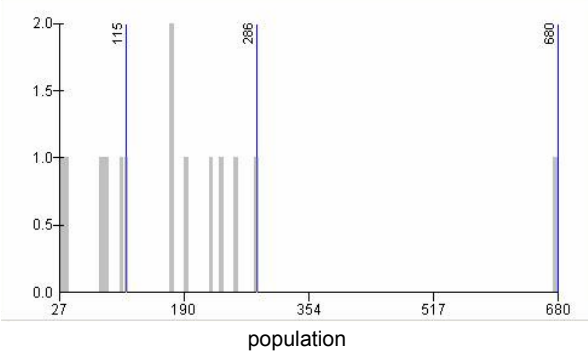
At the December Council meeting, the Council requested that staff provide information on a potential approach to stratifying the potentially eligible communities based on population, in the case that the Council wants to select a different use cap on requested permits for communities based on various population thresholds. The associated rationale is that some of the smallest communities would not need or be able to use the same number of permits that a larger community could, and that a method of distribution based on population is preferable to issuing an equal number of permits to each rural community, whether the community has a population of 27 (Karluk) or 1,375 (Metlakatla). While the existing level of charter halibut industry development in these communities overall is relatively low, note that several factors other than population likely affect the level of current development and the potential for future development. These include, but are not limited to: the existence of regular air or ferry (or cruise ship) transportation service; proximity to a larger port on the road system; proximity to the halibut fishing grounds; the demographic composition of the population; and whether other infrastructure exists to support client accommodations. Population, as a sole factor, does not appear to affect the level of current charter operations in the communities at issue (refer back to Table 22 and Table 23). For instance, Elfin Cove (2000 U.S. Census population of 32), has several reported charter businesses operating out of the community, while several Southeast communities with populations exceeding 300 have no reported recent charter activity.

However, using population as a method to differentiate between the benefits distributed among communities is not without merit, and this approach is likely perceived as more equitable and objective than one based on perceived economic development need or the likelihood of a community to use the permit. Recall that all of the eligible communities met criteria to be considered small (population of <1,500), rural (not connected by road system to a larger community), coastal Gulf communities, in order to be originally eligible under Amendment 66.
Using a common method of natural breaks, in which classes of data are based on natural groupings of data values, the data values are first grouped in order. The class breaks are determined statistically by finding adjacent feature pairs, between which there is a relatively large difference in data value. If three

[82]In February, the Council noticed the public that it is also considering a 15-trip threshold under Issue 10, Option 10.1. Under a 15-trip threshold, the number of permits issued in the general program is estimated at 562 in Area 2C and 515 in Area 3A.

classes of data are desired (see figures below),[83] the natural break approach results in classifying Area 2C communities into the following groups based on population: <200; 200 – 860; and >860. For Area 3A communities, the natural breaks based on population are: <116; 116 – 286; and >286. Another approach would be to simplify into two classes. For Area 2C it might be those communities with populations of <200 persons and those with ≥200 persons. For Area 3A, it might be those communities with populations of <300 persons and those with ≥300 persons.

Area 3A



Area 2C

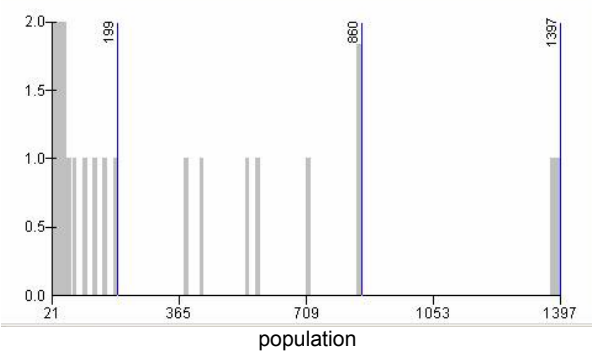


Table 33 Natural break approach to stratifying Am. 66 communities based on population

AREA 2C			
If 3 Groups:	<200 pop.	200 – 860 pop.	>860 pop.
# communities in each group	12	7	2
If 2 Groups:	<200 pop.	≥200 pop.	
# communities in each group	12	9	
AREA 3A			
If 3 Groups:	<116 pop.	116 – 286 pop.	>286 pop.
# communities in each group	6	7	1
If 2 Groups:	<300 pop.	≥300 pop.	
# communities in each group	13	1	

There are other possible methods to stratifying the communities based on population data; the Council should clarify if another method is desired. If the above approach is used to stratify the potentially eligible communities, it assumed that the intent would be to select a different use cap for each group of communities that increases with population group. The stated rationale is that some of the smallest communities would not need or be able to use the same number of permits that a larger community could, and that a method of distribution based on population is preferable to issuing an equal number of permits to each rural community. Thus, the number of newly created permits for CQEs under Issue 12 could be determined by multiplying the number of communities in each group with the use cap applied to that group.

Alternatively, using two groupings per area, one example would be to select a use cap on requested permits of 4 permits per Area 2C community with a population of <200, and 5 permits per Area 2C

[83]The y-axis of the figures is frequency/count. The counts are a result of the selected resolution of the graph (100 column resolution was used). For example, in the Area 3A data, the data spread is from a low of 27 to a high of 680. When the graph is constructed using a 100 column resolution, it results in (680-27)/100 = 6.53 units of resolution per column. So for the Area 3A data, this means that any two population values that differ by less than 6.53 are grouped as the same value. This is why values of 171 and 177 show as a frequency of 2.0 on the Area 3A graph, while values of 27 and 35 show as a frequency of 1.0. The selected resolution does not change the breakpoints, only the display of the data.

community with a population of ≥200. If the Council selects its preliminary preferred alternative at final action, 18 Area 2C communities would be eligible, and 11 of those have populations of <200. This could result in a maximum of 79 new permits held by CQEs in Area 2C [(4 permits x 11 communities) + (5 permits x 7 communities) = 79]. Using two groupings for the 14 communities eligible in Area 3A, one example would be to select a use cap on requested permits of 5 permits per Area 3A community with populations of <300, and 7 permits per Area 3A community with populations of ≥300. This could result in a maximum of 72 new permits held by CQEs in Area 3A [(5 permits x 13 communities) + (7 permits x 1 community) = 72]. **If the Council intends to classify communities based on population, for the purpose of applying a different use cap to each group, it would need to be specified at final action.**

Finally, recall that each eligible community must form a CQE in order to participate in the program. Under the existing number of eligible CQEs and the Council's preliminary preferred options for use caps, a maximum of 20 - 25 permits could be issued in Area 2C and 16 - 40 permits in Area 3A. In addition, it is more likely that those communities with the support services and transportation network available to support halibut charter operations (e.g., regular air service, ferry access, cruise ships, lodges, harbors, etc) would take advantage of the permit opportunity. Varying levels of support services are in place in the communities with existing CQEs, but most have regular air service with daily flights, bed-and-breakfasts or lodges, fish cutting, cleaning, and sealing services, cultural attractions, and residents with USCG licenses and vessels.

Absent analysis to determine the 'optimum' or 'preferred' number of charter halibut limited entry permits issued in each area, it is a policy decision by the Council to determine the appropriate number of permits created for use by CQEs, in order to balance the dual goals of limiting further entry in the halibut charter sector and reducing an economic barrier to future access for small, rural communities. For example, if the Council intends for a CQE to support a maximum of 5 new businesses in a rural community in Area 3A, with each business operating an average of 2 vessels, it could consider allowing each community to request up to 10 permits.

The expansion of the total pool of charter halibut permits to include permits issued to CQEs may affect the overall market for charter permits in each area, as charter operators seeking to enter the fishery may choose to apply for use of the permit through the community CQE as an alternative to purchasing a permit. The extent of this effect, while unknown, is likely less than would be the case if the permits issued to CQEs were permanently transferable. While the pool of potential buyers may be reduced if a substantial number of communities form CQEs and request charter permits, the pool of permits for sale on the open market would not be affected. This may result in downward pressure on the price of permits for charter operators seeking to purchase a permit. This issue is discussed further in the following sections.

Overall use cap

While evaluating the effects of the proposed limit on the number of newly created permits held by CQEs, it is important to discuss, in tandem, the proposed overall cap on the number of permits that a CQE could hold and use in total (whether requested or purchased permits). **Unless directed otherwise by the Council at final action, staff assumes that the overall use cap selected at final action will apply to all CQEs formed by eligible Am. 66 communities in Area 2C and 3A, regardless of whether the community meets the qualification criteria to receive *requested* permits.** All permits held by CQEs, whether purchased or received from NMFS at no cost, will be subject to the overall use cap.

The intent of an overall use cap is primarily to limit the amount of consolidation that can occur in the number of permit holders over time. Under Issue 12, there are two options proposed for calculating the overall use caps applicable to CQEs in Area 2C and 3A. **Option 1** would equate the overall use cap to 1,

3, or 5 times those selected for every other permit holder (with the exception of grandfathered permit holders) under Issue 11. (Under Issue 11, the use cap options are: 1, 5, or 10 permits per entity.) **Option 2** would equate the overall use cap to 2 times the cap selected for the CQE requested permit use cap in each area. As discussed in the previous section, the CQE requested permit use cap options are 3, 4, 5, or 7 for Area 2C and 4, 5, 7, 10, or 15 for Area 3A. These two options result in 11 unique options for overall use caps for eligible CQEs in Area 2C and 11 unique options for eligible CQEs in Area 3A. However, note that the Council could choose an overall use cap at any point within the range analyzed (i.e., 1 – 50 permits per community).

The Council's preliminary preferred alternative (Option 2) is noted below. Combined with the preferred use cap on requested permits, Option 2 results in an overall use cap of 8 or 10 permits for Area 2C CQEs, and an overall use cap of 8, 10, 14, or 20 permits for Area 3A CQEs. This option is structured such that a community would be allowed to purchase a number of permits equal to those that it can request from NMFS at no cost.

Option 1:
1x the general use cap = **1, 5, or 10** permits per community represented by a CQE
3x the general use cap = **3, 15, or 30** permits per community represented by a CQE
5x the general use cap = **5, 25, or 50** permits per community represented by a CQE

Option 2 **(PPA)***:
Area 2C: 2x the CQE permit use cap = **6, 8*, 10*, or 14** permits per community represented by a CQE
Area 3A: 2x the CQE permit use cap = **8*, 10*, 14*, 20*, or 30** permits per community represented by a CQE

PPA* = Council's preliminary preferred alternative.

Note also that the Council motion states that different overall use caps can be selected for CQEs representing communities in Area 2C versus Area 3A. This provision was included to recognize that the Council may want to establish a lower limit on the number of permits that may be held by CQEs in Area 2C than Area 3A, given that there are more potentially eligible communities in Area 2C than in Area 3A.

Establishing an overall use cap on the number of charter permits that can be held by CQEs serves to limit the level of consolidation of charter permits by defining a minimum number of holders, similar to the goal of the use caps in the general moratorium program. The intent behind establishing a higher overall use cap on CQEs compared to other businesses (notwithstanding businesses that will receive a number of permits at initial issuance that exceed the overall use cap due to the grandfather provision), is that use of the permits by a CQE is intended to serve the community as a whole, as opposed to an individual business. In that sense, it is appropriate to consider an overall use cap for CQEs that is higher than that established for individual businesses.

Recall that under the general program, the business owner will receive the charter permit, based on charter activity by a vessel(s) during the qualification period. In the proposed program, it is intended that a business would need a charter permit for each vessel it operates for halibut charters. Thus, if a business intends to operate a fleet of three vessels simultaneously, the business owner would need three permits. The same permit requirement would apply to any business, including permits being used by CQEs. Thus, if a CQE is limited to a total of 5 permits per represented community, those 5 permits could support operation of up to 5 vessels at any one time. The way in which the permits would be used would be at the discretion of the CQE; all 5 permits could be used to support a lodge business in the community, or each of the 5 permits could be used for 5 different start-up charter operations.

The overall use cap applies to all 35 Am. 66 communities; it is not limited to those that qualify to receive requested permits. The difference is that those communities that are eligible to receive requested permits (32 communities under the preliminary preferred alternative) would be able to request up to half of their overall limit from NMFS at no cost, and the remainder could be purchased up to the overall use cap. The 3 Amendment 66 communities that do not qualify to receive requested permits could simply purchase permits up to the overall use cap selected.

Table 34 shows the overall use cap options that could be applied to CQEs and the resulting maximum number of permits that could be held in total by CQEs in Area 2C and 3A (whether purchased from the existing pool of permits or new permits issued by NMFS). The Council's preferred alternative is noted in the table in bold. Recall that a different overall use cap could be selected for CQEs in Area 2C versus Area 3A.

Table 34 Maximum number of charter halibut permits that could be held by CQEs, whether purchased or requested, under Issue 12

Overall use cap option (# permits per community)	Area 2C = 21 communities	Area 3A = 14 communities	Total = 35 communities
1 permit	21	14	35
3 permits	63	42	105
5 permits	105	70	175
6 permits	126	84	210
8 permits	**168***	**112***	280
10 permits	**210***	**140***	350
14 permits	294	**196***	490
15 permits	315	210	525
20 permits	420	**280***	700
25 permits	525	350	875
30 permits	630	420	1050
50 permits	1050	700	1750

***Denotes the Council's preliminary preferred alternative from February 2007.**

Table 34 shows that, in total, the 21 Area 2C communities could hold up to 168 – 210 permits under the overall use cap options under the preliminary preferred alternative. The 14 Area 3A communities could hold up to 112 – 280 permits. Note that the way that the overall and requested use caps are structured, up to nearly half of the Area 2C permits (72 – 90) could be requested from NMFS at no cost, and up to exactly half of those Area 3A permits (56 – 140) could be requested from NMFS at no cost. The remainder of the permits in each area could be purchased up to the overall use cap. Recall that while the tables above are based on the maximum number of eligible communities, each community would also need to form an approved CQE in order to be subject to these higher caps. Currently, there are only 9 communities represented by CQEs in Area 2C and 3A.

The policy decision for the Council is thus to determine the appropriate maximum number of permits a CQE is allowed to hold and use, in order to balance the dual but somewhat conflicting goals of: 1) limiting consolidation of permits; and 2) providing for meaningful opportunities for CQEs to support a

rural community's development of the halibut charter industry. One approach would be to establish the number of potential charter operations the Council would want to support through this program. For example, if the Council intends for a CQE to support a maximum of 5 new businesses in a rural community, assuming that each business operates an average of 2 vessels, it could consider establishing an overall use cap of 10 permits per community.

Recall that this overall use cap includes any permits that the CQE purchases on the open market. If the overall use cap is set higher than the cap on requested permits, CQEs could purchase a number of permits over and above the number of permits that they request from NMFS. As CQEs would be purchasing permits from the existing pool of initial permits issued, a possible effect is that some redistribution of permits could occur from ports with the highest historical charter activity (Sitka, Juneau, Homer, Seward, Ninilchik) to the more rural communities represented by CQEs. Recognizing that several of the CQE communities conduct (or would likely conduct) charter operations in the same or nearby waters as the larger ports, a redistribution of charter permits does not necessarily mean that halibut charter fishing effort would also be redistributed. However, it is possible that some geographic redistribution of both permit holders and halibut charter fishing effort could occur in this case. The level of redistribution will depend upon several factors, including the use caps established for CQEs; the number of eligible communities that form CQEs in order to participate; client demand for halibut charter operations in rural areas not connected to the road system; and the financial ability of CQEs to purchase halibut charter permits. It is not known to what extent these factors would be realized. Recall that only one of the nine existing CQEs in Area 2C and Area 3A has purchased halibut or sablefish IFQ to date.

In sum, at the extreme high end, the number of estimated permits that could be held by CQEs exceeds the number of permits that would be issued under the general program. Note, however, that the number of estimated permits issued under the Council's preliminary preferred alternative in the general program (Issue 10, Option 10.1 and a 10-trip threshold) is 619 permits in Area 2C and 561 permits in Area 3A.[84] While an unlikely result, given the range of options for overall use caps for CQEs under the Council's preferred alternative, it is theoretically possible that 16% - 19% of the pool of initially issued halibut charter permits could be purchased by CQEs. In Area 3A, given the range of options for overall use caps for CQEs under the Council's preferred alternative, it is theoretically possible that 10% - 25% of the initially issued halibut charter permits could be purchased by CQEs and redistributed to rural areas. These comparisons have limited value, however, as there are several implicit assumptions, including the very unlikely scenario that all 35 eligible communities would form CQEs and each CQE would *purchase* existing charter permits to the maximum extent allowed.

2.5.12.4 Other rules governing use of the permit by the CQE

There are several additional provisions that govern how CQEs could use the requested charter permits. Note that these rules do not apply to those permits purchased by a CQE; in that case, a CQE would be subject to the general rules of the program, similar to any other permit holder, with the potential exception of the level of the overall use cap. **All of these provisions are part of the Council's preliminary preferred alternative**:

- The permit is designated for the area in which the community represented by the CQE is located
- The permit is endorsed for 6 clients
- The permit cannot be sold (i.e., permanently transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance

[84]In February, the Council noticed the public that it is also considering a 15-trip threshold under Issue 10, Option 10.1. Under a 15-trip threshold, the number of permits issued in the general program is estimated at 562 in Area 2C and 515 in Area 3A.

- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community)

The first requirement establishes that the permit issued to a CQE is designated for the area (Area 2C or Area 3A) in which the community represented by the CQE is located. Note that the overall moratorium program only applies to Areas 2C and 3A, thus, permits would only be designated for these areas. This provision has not appeared to be controversial to date, and is consistent with the intent that the CQE use the permit in the community that it represents. However, staff was asked to provide information on whether there are any communities that are located close to the boundary of the two IPHC areas for which permits will be designated.

Refer to Table 22 for a short description of the location of each community, and Figure 10 and Figure 11 for maps. Of the potentially eligible communities in Area 2C, two communities on the northwest coast of Chichagof Island appear to be located near the boundary of IPHC Areas 2C and 3A (Pelican and Elfin Cove) and are likely to be able to charter for halibut in either area. Public testimony may provide additional information on other communities to which this consideration could apply. If these communities were determined eligible under Issue 12 and formed the requisite CQE, the Council could consider allowing the CQE to choose the area for which its permit(s) are designated. Assuming multiple permits can be requested by each CQE, the Council would also need to clarify whether the CQE would have to select the same area for all permits it requests.

The practical effect of this consideration would be that two (or more) Area 2C communities, if determined eligible, would be able to instead receive permits designated for Area 3A. (Note that Elfin Cove is not eligible under the Council's preliminary preferred alternative.) Because the halibut charter effort in Area 2C has grown at faster rate than that in Area 3A, and because the guided sport sector harvest has exceeded the Area 2C GHL substantially more so than in Area 3A in recent years,[85] issuing a small portion of the 'new' CQE halibut charter permits to Area 3A that would otherwise be issued to Area 2C, is a relatively insignificant issue. However, note that Elfin Cove is not eligible under the Council's preliminary preferred alternative or almost any option under consideration, and anecdotal evidence from Pelican residents conveyed that current charter operations operating out of Pelican operate in Area 2C. Thus, it does not appear necessary to allow the CQE of any community to choose the area for which its permit(s) are designated.

Finally, as discussed in the background section, Akhiok is located at the southern end of Kodiak Island in Alitak Bay. Akhiok was originally reported in the analysis and final Council motion for GOA Amendment 66 as located in Area 3A, however, IPHC staff has confirmed that Akhiok (and Alitak Bay) is actually located in Area 3B.[86] Akhiok is on the border of Area 3A and 3B, and the vast majority of Kodiak Island is located in Area 3A – but the nature of the IPHC boundary is such that it follows the part of the southern Kodiak coastline (see Figure 11).

This is of no practical importance under GOA Amendment 66, as all communities located in either Area 3A or Area 3B are allowed to purchase commercial quota share in both areas. The community provisions in the halibut charter program, however, are explicitly limited to "*Area 2C and 3A communities previously identified under GOA FMP Amendment 66.*" Because Akhiok was identified under GOA FMP Amendment 66 as an eligible community in Area 3A, staff assumes that Akhiok is included under the

[85]ADF&G, December 2006. ADF&G estimated that in 2006, the Area 2C and Area 3A GHLs were exceeded by 42% and 9%, respectively. This projection was based on traditional method based on linear trends in Statewide Harvest Survey estimates.

[86]Tom Kong, personal communication, November 15, 2006. According to the regulations, the 3A/3B border is defined as: "...a line extending from the most northerly point on Cape Aklek (57°41'15" N. latitude, 155°35'00" W. longitude) to Cape Ikolik (57°17'17" N. latitude, 154°47'18" W. longitude), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. latitude, 154°08'44" W. longitude), then 140° true."

halibut charter provisions considered in this amendment. It is thus further assumed that, should it be deemed eligible under Issue 12, charter halibut permits requested by a CQE representing Akhiok would be designated only for Area 3A. (Area 3B is not included in the halibut charter moratorium program.) The Council should direct otherwise if these assumptions are incorrect.

The second requirement is that each permit requested by a CQE is designated for six clients (i.e., a six-pack license). Recall that an individual guide business owner issued a permit under the general program will receive a permit endorsement equal to the highest number of clients on board any trip during 2004 or 2005 (potentially subject to a cap on the maximum number of clients), but no operator can receive a permit endorsement of fewer than four clients. Because there is no charter history associated with a CQE's requested permit, the Council must choose the maximum number of clients for which each CQE permit will be designated.

In December 2006, the Charter Halibut Stakeholder Committee, Advisory Panel, and the Council supported establishing a permit endorsement of 6 clients for each permit requested by a CQE. This means that the permit could be used like any other permit endorsed for 6 clients under Issue 7 – each vessel with this license could carry a maximum of 6 clients.[87] In general, this permit endorsement was chosen because it is the most common type of license for a charter operation. Since the ADF&G data do not identify whether a vessel was a six-pack or some other type of vessel, it is not possible to determine the maximum number of clients a vessel was allowed to carry from the data available. However, ADF&G provided data on the maximum number of clients that were reported on a trip for each vessel from 1999 – 2005. Overall, the vast majority of vessels operating in both areas carried 6 or fewer clients on any trip during this time period (see Issue 7). This endorsement thus appears reasonable for permits requested by CQEs.

Note that a permit *purchased* by a CQE would retain its original endorsement for the number of clients on board. The requirement under Issue 12 is only applicable to new permits requested by and issued to CQEs. Note also that unless otherwise defined, it is assumed that a CQE is subject to the rules that apply to every other permit holder, and thus could stack multiple permits (e.g., use two six-pack licenses on one vessel) if desired.

Third, the provisions prohibit the CQE from selling a requested permit. This has been discussed briefly in this section previously, and is intended to treat the permits as an endowment for the communities' long-term use. This would prevent the CQE from selling the permit if it experienced a short-term financial need or no longer had any active resident charter operators. By requiring that the CQE maintain its status as the permit holder, without the ability to benefit from the sale of the permit, it ensures that the benefit is linked to the community in perpetuity, or until the program is amended.

The intent of the above requirement is thus to ensure that the community is the beneficiary of the permit(s) over the long-term. Note also that similar to the permits holders in the general program, there is nothing in this program that requires the CQE to hire a resident of the community to conduct the charter operation, or own a charter vessel. **At the February meeting, however, the Council added an explicit requirement that the requested CQE permit must be used in the community represented by the CQE.** The following section discusses these issues in brief.
As discussed previously, while some of the Council's previous programs have tied community benefits to residency in an eligible community, this is not the primary objective of the moratorium program. The Council clarified that the intent of the community options is to benefit communities by encouraging or

[87]It should be noted that ADF&G staff have questioned whether the Council/NMFS have the authority to restrict the number of clients a charter vessel may carry under Issue 7, because not all clients may be fishing halibut. They have suggested that this provision should instead focus on restricting the number of clients allowed to retain halibut on a charter trip.

allowing new businesses to operate out of small rural communities in Area 2C and 3A that have under-developed halibut charter industries, regardless of whether the charter operators are residents of these communities. This would allow, for example, a CQE representing Port Graham, to retain a skipper that is a resident of Homer, to operate a charter business in and out of Port Graham using the CQE's permit. The Council determined that this interpretation (requiring community residency) was too narrow to meet the broader objectives of community fisheries development and mitigation, in part, of the effects of a moratorium on small, rural communities with underdeveloped charter ports.

Given the objective above, the Council clarified that the intended beneficiary of the community provisions (i.e., holder of the charter halibut permit) is the non-profit entity (CQE) chosen by the community to represent it. This decision is fundamental to the development and implementation of Issue 12. In effect, the CQE would be issued the permit and would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. In this case, whereby the CQE is the intended beneficiary, there is no issue regarding the delegation of Secretarial authority to make allocations.

In order to fulfill the program's intent, the Council thus added a requirement that the requested CQE permit be used by a business operating in or out of the represented community's port. The motion states that this means that the charter trip must originate or terminate in the CQE community. The purpose of this requirement is to prevent the possibility that the CQE permit could be used to support additional businesses operating out of the most commonly used ports of landing, as opposed to the rural communities for which it was intended. Absent this provision, Issue 12 could result in increasing growth in the industry in the relatively few communities whose businesses will receive the majority of limited entry permits allocated under the general moratorium program.

Absent this requirement, use of the CQE permit could still generate either revenue for the CQE, employment for residents, or both. If the purpose is to provide a net benefit to the community, then it would appear that this purpose is accomplished. However, the primary purpose of this program appears to be more specific – to mitigate the economic cost of the proposed charter permit on small, rural, communities with under-developed charter industries, in order to provide for charter business opportunities in these communities. Thus, using the permit outside of the represented community does not appear to directly meet this purpose.

A discussion regarding how this requirement is intended to be implemented and enforced by NMFS is provided in Section 2.6. Should the Council adopt this provision as part of its final preferred alternative, it should develop a sufficient record regarding how this requirement would further the Council's jurisdiction to regulate fishing activity under the Northern Pacific Halibut Act. [88]

Anecdotal evidence suggests that the communities which have already established CQEs in Area 2C or 3A are interested in using the permits to support businesses either physically located in, or operating out of, the represented eligible community. An informal survey of the existing CQEs provided information on the ways that the CQEs would anticipate using the permits should this provision be selected at final action.[89] Several CQE representatives listed small, start-up lodges that would need the permits in order to operate, as well as individual residents, primarily young people, in the community that are getting started in the halibut charter business that would not otherwise receive a permit under the general program. In addition, some communities currently have one or two lodges, which typically hire community residents

[88]Robert Babson, NOAA General Counsel, NMFS Alaska Region. Personal communication, 11/9/06 and 1/9/07.

[89]The seven existing CQEs in Area 2C and 3A were contacted by the analyst, informed of the proposed action, and asked a few questions related to anticipated use of the charter permits. All seven CQE representatives responded. As no formal survey was conducted, all information should be considered anecdotal.

to captain their charter vessels. These individual captains also retain a few to several of their own charter clients that they host annually, outside of their work for the lodges. For some individuals, these clients comprise the client base from which they are attempting to grow to establish their own charter business in the future. Some individuals may expand to make charter fishing their primary income, while many permit recipients will likely use the charter permits as a means of supplemental income to commercial fishing or other employment. Thus, there are several different ways in which the CQEs would anticipate using the charter permits.

Even if not required, each respondent thought that its CQE would use the permit by designating a charter operator with a vessel that operates out of its community and is a permanent resident of its community, primarily because there is sufficient need, interest, and capability within the community. Because of community dynamics, identity, and the demand for employment opportunities, it is also somewhat unlikely that a non-resident would be allowed to use a CQE's permit. Most respondents anticipate incorporating the opportunity into their overall community economic development plan, as one component of a larger plan to either re-establish or maintain a fisheries-based economic structure. While the opportunity could support charter businesses and individual operators and deckhands in the community, it would also support other local businesses such as local fish packing and processing businesses, artists, shop owners, restaurants, bed and breakfasts, etc.

Still other communities, Pelican for example, contend that outside businesses (from Sitka, Juneau, Elfin Cove) with substantial financing are increasingly basing their operations out of the Pelican harbor, and displacing year-round Pelican residents from an opportunity to partake in the halibut charter industry. (Note that the number of outside business entities that operate seasonally in an Amendment 66 community may prevent the community from qualifying under Issue 12, although participation by year-round residents of the community is much preferred from a community benefit perspective.) The CQE in Pelican would anticipate allowing year-round residents to use the charter permits held by the CQE, likely to generate a livelihood that supplements their commercial fishing and subsistence lifestyle.

Finally, in February 2007, the Council also added a requirement that the CQE must identify the recipient of the requested permit prior to issuance of the permit by NMFS. This requirement is intended to force the CQE to undertake the process of determining how the permit will be used and solicit requests from specific businesses prior to requesting the permit from NMFS.

The addition of this provision supports the concept that the Council may consider requiring the CQE to submit specific information related to how the CQE is using the halibut charter permit(s). CQEs are already required to submit specific information prior to becoming qualified to represent a community as a CQE and as part of an annual report to NMFS.[90] The information that the Council may want to consider requiring under this program falls into two groups: 1) information NMFS would require of a CQE in a request for a charter permit(s); and 2) annual information NMFS would require related to the use of the charter permit by the CQE. The provision added in February would fall under the first category. See below:

- What might NMFS require of a CQE in a request for a charter permit? For example:
    1. Name of CQE and the communities it represents
    2. A statement that explains the procedures used to solicit requests to use the permit held by the CQE, and that sets out the criteria and procedures to be used to select from among those who have expressed a desire to use the permit (which may be different from the CQEs criteria to determine use of commercial IFQ)
    3. Identification of the intended recipient of the requested permit(s)

[90]See 50 CFR 679.5(l)(8) and 50 CFR 679.41(l)(3), respectively.

- What information might NMFS require to be added to a CQE's existing annual report? For example:
    1. Number of charter permits held/used
    2. Name and address (residence) of captain retained to use permit (& crew, if any)
    3. Name/ownership info on vessel used
    4. Number of trips during season
    5. Port of landing(s) associated with trips

With the exception of the provision explicitly added by the Council, the above reporting requirements are examples that NMFS may implement in Federal regulations. The final regulations may vary somewhat from the above requirements, but these provide the general scope of the information that will likely be required. These requirements are also discussed in the implementation section (Section 2.6). **Note that these information requirements are only intended to apply to permits that are *requested* by the CQE from NMFS at no cost (Issue 12); they are not intended to apply to permits *purchased* by a CQE.** Purchased permits would be treated similarly to permits held by any other business, with the possible exception of the overall use cap selected in Issue 12.

In sum, for the purposes of this program, the Council could require the CQE to submit information upon request of a permit and on an annual basis, in order to understand how the permits are being used. This would be combined with the requirement that the requested CQE permit must be used in the community represented by the CQE. In addition, the CQE would continue to be accountable to its Board of Directors, which is another safeguard to ensure that the charter permit is used to benefit the community. Alternatively, if these safeguards are deemed insufficient in the future, the Council can modify the halibut moratorium program to amend or eliminate the community provision at any time, subject to analysis and rulemaking.

Leasing of permits

The discussion under **Issue 6** provides some information on the prohibition of leasing in the general moratorium program. Prohibitions on leasing stem from a desire to keep persons from holding permits for the sole purpose of generating income from the active participants. This section notes that, due to the nature of the charter industry, accounting for whether halibut charter moratorium permits are being leased will be very difficult. As normal practice, a charter business will often hire a captain(s) to take clients fishing via private contract, and the hired captain may or may not own the vessel used to conduct the charter. Very often the business owner owns multiple vessels and hires multiple captains, and possibly deckhands, to take clients halibut fishing. Distinguishing this common business operation from a lease arrangement may not be possible, due to uncertainty as to whether a captain is leasing the permit on an annual basis or working as an employee of the business owner.

It is assumed in the community provisions proposed under Issue 12, that the CQE would use the permit similar to any other business. The CQE would receive the charter permit (or could also purchase one on the open market) and retain an individual with the necessary U.S. Coast Guard license to operate a charter vessel and take clients fishing. Under the general rules of the moratorium program, ownership of a vessel is not required for a business to hold a moratorium permit. Similarly, while the CQE and the charter captain would likely develop a private contract, the CQE is not required to own a vessel in order to use its permit. In this sense, the CQE is also not required to formally lease the permit (i.e., annual transfer of the permit to another holder) in order to use the privilege. It is intended that the CQE would remain the holder of the permit at all times, and retain a captain to operate a charter vessel on which the permit will be used. While this mirrors an authorized use of the charter permits issued to all other potential permit holders, if it is determined that the Council motion needs to specify that lease arrangements are permitted in the context of CQE use, the Council should consider doing so at final action.

2.5.12.5 Summary of Council preliminary preferred alternative under Issue 12

The Council selected Alternative 2 as its preliminary preferred alternative at the February 2007 Council meeting. Included in Alternative 2 are Issues 1 – 12. This section provides an overview of the Council's preliminary preferred alternative, in order to provide the public and the Council with a brief summary of the issue in entirety. However, the analyses in the previous sections provide the details of the expected impacts of both the preferred alternative and the range of options under consideration.

Note below that the Council did not select one specific option for the use caps under Issue 12, but rather identified a subset of the range of use caps under consideration as part of its preliminary preferred alternative.

Council preliminary preferred alternative on Issue 12

A Community Quota Entity (CQE), representing a community in which 10 or fewer 'active' charter businesses terminated trips in the community in each of the years 2004 and 2005 may request limited entry permits. [Note: 'Active' is defined as it is defined in the general moratorium program under Issue 10. The Council's preliminary preferred alternative under Issue 10 is either ≥10 or ≥15 trips.]

Area 2C – use cap of 4 or 5 requested permits per eligible community.
Area 3A – use cap of 4, 5, 7, or 10 requested permits per eligible community.

Overall use caps for CQEs:
Option 2: 2 times those selected for the CQE requested permit use cap for each area.

Provisions for CQE requested permits:

- The permit is designated for the area in which the community represented by the CQE is located
- The permit is endorsed for 6 clients
- The permit cannot be sold (i.e., permanently transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.
- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

Overall, the Council's preliminary preferred alternative would allow a subset of small, rural, Gulf communities in Areas 2C and 3A to request a limited number of halibut charter permits from NMFS at no cost, as part of the moratorium program. NMFS would issue the charter halibut permit to the CQE representing the community, which would designate a skipper with a USCG license to take clients halibut charter fishing, similar to any other business. In addition, all 35 Amendment 66 communities would be subject to an overall use cap that may differ from the use cap for permit holders in the general program; thus, many communities could purchase a limited number of halibut permits over and above those requested. Halibut charter permits that are requested by and issued to CQEs at no cost would be subject to several specific restrictions.

Eligible communities

The Council's preferred criteria to qualify communities are as follows: 10 or fewer 'active' charter businesses terminated trips in the community in each of the years 2004 and 2005, with active defined as either ≥10 or ≥15 trips. These criteria would qualify 18 communities in Area 2C and 14 communities in

Area 3A. **Thus, a total of 32 of the 35 Amendment 66 communities would be eligible to request a halibut charter permit(s) from NMFS at no cost under this option.**[91] Eligible communities under the preliminary preferred alternative are as follows:

Area 2C		Area 3A	
Angoon*	Metlakatla	Akhiok	Port Lions
Coffman Cove	Meyers Chuck	Chenega Bay*	Seldovia
Edna Bay	Pelican*	Halibut Cove	Tatitlek
Hollis	Point Baker	Karluk	Tyonek
Hoonah*	Port Alexander	Larsen Bay*	Yakutat
Hydaburg*	Port Protection	Nanwalek	
Kake	Tenakee Springs	Old Harbor*	
Kassan	Thorne Bay	Ouzinkie*	
Klawock	Whale Pass	Port Graham	

*These communities have already formed a CQE and had it approved by NMFS.

It was stated in a previous section that the design of the eligibility criteria would likely disadvantage Amendment 66 communities (relative to other Amendment 66 communities) that are not long established charter ports but whose CQE would not qualify to receive permits because the community either exceeded the number of businesses in one of the two years at issue, or because a business reported the community as the port of landing but no longer operates there. This is because a business would be counted toward the community's threshold if it reported the community as the port of landing for only one trip in 2004 or 2005. As discussed previously, having a business 'count' towards a specific community does not mean that the business is physically located in the community, nor does it mean the business owner is a resident of the community. It also does not mean that the business terminated all of its trips in that particular year in the community.

This issue is exacerbated by the relatively narrow window of participation history used to determine the beneficiaries of the charter halibut permit program. This may be less of an issue for communities that are well above the selected criteria, but more of an issue for communities that only slightly exceed the designated maximum. Under the Council's preliminary preferred alternative, Craig, Gustavus, and Elfin Cove are the only Amendment 66 communities that would not qualify, based on existing charter activity. Elfin Cove exceeds the criteria (must have 10 or fewer businesses to qualify, with ≥10 trips, in 2004 and 2005) by one business in each year. Gustavus exceeds the criteria by 2 businesses in each year, and Craig far exceeds the criteria.

Use caps on requested permits

The limit (use cap) on the number of permits that each CQE could request from NMFS under the preliminary preferred alternative ranges from 4 or 5 permits per eligible Area 2C community and 4, 5, 7, or 10 permits per eligible Area 3A community. Thus, if 18 Area 2C communities qualify and form CQEs, the maximum number of new permits that could be created for CQEs representing eligible Area 2C communities is 72 – 90 permits, depending upon the use cap option selected. In Area 3A, in which 14 communities qualify, the maximum number of new permits that could be created for CQEs representing eligible Area 3A communities is 56 – 140 permits, depending upon the use cap option selected.
Recall that under the Council's preliminary preferred alternative under Issue 10 (Option 10.1 and using a 10-trip threshold), 619 permits are estimated to be issued in Area 2C and 561 permits in Area 3A under

[91]The only GOA Amendment 66 communities in Areas 2C or 3A that would not be eligible under the Council's preliminary preferred alternative are Craig, Gustavus, and Elfin Cove. All three are located in Area 2C.

the general program. Thus, under Issue 12 and depending upon the use cap selected, the pool of Area 2C permits could be increased by 11.6% - 14.5%, with those additional permits issued to CQEs. The pool of Area 3A permits could be increased by 10.0% - 25.0%.

Alternatively, if the Council selected Option 10.1 and a 15-trip threshold, 57 fewer permits would be issued in the general program compared to using the 10-trip threshold; in Area 3A, 46 fewer permits would be issued. The CQE permits would then comprise a larger portion of the total pool of permits; however, the total pool of permits could be maintained near the level resulting from the 10-trip threshold. Meaning, the effect of creating additional permits for CQEs could be partially offset by the number of permits issued under the general charter moratorium program, which depends on the final qualification criteria selected.

Overall use caps

The limit on the number of permits that each CQE could hold and use in total, whether requested permits or purchased permits, is: 2 times those selected for the CQE requested permit use cap for each area. In effect, this option results in an overall use cap of 8 or 10 permits for Area 2C CQEs, and an overall use cap of 8, 10, 14, or 20 permits for Area 3A CQEs. This option is structured such that a community would be allowed to purchase a number of permits equal to those that it can request from NMFS at no cost.

Recall that the overall use cap applies to all 35 eligible Amendment 66 communities, regardless of whether the community qualifies to receive permits at no cost. Meaning, unless the Council directs otherwise, all 35 communities, including Craig, Gustavus, and Elfin Cove, could form a CQE and purchase halibut permits up to the overall use cap. With the exception of permit holders that are grandfathered in at a higher use cap, all other permit holders would be subject to a use cap of 5 permits under the general program (see Issue 11). Thus, the overall use cap that applies to CQEs in the preliminary preferred alternative could be set at either slightly higher than, or double, that of the use cap in the general program. The intent behind a higher use cap for CQEs is that the CQE could use its permits to support multiple businesses to operate in the community, while an individual business is using its permits to support its own individual operation.

In total, the 21 Area 2C communities could hold up to 168 – 210 permits under the overall use cap options under the preliminary preferred alternative. The 14 Area 3A communities could hold up to 112 – 280 permits. Up to nearly half of those permits (72 – 90) could be requested from NMFS at no cost in Area 2C, and up to exactly half of those permits (56 – 140) could be requested from NMFS at no cost in Area 3A. The remainder of the permits in each area could be purchased up to the overall use cap (refer back to Table 34). Recall that while these estimates are based on the maximum number of eligible communities, each community would also need to form an approved CQE in order to be subject to these caps. Currently, only 9 communities are represented by CQEs in Area 2C and 3A combined.

Finally, the Council's preferred alternative under Issue 12 also includes several other restrictions on the use of CQE requested permits:

- The permit is designated for the area in which the community represented by the CQE is located
- The permit is endorsed for 6 clients
- The permit cannot be sold (i.e., permanently transferred)
- Under reporting requirements, the CQE must identify the recipient of the permit prior to issuance.

- The requested CQE permit must be used in the community represented by the CQE (the trip must originate or terminate in the CQE community).

The effects of the above provisions are discussed in detail in Section 2.5.12.4

2.5.12.6 Summary of overall effects of Issue 12

The following provides a brief, qualitative summary of the expected effects of the provision to allow CQEs to request a limited number of halibut charter permits (creation of new permits) under the moratorium program on the various affected sectors. Thus, the expected effects outlined in this section apply to the range of options included in Issue 12, including the Council's preliminary preferred alternative. The growth in the charter industry is centered in the major halibut ports, primarily located on the road system (see Section 2.5.10); however, there are many small, rural, coastal communities with undeveloped or under-developed charter industries and few alternative economic opportunities other than fishing. The intent of the provision is remove a new economic barrier to entry (purchase of a charter halibut limited entry permit) for these small, rural communities by allowing them to receive a free permit(s), held by the CQE and non-transferable, in order to support charter business development. Some of the expected effects are summarized below.

General effects:

- The stated intent is that the moratorium will be an interim program, replaced by a long-term solution in the future. However, a moratorium serves as a means of pre-selecting the set of beneficiaries in subsequent revisions to a limited entry program or development of a quota share program. Thus, the stakeholders that are recognized in the distribution of benefits (i.e., permits) in the moratorium program, whether communities or licensed sportfishing businesses, will most likely be the same set of stakeholders that will benefit from the longer-term proposals.

- Absent analysis to determine the 'preferred' or 'optimum' number of charter halibut permits issued in each area, it is a policy decision by the Council to determine the appropriate balance between the primary goal of the moratorium program to limit new entry, and the conflicting goal of creating new permits, for use by small, rural communities.

Effects on communities:

- There is no guarantee that charter businesses that historically operated in a community with a 'developed' charter port, as defined by charter activity in a relatively narrow window of time (2004 - 2005), would qualify for permits under the general program, nor that the businesses will continue to operate out of that community's port in the future. This may serve to disadvantage ineligible Amendment 66 communities, relative to eligible Amendment 66 communities, that are not long established charter ports but that may have exceeded the number of businesses in one of the two years in the qualifying period.

- Depending on the criteria selected, a range of 23 – 33 of the 35 Amendment 66 communities in Areas 2C and 3A would qualify to receive halibut charter permits (note that these communities must also form CQEs, only 9 of which have been formed in these areas to-date). Depending on the limits (use caps) selected for the number of requested permits, a maximum of 39 – 133 permits could be issued to CQEs in Area 2C and 40 – 210 permits in Area 3A.

- The implementation of this provision, as a stand-alone measure, is not anticipated to 'save' eligible communities or generate a comparatively large economic impact. The provision is instead anticipated to support one component of a larger plan to either re-establish or maintain fisheries access, and an associated fisheries-based economic structure, in specified rural communities. CQE-held charter permits may enable residents from these communities, or residents of other communities, to participate in a fishery from which they might otherwise be excluded due to the cost of purchasing a permit.

- The structure of the CQE program creates higher administrative costs associated with using the permit (going through CQE) than would be generated if the permit was provided directly to community residents from NMFS. However, making the CQE the permit holder, and requiring that the permit is non-transferable, likely better meets the goal of providing long-term benefits to the community in terms of mitigating economic barriers to continued access to the halibut charter fishery and providing an opportunity for the community as a whole to further develop the charter industry as a part of its overall economic development plan.

Effects on commercial halibut sector:

- The Pacific halibut resource is fully utilized by commercial and sport fishermen in IPHC Areas 2C and 3A, and the open-ended reallocation from the commercial halibut sector to the charter halibut sector continues to exist. While the overall moratorium action is not expected to slow charter halibut harvests such that the GHL is not exceeded in the short-term, the overall program may limit long-term growth and may provide a foundation on which measures to more effectively limit charter harvests can be built. Creating additional permits to be held by CQEs in part would conflict with the goal to limit new effort in the charter halibut sector, and could potentially result in further negative impacts on the commercial halibut sector and the communities that benefit from the commercial fishery. This effect may be partially offset by the number of permits issued under the general charter moratorium program, which depends on the final qualification criteria selected.

Effects on charter halibut sector:

- The market for charter permits could be affected by the provision to allow CQEs to hold charter permits, as charter operators seeking to enter the fishery may choose to apply for use of a permit through the community CQE as an alternative to purchasing their own permit. While the pool of potential buyers may be reduced, the number of permits available for sale on the open market would not be affected (CQE requested permits are not transferable), which may result in downward pressure on the price of permits for charter operators seeking to purchase a permit. This would affect both the existing charter sector and new entrants into the fishery.

- The existing charter sector could also be affected by an influx of new or expanded charter operations through CQE permits, depending upon the level of participation by rural communities. As the CQE is required to use the permit in its member community, charter operators in other communities may not be substantially affected, even with the overall increase in competition. However, there may be some negative effects on existing charter operators in the Amendment 66 communities, as they realize increased competition for clients from new charter operations within their community. In part, however, the eligibility criteria are intended to exclude Amendment 66 communities whose charter halibut market is already relatively developed or saturated. In addition, existing charter operators in communities with the least developed charter industries may benefit from additional operators in the community, as they potentially strengthen the overall

market for charter operations (e.g., via increased marketing, back-up charter services, increased incentive to develop support services).

- The requirement that the CQE must use the permit for a business that operates in and/or out of the represented community is fundamental to the overall goal of the program. Absent this requirement, a CQE could determine that retaining a skipper who operates out of a different community is in the community's best interest. Although this approach could still result in benefits to the community (in terms of lease revenue or employment), the effect could thus be that instead of supporting new businesses operating out of rural communities, the program could support additional businesses operating out of the most common ports of landing. This could result in increased growth in the industry (see estimated number of permits in Table 14) in the relatively few communities whose businesses will receive the majority of limited entry permits allocated under the general moratorium program.

Effects on guided halibut anglers:

- Effects on the guided halibut angler are primarily related to the increased opportunities available and the potential effect on price. As this provision would create a number of new permits that would not otherwise exist under the general program, there would be potentially more charter operations and guided angler opportunities than if Issue 12 was not selected. Guided anglers may benefit from an overall increase in the supply of charter opportunities and the geographic diversity and quality of the fishing experience available in more rural areas. An increased supply of permits may also result in downward pressure on the price of a charter trip for a guided angler.

- If the overall use cap for CQEs is set higher than the cap on requested permits, CQEs could also purchase a number of permits over and above the number of permits they request from NMFS. As CQEs would be purchasing permits from the existing pool of initial permits issued, a possible effect is that some redistribution of permits could occur from ports with the highest historical charter activity (Sitka, Juneau, Homer, Seward, Ninilchik) to the more rural communities represented by CQEs. Depending on the level of redistribution, halibut charter opportunities for guided anglers that want to purchase a charter trip in the most developed ports could be reduced.

2.5.13 Impacts under Alternative 2

Implementing a moratorium is expected to define the number of vessels that may operate at one time in the Area 2C and 3A halibut charter fisheries. While the program is not expected to effectively limit the harvest of charter clients over the next several years, the activity associated with the permits should provide a foundation for future limited access programs. Endorsements or other fishing privileges could be added to the permits that would limit future expansion of the charter sector. These endorsements/privileges could be added to either transferable or non-transferable permits. For example, some type of endorsement could be added to the permit that would limit the total number of trips a vessel could take or the number of clients they could carry in a year.

Using the permit as a base for future management measures is not required by State or Federal regulation or by requirements of the MSMFCA. However, politically starting the rationalization process with a moratorium is the most palatable. That is evident from the process the Council is implementing and the discussion of individuals at the Council meetings. It has been indicated that moving directly from the current regulatory structure to a program that provides some type of individual fishing privilege would be difficult.

The net national benefit and regional impacts that result from a moratorium are expected to differ depending on the program's structure. A moratorium that constrains the availability of charter trips, in the relatively near future, will reduce the loss of benefits derived from the commercial sector harvests and consumers, but will limit increases in benefits derived by the charter operators and clients. A moratorium that is ineffective in constraining future growth in charter harvests will result in net national benefits that are similar to those discussed under the status quo section. Regional economic impacts could be altered depending on who holds the permits, where expenditures are made, and where the permits are fished.

Alternatives included in the proposed moratorium that have the greatest impact on net benefit changes and regional impacts are those options that determine:

- Who qualifies for a permit
- How many permits are issued
- Constraints placed on the number of clients that a vessel may carry
- Transferability of the permits that are issued

Increasing the number of permits that are issued, by selecting a lower number of trips for qualification, will result in more charter capacity under the moratorium. The maximum number of clients that were on any trip during the initial qualification period defines the number of clients that are allowed to harvest halibut on a trip. Because the maximum number of clients on a trip was used to determine the endorsement for the number of clients that may be carried, it will increase the client capacity of the fleet relative to the average number of clients that were carried on trips (see Table 13). The transferability of permits will also affect the usage of permits and ultimately the amount of halibut that will be harvested by the clients of charter vessels. Transferability is important because it redistributes an initial allocation that gives permits to persons that may not use them as fully as persons that acquire the permits through transfer.

To compare the net benefit and regional impacts of two example moratorium programs (M-1 and M-2) under the proposed options, the analysts will assume the following. Note that M-2 is structured similarly to the Council's preliminary preferred alternative selected in February 2007.

Both moratorium programs:

- would issue permits to U.S. citizens or businesses with at least 75 percent U.S. ownership
- permits would be issued to ADF&G licensed fishing guide business owner
- permits would be designated for use in either IPHC Area 2C or 3A
- permits would be allowed to be stacked up to the use cap
- leasing of permits would be prohibited, but enforcing the provision may not be possible.

Additional provisions under the first moratorium program (M-1) would include:

- allowing transfers of permits
- endorsing permits for the highest number of clients on any trip, but not less than 4
- qualification for a permit would be based on Option 10.2 and require 20-trips during 2004 or 2005 and the year prior to implementation.
- no use caps would be imposed
- no permit allocations to CQE communities that do not meet the initial allocation requirements.

Additional provisions under the second moratorium program (M-2) would include:

- allowing transfers of permits that were earned by vessels that qualified at trip levels of at least 20 trips
- endorsing permits for the highest number of clients on any trip (capped at 8 in 2C and 20 in 3A), but not less than 4
- qualification for a permit would be based on Option 10.1 and require 10-trips during 2004 or 2005 and the year prior to implementation. A minimum of 20 trips in a qualifying year would be required to earn a transferable permit.
- use caps would be set at 5 permits
- allocations to a CQE, representing a community in which 10 or fewer active[92] charter businesses terminated trips in 2004 and 2005, of 5 requested permits per eligible community in Area 2C and 7 requested permits per eligible community in Area 3A. Overall caps on the number of permits held by CQEs (whether purchased or requested) would be 10 for Area 2C communities and 14 for Area 3A.

Impacts of the first moratorium structure (M-1)

Under M-1, a maximum of 619 permits would be issued to a maximum of 326 businesses (see Table 14), in Area 2C. That represents 35 fewer permits being issued in 2C, than vessels that fished in 2005. In Area 3A, a maximum of 561 permits would be issued to 424 businesses. That represents 6 fewer permits than charter vessels that fished in 2005. While the number of vessels and businesses are only slightly less than fished in 2005, sufficient capacity would still exist to carry from 2 to 3.5 times[93] the number of clients that fished in Area 2C, during 2004 (see Table 18). In Area 3A, the client capacity associated with the permits appears to allow about 1.5 to 3 times as many clients to fish as 2004. These capacity estimates take into account the number of number of clients endorsed on the permit.

Assuming a constant halibut catch rate and a constant average halibut size under any of the alternatives, a increase in the number of clients carried would lead to a proportional increase in the amount of halibut harvested. The actual relationship between increased charter activity and average catches per client may be higher or lower, and will depend in part on the areas fished, stock abundance, and the skill of the guide and anglers. Based on this assumption and the potential increases in number of clients, the amount of halibut removals by the charter sector could approximately double in Areas 2C and 3A. Based on the various levels of projected growth in

it would take more than 10-years to double the current levels of charter catch in both Areas 2C and 3A. The capacity limit would be reached sooner in 2C than 3A, because the 2C charter catches are increasing at a faster rate than 3A.

Until the charter sector is constrained by the moratorium, impacts on the sectors described under the status quo would be expected to continue. If the moratorium becomes a constraint, trip prices would increase. However, the increased rents would likely motivate charter operators to increase effort by taking more than one trip per day or finding other creative ways to increase effort, this increased competition for trips would force trip prices back to their original levels[94]. Criddle (2006) states that it is likely that charter operators will find ways to increase total effort, as has been shown over three decades of world-wide experience. As the charter operators increase effort, the economic rents (producer surplus)

[92] An active business is defined as it is in the general program: a business that had at least 10 bottomfish trips per qualifying year.

[93] Recall these amounts represent the maximum number of clients that could be carried in a year if every permitted vessel operated one trip per day at full capacity for 55 to 100 days per year.

[94] Criddle et al (2003) found that increasing the price of a charter trip decreased the number of angler-days fished. Their study showed that $5, $10, $15, $25, or $50 increase in trip costs decreased angler-days fished by 1.8, 3.6, 5.6, 9.7 and 21.3 percent, respectively.

to the charter sector will be dissipated under a restricted access management program. Compensating variation will continue to increase as more charter clients take fishing trips. Producer surplus and post-harvest surplus in the commercial sector will continue to decline as halibut are redirected from the commercial sector to the charter sector.

Permits under M-1 would be fully transferable to any person that meets the 75 percent U.S. ownership requirement. Unfettered transferability of the permits means they are more likely to end up under the control of a person that would use the permit to a greater extent. Increased usage of the permits means that more client trips would be taken during the season.

The permits generated under Option 10.2 are reported in Appendix 2 by the communities where they made at least one landing during the qualifying period. Communities with the most charter activity relative to their commercial halibut activity will generate larger regional economic impacts. Redistribution of charter activity (permits) will create winners and losers among the communities that are dependent on the halibut charter sector for jobs and income. The initial allocation of permits will generate an asset with value for residents of the community. If the permit is sold to someone outside the community the individual that owned the permit would generate income from the sale and some of the income could spent with in the community, but the long-term benefits from tourist activity and business expenditures would leave the community. It is not possible to predict where the permits will ultimately be used, but movement of permits after the initial allocation is expected as they are purchased by persons that most value them.

No additional permits would be created under M-1 and issued to a subset of small, rural communities originally identified under Amendment 66. Residents of these 21 communities in Area 2C and 14 in Area 3A would either have to earn a permit under the qualification criteria of the general program or purchase a permit on the open market, in order to develop a new business. In addition, a CQE representing the community could purchase a permit on the open market for use in the community. The implementation of the moratorium structure under M-1 or M-2 would create an economic barrier for CQEs and rural communities to develop a charter industry. The difference is that under M-2, this barrier would be partially offset by providing for a limited number of non-transferable permits issued to CQEs (on behalf of the community) at no cost. M-1 does not include this provision.

Impacts of the second moratorium structure (M-2)

Note that M-2 is structured similarly to the Council's preliminary preferred alternative selected in February 2007. Under M-2, a maximum of 471 permits would be issued to a maximum of 255 businesses (see), in Area 2C. That represents 183 fewer permits being issued in 2C, than vessels that fished in 2005. In Area 3A, a maximum of 455 permits would be issued to 357 businesses. That represents 112 fewer permits than charter vessels that fished in 2005. While the number of vessels and businesses are fewer than fished in 2005, it appears that sufficient capacity would still exist to carry from 2.5 to 4.5 times[95] the number of clients that fished in Area 2C, during 2004 (see Table 18). In Area 3A, the client capacity associated with the permits appears to allow about 1.8 to 3.3 times as many clients to fish as 2004. These capacity estimates take into account the number of number of clients endorsed on the permit, but are highly dependent on the assumption regarding the number of days fished.

Based on the assumptions about fleet capacity, the fleet would take more years to reach capacity than they would under M-1. Under M-1 it was assumed that capacity would not be reached for over 10 years (before the fleet increases the number of trips per day or other effort measures not controlled under this

[95] Recall these amounts represent the maximum number of clients that could be carried in a year if every permitted vessel operated one trip per day at full capacity for 55 to 100 days per year.

amendment), based on historic growth trends in number of client trips. Assuming that the charter fleet will find ways to expand effort, capacity may not be reached for a much longer time.

M-2 would also create a class of permits that are non-transferable. Based on requiring at least 20 trips under Option 10.1 (10 trips) to earn a transferable endorsement, 185 (30 percent) of the 2C permits would be non-transferable. In 3A, 116 (21 percent) of the permits would be non-transferable. Because some of the non-transferable permits would be issued to persons that receive both types of permits, they would still have the opportunity to sell their transferable permit and more fully utilize their non-transferable permit. They could also hire a captain to fish their non-transferable permit, if they did not want to take clients fishing themselves. They would be required to maintain their guide business license and obtain a logbook for the vessel to use the permit

Placing a cap on the maximum number of clients that may be carried has little overall impact on the total number of clients that can be carried. The cap will reduce the maximum number of clients that can be carried by the fleet in a day by about 1 percent in Area 2C and 3.5 to 6.5 percent in 3A. The greatest economic impact will be on the individual operators that are capped. Their overall revenue would be expected to decline as a result of the cap.

The additional room for expansion means that this option provides greater opportunity to expand charter harvests. The increased catch will increase compensating variation for charter clients. Charter operators are expected to continue to earn normal profits (no producer surplus). Commercial IFQ fishermen can expect to realize larger decreases in producer surplus and lower QS values in the longer term compared to M-1. Consumers of commercially catch halibut would realize decreases in consumer surplus (lower overall post-harvest surplus).

Regional impacts of the two moratorium alternatives will differ depending on the resulting charter activity in those communities. **Table 35** shows a comparison of the number of permits that would be allocated that were historically used to terminate at least one trip in the community. Historically some vessels have terminated trips in more than one community[96]. Thus, the sum of the permits in a community does not equal the total number of permits.

Table 35 Qualifying permits and businesses by moratorium option

Community		Permits		Businesses		Difference	
	Am 66	M-1	M-2	M-1	M-2	M-1	M-2
Afognak		1	1	1	1	0	0
Amook Island		2	2	2	2	0	0
Amook Pass		1	1	1	1	0	0
Anchor Point		50	56	48	53	6	5
Anchor River		1	1	1	1	0	0
Angoon	Yes	11	12	7	8	1	1
Anton Larsen Bay		3	6	3	5	3	2
Auke Bay		15	25	12	20	10	8
Bar Harbor		1	1	1	1	0	0
Bartlett Cove		4	5	4	5	1	1
Bay Of Pillars		3	3	2	2	0	0
Boardwalk		2	3	2	2	1	0
Camp Island		1	1	1	1	0	0
Cannery Cove		5	5	2	2	0	0

[96] ADF&G Saltwater logbook data indicate that 41 vessels did not report community information in 2004 or 2005. A total of 376 logbooks reported activity in multiple communities in those years. One vessel reported activity in 7 communities.

Cape Chacon		0	2	0	2	2	2
Cape Ninilchik		0	1	0	1	1	1
Cedars Lodge		5	7	5	6	2	1
Chenega	Yes	0	1	0	1	1	1
Clover Bay		2	2	1	1	0	0
Clover Pass		9	13	9	12	4	3
Coffman Cove	Yes	5	7	5	6	2	1
Comfort Cove		0	0	0	0	0	0
Cordova		3	7	3	6	4	3
Craig	Yes	54	68	26	31	14	5
Cranberry Creek		1	1	1	1	0	0
Crescent Harbor		1	3	1	3	2	2
Dall Island		1	1	1	1	0	0
Deep Creek		87	98	71	81	11	10
Dog Bay Harbor		0	0	0	0	0	0
Douglas		0	0	0	0	0	0
Eagle Creek Lodge		1	1	1	1	0	0
Eagle Harbor		0	0	0	0	0	0
El Capitan Lodge		6	7	2	2	1	0
Elfin Cove	Yes	27	31	15	18	4	3
Ellamar		1	1	1	1	0	0
Excursion Inlet		0	1	0	1	1	1
False Island		5	5	3	3	0	0
Fishermans Bend		2	2	2	2	0	0
Funter Bay		1	2	1	2	1	1
Glacier Bay		1	1	1	1	0	0
Gold Coast Lodge		1	1	1	1	0	0
Gull Cove		1	2	1	2	1	1
Gustavus	Yes	20	20	17	17	0	0
Haines		2	4	2	4	2	2
Halibut Cove	Yes	0	0	0	0	0	0
Hallo Bay		0	1	0	1	1	1
Hanus Bay		0	0	0	0	0	0
Happy Valley		8	8	2	2	0	0
Hawk Inlet		1	1	1	1	0	0
Hidden Basin		1	1	1	1	0	0
Hollis	Yes	0	0	0	0	0	0
Homer		174	189	154	166	15	12
Hood Bay		0	1	0	1	1	1
Hoonah	Yes	5	10	5	10	5	5
Iliamna Bay		0	1	0	1	1	1
Iron Creek		1	2	1	1	1	0
Juneau		15	24	13	19	9	6
Kake	Yes	0	0	0	0	0	0
Kalinin Bay		0	0	0	0	0	0
Kasitsna Bay		1	1	1	1	0	0
Kelp Bay		2	3	1	2	1	1
Kenai		0	0	0	0	0	0
Ketchikan		31	45	21	34	14	13
Killisnoo		4	5	2	3	1	1
Kiluda Bay		1	1	1	1	0	0

Klawock	Yes	13	17	9	11	4	2
Knudson Cove		5	12	5	11	7	6
Kodiak		25	33	25	33	8	8
Kukak Bay		2	3	2	3	1	1
Kupreanof Island		0	0	0	0	0	0
Larsen Bay	Yes	8	14	7	7	6	0
Little Tutka Bay		1	1	1	1	0	0
Log Cabin Resort		1	1	1	1	0	0
Millers Landing		2	2	1	1	0	0
Morne Island		2	3	2	2	1	0
Narrows Inn		3	3	3	3	0	0
Naukati		2	3	2	3	1	1
Ninilchik		13	16	13	16	3	3
Old Harbor	Yes	7	10	5	6	3	1
Orr Island		1	1	1	1	0	0
Ouzinkie	Yes	0	1	0	1	1	1
Pasagshak Bay		1	1	1	1	0	0
Pauls Bay		0	0	0	0	0	0
Pelican	Yes	4	8	4	7	4	3
Petersburg		21	31	21	29	10	8
Point Baker	Yes	2	3	1	2	1	1
Poohs Landing		1	1	1	1	0	0
Port Alexander	Yes	5	6	5	5	1	0
Port Althorp		0	0	0	0	0	0
Port Bainbridge		0	0	0	0	0	0
Port Chatham		0	0	0	0	0	0
Port Lions	Yes	6	10	6	10	4	4
Port Protection	Yes	1	2	1	2	1	1
Port St Nicholas		2	2	1	1	0	0
Port Wakefield		1	3	1	2	2	1
Port William		1	1	1	1	0	0
Prince Rupert		0	1	0	1	1	1
Pybus Point		4	4	3	3	0	0
Raspberry Island		2	3	2	2	1	0
Rocky Pass Resort		1	2	1	2	1	1
Rocky Point		1	1	1	1	0	0
S Kaigani Bay		5	5	2	2	0	0
Sadie Cove		1	1	1	1	0	0
Saginaw Bay		1	1	1	1	0	0
Salmon Falls		7	16	1	2	9	1
Salmon Landing		7	7	4	4	0	0
Saltery Cove		1	1	1	1	0	0
Sarkar Cove		1	1	1	1	0	0
Sea Otter Sound		1	1	1	1	0	0
Seal Bay (Sc)		3	3	2	2	0	0
Sealing Cove		5	6	4	5	1	1
Seldovia	Yes	10	12	10	12	2	2
Seward		103	126	83	99	23	16
Shelter Island		6	7	3	4	1	1
Shuyak Island		1	1	1	1	0	0
Silver King Lodge		6	6	6	6	0	0

Silver Salmon		2	2	2	2	0	0
Sitka		142	165	95	110	23	15
Skagway		1	2	1	2	1	1
Sportsman Cove		9	12	2	3	3	1
Spruce Mill New Flt		3	4	1	1	1	0
Ssbh		5	5	4	4	0	0
Surestrike		0	0	0	0	0	0
Swanson Harbor		1	1	1	1	0	0
Tenakee	Yes	2	3	2	3	1	1
Thomas Basin		2	3	2	3	1	1
Thorne Bay	Yes	9	10	6	6	1	0
Tokeen		0	1	0	1	1	1
Tutka Bay		1	1	1	1	0	0
Ugak Bay		3	5	3	3	2	0
Uganik Bay		2	4	2	2	2	0
Uyak Bay		2	2	2	2	0	0
Valdez		28	40	26	36	12	10
Wakefield		0	1	0	1	1	1
Warm Springs Bay		7	9	2	2	2	0
Waterfall		24	25	1	1	1	0
Whale Pass (Pow - Se)	Yes	4	6	3	4	2	1
Whale Pass (Sc)		0	1	0	1	1	1
Whalers Cove		3	3	2	2	0	0
Whiskey Gulch		2	4	1	2	2	1
Whitestone Harbor		1	1	1	1	0	0
Whittier		18	23	18	23	5	5
Williamsport		0	1	0	1	1	1
Wrangell		3	12	3	11	9	8
Yakutat	Yes	12	14	9	10	2	1
Yes Bay		6	13	2	2	7	0
Zachar Bay		2	5	1	2	3	1

Source: ADF&G Logbook data, 2004 and 2005.

Additional permits could be issued to a CQE in Area 2C or Area 3A if the community it represents had 10 or fewer active charter businesses in 2004 and 2005. An active business is defined as a business with at least 10 bottomfish trips in each qualifying year. Those criteria result in 18 eligible communities in Area 2C and 14 in Area 3A. These communities could then form a CQE for approval by NMFS, if they have not already, in order to request a limited number of halibut charter permits at no cost. The eligible 2C communities could request up to 5 permits and the 3A communities could request up to 7 permits. Each Area 2C community would be capped at a total of 10 permits (whether purchased or received at no cost), and each Area 3A community would be capped at 14 permits. Increasing the number of permits created under the program will add capacity to charter fleet. That capacity could reduce the halibut available to the commercial sector. Charter operators not involved in this program will face additional competition for clients and the harvest resulting from these additional permits will increase catch that is counted against the GHL. Communities that receive additional permits would have the opportunity to develop a halibut charter industry in their community. These communities often have few economic opportunities for residents and the new jobs created could benefit individual residents and businesses located in these communities. Income and expenditures flowing to the community could increase disposable income of the charter operators, increase revenue by support industries, and increase the tax base for the community.

Impacts on other fisheries

One of the concerns managers have expressed relative to the moratorium options are the potential impacts to other, already crowded charter fisheries. A limit on the number of halibut charter vessel permits would leave few alternatives for new entrants, other than salmon sport fish guiding services or eco-tourism based charters.

The impacts of a moratorium on state-managed species, including salmon, lingcod, rockfish, and other freshwater species will vary by local area, by the restrictions of the moratorium, and by the reaction of potential guided anglers to a moratorium. In areas where there are only a few charter vessels operating or where existing charter vessels catch limited numbers of halibut there would probably be very little if any impact on other state-managed species. However, impacts on other species could be significant in local areas with large, active charter fleets that do harvest large numbers of halibut.

The level of impact on state-managed species would depend on how many potential charter clients decided not to fish at all if they are unable to book a halibut charter and how many would decide to fish anyway, but for other species. Approximately 80% of all angling effort in Area 2C currently occurs in saltwater. Many charter operators offer multi-species fishing trips thus giving them clear opportunity to shift their client's fishing effort from halibut to other marine species.

The sport fishery in Area 2C has a specific allocation of king salmon from the Board. ADF&G monitors the sport harvest inseason with a comprehensive creel survey and port sampling program. Under the provisions of the King Salmon Management Plan, the sport harvest is reduced when the total harvest is projected to exceed this allocation. If a moratorium caused charter vessels to target king salmon to a higher degree than under current conditions the king salmon harvest could increase and harvest restrictions would need to be imposed on all sport sectors earlier in the summer fishing season.

Other species of salmon, as well as rockfish and lingcod stocks would be impacted if charter operators increased their fishing effort on these stocks in response to a moratorium on halibut. ADF&G has expressed conservation concerns for lingcod and rockfish stocks in most areas of Southeast Alaska. Based on these concerns the Board has adopted very restrictive regulations for yelloweye rockfish in the Sitka and Ketchikan areas and for lingcod in the Sitka area. Increased exploitation by the guided sector due to a moratorium would add to these conservation concerns.

Another potential impact of a moratorium in Area 2C could be a shift in guided fishing effort from marine waters to freshwater systems. If charter and lodge businesses started offering freshwater fishing opportunities to compensate for a moratorium, guided effort and harvest would increase dramatically for freshwater species. There are thousands of small freshwater drainages in Area 2C that produce relatively small numbers of adult salmon each year. Major increases in harvest in these systems would probably result in inseason restrictions or closures on a number of drainages to assure escapement goals were achieved.

ADF&G has also expressed considerable conservation concerns for cutthroat and steelhead trout stocks in Area 2C. In 1993, ADF&G proposed the most conservative suite of regulations for these species anywhere in the Pacific Northwest and the Board has adopted these proposals. A sizable increase in fresh water effort would impact these stocks resulting in a need for additional restrictions in the sport fishing regulations to ensure sustained yield.

A moratorium in Area 3A would likely result in increased effort toward mixed marine stocks of chinook and coho salmon, as well as lingcod, rockfish, and other groundfish. There could also be impacts to existing freshwater fisheries for salmon and resident species. Most marine salmon fisheries in

Southcentral Alaska are fully allocated. Diversion of effort to marine salmon fisheries will likely increase conservation concerns and intensify existing allocation conflicts. This diversion is likely because many charters in Area 3A offer chinook or coho salmon fishing in addition to halibut. There is now an elevated level of concern for coho salmon conservation following poor returns throughout Southcentral Alaska. Marine chinook fisheries in Cook Inlet have also grown in recent years with freshwater restrictions designed to ensure adequate escapement. In addition, there has been modest growth in off-season troll fisheries for feeder chinook salmon, with concerns over interception of threatened or endangered stocks. This growth has ignited allocation battles in marine fisheries and concerns over accountability of harvest in mixed-stock fisheries.

Restrictions in the halibut fishery would probably also divert a significant amount of effort and harvest toward other groundfish stocks for which there are already conservation concerns. ADF&G and the Board have expressed conservation concerns for rockfish, lingcod, and sharks throughout the region. The Board has enacted progressively restrictive harvest regulations for all of these species during the last ten years, including some of the most restrictive bag limits, seasons, and size limits on the West Coast. Increased guided effort on these stocks would exacerbate concerns for the sustained yield of these stocks.

The majority of salmon harvested by sport anglers in Area 3A are taken in freshwater fisheries. Every major salmon stock in Area 3A is already fully allocated. If charter and lodge businesses turned to freshwater fishing opportunities in response to the moratorium, the increase in effort and harvest would also elevate existing allocation battles between user groups.

2.6 Implementation issues

2.6.1 Permit eligibility

To qualify for a moratorium permit, a person[97] must demonstrate a minimum number of bottomfish trips as reported in the ADF&G logbook in 2004 or 2005 and the year prior to implementation. For this reason, NMFS will need access to the person's historical logbook and business information from the qualifying period to determine the number of permits issued and associated client and area endorsements. To qualify for a charter moratorium permit, a person would be required to demonstrate the minimum number of bottomfishing trips required to receive a permit and complete a Federal application package. Associated with the qualification criteria is a requirement that persons record bottomfishing effort in the logbook prior to the year the moratorium program is implemented. However, submitting the logbook the year prior to implementation likely would not allow permits to be issued in time for the implementation year for two reasons: (1) a full season of charter logbook information is required to determine eligibility; and (2) NMFS will need time to process applications and issue permits. For this reason, the effective qualifying year could be either one or two years prior to implementation (e.g., either 2007 or 2008 under a 2009 implementation schedule). Whether it is 2007 or 2008 depends upon the starting date of the permit application period published by NMFS, which is not certain at this time. **Thus, staff notes that the "year prior to implementation" qualification requirement in Issue 10 more accurately refers to the calendar year prior to the starting date of the application period. Under a 2009 implementation schedule, this could be either 2007 or 2008.**

A current State of Alaska statute prevents direct access of logbook or ADF&G business license information by NMFS or NOAA Office of Law Enforcement (OLE). Federal access to these sources of information would require the State of Alaska legislature to amend the State confidentiality statute to

[97] A "person" as defined at 50 CFR 679.2 means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized, existing under the laws of any state, and any Federal, state, local, or foreign government or entities of any such aforementioned governments).

allow NMFS access to confidential business and logbook information. Without this information, NMFS cannot directly access State business and logbook information to determine permit qualification. Charter logbook information would also be required by the NOAA Office of Administrative Appeals (OAA) to adjudicate "hardship claims" and by NOAA OLE to enforce the program.

In addition to a change to State law, NOAA OLE would need the authority to inspect logbooks. This means that NOAA OLE would need to be authorized by the State to enforce State recordkeeping and reporting requirements. Without this authorization, NOAA OLE does not have the authority to require charter operators to show their logbook to NOAA OLE enforcement officers on request.

At the December 2006 and February 2007 Council meetings, ADF&G indicated that it is seeking a legislative change to the confidentiality statute during the 2007 legislative session. For this change to meet Federal information needs, it would need to allow Federal access to logbook information for both administrative and enforcement purposes. If the legislative change is not adequate or fails to pass the State of Alaska legislature prior to the application period for the moratorium, NMFS would need to obtain charter business and logbook information directly from moratorium permit applicants. Under this scenario, the State would provide certified business and logbook information to the applicant who would personally deliver or mail it to NMFS. This option is much less desirable than the direct access provided by a statutory change because it increases the burden on both the operator and government agencies such that:

- An applicant would need to request the information from the State and submit that information along with a permit application to NMFS. The logbook and business information provided by the State would need to be certified and sealed to insure the information was unaltered and legitimate. Once received from the State, the applicant could then mail or personally deliver the application materials to NMFS who would process the information and determine eligibility.

- All application materials (including logbook information) would need to be electronically transferred into a Federal database. This transcription process would slow down the application process under current staffing levels; especially if logbook information is not provided to NMFS in an easily accessible electronic format.

This option would also reduce the effectiveness of outreach efforts by NMFS to notify eligible charter operators about the application process for the moratorium permit. Direct access to the logbook allows NMFS, through an audit of logbook and ADF&G business license information, to generate a list of persons eligible for the moratorium permit and send them application materials. Applicants not directly contacted by NMFS may download application materials from the internet or obtain the materials directly from NMFS. The public would also be notified about the permit application period and permitting process through the *Federal Register* and other outreach activities conducted by ADF&G, NMFS, and the Council. NMFS has found that the mailing of application materials to persons eligible for a moratorium is the most efficient method to disseminate information about a new permit system.

2.6.1.1 Application process

Persons applying for a charter moratorium permit would be required to provide a complete application to NMFS during a designated application period, which would not be less than 90 days. Notice of the application period would be provided in the Federal Register. During the application period, NMFS would evaluate the applications and compare claims on the application with information provided in the logbook. Applicants with an incomplete application or who have made claims that are inconsistent with the logbook record would be provided an evidentiary period of 60 days. During this evidentiary period, the applicant may present evidence to NMFS demonstrating that the eligibility criteria are met, including

information explaining discrepancies with the official logbook record. Upon expiration of the 60-day evidentiary period, an Initial Administrative Decision (IAD), that either grants or denies the applicant the moratorium permit, would be issued by the NMFS Regional Administrator. If the decision is a denial, the IAD indicates the deficiencies in the application, including any deficiencies with the information in the application or evidence submitted in support of the application, and which claims cannot be approved based on the available information. An applicant may appeal an IAD through the NOAA Office of Administrative Appeals. This appeal process and associated issues are discussed in Section 2.6.2.

2.6.1.2 Business affiliation and ownership

Alternative 2 specifies that all persons receiving a moratorium permit either through initial qualification or transfer would need to meet a 10 percent rule of affiliation that is similar to the one promulgated under the AFA. There are two parts to the 10 percent ownership rule that must be enforced: determining an affiliation, and determining if the affiliates have at least 10 percent ownership. At 50 CFR 679.2, affiliation is defined as a "relationship between two or more individuals, corporations, or other business concerns in which one concern directly or indirectly owns a 10 percent or greater interest in another, exerts control over another, or has the power to exert control over another; or a third individual corporation, or other business concern directly or indirectly owns a 10 percent greater interest in a second corporation or other business concern." Ten percent or greater ownership is deemed to exist if an individual, corporation, or other business concern directly or indirectly owns 10 percent or greater interest in a second corporation or other business. These regulations provide an extensive description of indirect interests and control that are specific to AFA commercial fisheries, but could be modified to meet regulatory requirements for the halibut charter fishery.

One option to document affiliation would be to require the person trying to obtain a permit to disclose all affiliations and provide documentation of such affiliations. While on the surface this requirement appears self explanatory, it is extremely cumbersome for NMFS to review and interpret contractual arrangements. The high degree of complexity often associated with affiliate relationships would require NMFS to interpret contractual arrangements (often multiple contracts) describing affiliations and ownership levels. NMFS does not currently have the administrative and legal staff that would be required to review the myriad of contractual agreements that may be associated with initial qualification and transfer. For this reason, other programs such as crab rationalization and AFA have required permit applicants to disclose affiliates and ownership, and sign an affidavit attesting to the accuracy of the application. Providing false information on the application would be a Federal offense and may be prosecuted. The charter moratorium program would have a similar requirement.

Persons would need to annually disclose affiliation and ownership through an application to NMFS. Enforcement of this provision would require NMFS to have the authority to suspend a permit until the business provides the necessary annual documentation. For this reason, NMFS would implement a deadline for the affiliation disclosure application. The application would require disclosure of the applicant's name, signature, business tax ID (to aid in enforcement), business mailing address, business telephone number, business e-mail, name of the managing company, and declaration of U.S. citizenship.

2.6.1.3 Permit-specific information

Under Alternative 2, each permit holder would be issued a moratorium permit with a unique NMFS identification number as well as the permit holder's name, business name, regulatory area endorsement (Area 2C or 3A), and client number endorsement. A permit that is lost, stolen, or destroyed could be replaced through NMFS. Lost, stolen, or destroyed permits would be invalidated by NMFS once reported by the applicant.

However, the Council's preliminary preferred alternative (see the discussion of Alternative 2, Issue 6 in Section 2.6.3) requires that halibut charter permit holders may only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook that is assigned to the person holding the permit. If the permit holder wishes to use the permit on a different vessel, they must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. Even then, the logbook associated with the new vessel must be assigned to the permit holder. The permit number must be recorded on the logbook for each trip.

The above approach differs from requiring the authorized vessel to be indicated on the permit. If a vessel linkage existed, it would likely take NMFS several days to change the vessel information on the permit and issue an amended permit. This time delay may prevent charter operators from quickly changing vessels as needed due to breakdown or increased client load. In effect, under the preferred approach, a permit can be quickly transferred between vessels without changing information on the permit, as long as both vessels are identified on separate logbooks, both of which are assigned to the permit holder. This issue is discussed in more detail in Section 2.6.3.

2.6.1.4 Transfers

The Council's preliminary preferred alternative would allow all moratorium permits to be transferable (permanently sold), with the exception of permits issued to CQEs at no cost under Issue 12. However, options exist under Issue 5 that would create a subset of permits that qualified at a specific minimum trip level to be non-transferable. The information in this section applies to those permits that the Council deems transferable.

Transferable moratorium permits may be transferred between persons without any linkage to a vessel. Transfers allow a person to obtain a moratorium permit up to the use caps, or obtain a group of grandfathered permits upon the sale of an entire business. In either situation, the transferor and transferee would need to complete a notarized transfer application containing contact and business ownership information, as well as sign an affidavit declaring U.S. citizenship, meet the business ownership requirements, and attest that the information on the application is true, accurate, and complete. A transfer approval (through RAM) would cause issuance of a new permit to the transferee and the transferor would surrender their privilege to use the permit. A database will be used by NMFS to track permit holders and insure permits are not issued to a person in excess of the use caps.
A person may receive more permits than is allowed by the use cap by obtaining a group of grandfathered permits. A group of grandfathered permits is composed of several permits issued as a single package to a business during initial issuance. This group of permits may be transferred to another business, and thus, the new owner could exceed the use cap, only if the permits are sold as a group. If any permits are transferred out of the group, the sold permit would lose its grandfathered status and the holder would be continue to be subject to the use cap. The remaining permits that were not sold would retain their grandfathered status.

Grandfathered permits would be electronically cataloged by NMFS using a serial number that is associated with the permit holder information and permits within the group. A business would need to provide NMFS with documentation indicating a change in ownership to receive a group of grandfathered permits.

2.6.2 Appeals

Permit applicants that are initially denied a moratorium permit or transfer by NMFS may appeal the initial administrative decision through the NOAA Office of Administrative Appeals. The OAA is a separate unit within the office of the Regional Administrator for the Alaska Region of NOAA Fisheries Service.

The OAA, which is independent of NMFS, is charged with developing a record and preparing a formal decision on all appeals. Unless the Regional Administrator intervenes, the OAA decision becomes the Final Agency Action thirty days after the decision is issued. An applicant who is aggrieved by the Final Agency Action may then appeal to the U.S. District Court. Regulations at 50 CFR 679.43 provide a regulatory description of the existing appeals process. This appeals process would be applied to the charter moratorium permit.

The Council could indicate its preference for the issuance of interim permits to an appellant. Under the Administrative Procedures Act, an interim permit is not required for an activity (such as fishing) that was not Federally licensed prior to the implementation of a Federal program. For example, interim permits were required in the groundfish LLP program because, prior to program implementation, a Federal license was required to fish in the Federally managed groundfish fishery. This is not the situation for the halibut charter fishery, as there has never been a requirement for a guide or business to obtain a Federal permit authorizing an individual to charter fish for halibut. Guides and businesses involved in the charter halibut fishery are currently licensed by ADF&G. Prior to 2005, charter fishing businesses and guides were registered by ADF&G and charter vessels were licensed by the State of Alaska Commercial Fisheries Entry Commission. Thus, the Council can recommend whether or not to issue interim permits in the case that a person appeals under the charter halibut permit program; in this case, the interim permit would allow the appellant to continue halibut charter fishing until the appeal is decided by a Final Agency Action.

The advantage to issuing an interim permit is that the appellant is able to continue fishing during the appeals process. However, past experience with other limited entry programs have demonstrated that some appeals occur to obtain an interim permit, and that these appeals may continue for many years (e.g., some groundfish LLP licenses still have not been resolved). Thus, providing interim permits may increase the number of appeals and associated staff time to adjudicate a larger number of appeals. The disadvantage to not issuing interim permits is that persons with justifiable hardship claims may not be able to operate during the appeals process, potentially resulting in a substantial economic hardship on these persons.

The charter moratorium permit provisions currently include an appeals process for situations involving "unavoidable circumstances" with explicit inclusion of medical emergencies, constructive losses, and military service. Because these hardships are difficult to define and include many different kinds of circumstances, a discussion about the specific types of unavoidable circumstances that may be claimed is provided below. **The Council should also provide guidance about the types of hardship claims that could be made by applicants.**

2.6.2.1 Medical hardships

The Council could recognize an exception for documented medical or psychological conditions that prevented a business owner who would have otherwise met certain qualification criteria from charter fishing or hiring a captain to operate the charter vessel. In this situation, the focus of the medical hardship would be consideration of whether the appellant could have hired an operator to guide halibut charter clients. In some situations, the owner may be incapacitated and unable to make a business decision to hire an operator. For example, a business owner could be in a coma, or so severely constrained by a medical or psychological condition that it is not reasonably possible for him or her to arrange for another person to operate the charter. The groundfish LLP language in Section 2.6.2.4 could be used to describe this type of medical hardship.

A more lenient version of a medical hardship would recognize hardships as documented conditions associated with the business owner, family member, or operator (guide) that effectively kept the business

owner from fishing a vessel, without regard to whether an operator could have been hired to operate the vessel. The disadvantage of this more lenient medical hardship provision is that the scope of the hardship that may be claimed is larger. This could result in more appeals, and the nature of the hardships may be more complex and difficult to document.

2.6.2.2 Constructive loss

In February 2007, the Council selected as part of its preliminary preferred alternative a hardship exemption that includes a "constructive loss." A similar term, "constructive total loss," is often used by insurance companies to mean a partial loss of such significance that the cost of restoring damaged property would exceed its value after restoration, or the vessel was lost at sea and was not recoverable. For example, a vessel could be damaged to such an extent that repairing it would cost more than the repaired vessel would be worth.

However, NOAA OAA may also apply the term in such a way that a constructive loss includes "vessel unavailability." Vessel unavailability is a broader exception than a vessel loss because it includes not only vessel destruction or sinking, but also unavailability due to repairs, maintenance, conversions, or construction. For example, vessel unavailability would include a situation in which a charter operator could not operate during a large portion of the fishing season because of repairs needed to the hull of his vessel. In this case the vessel was repairable, and the operator would need to show intent to complete the repairs in a reasonable amount of time. Regulatory language described in Section 2.6.2.4 could be applied to this version of constructive loss which includes vessel unavailability.

Constructive loss would exclude unavailability that was avoidable. For example, an avoidable situation might include confiscation by the courts, IRS, or law enforcement authorities due to violations of the law, or unavailability resulting from the owner's poor planning or lack of funds. Implicit in this exception is that the vessel must have been physically incapable of being used by anyone for fishing during the qualifying period.

Information is not available that would allow a quantitative estimate of the number of entities affected by constructive loss under the explanations provided above. However, broadening the type of constructive losses considered by NMFS and OAA would likely result in an increase in the number of entities qualifying for a moratorium permit, compared to a more narrow interpretation.

2.6.2.3 Other hardships

Hardships other than medical emergencies, constructive losses, and military exemptions may be considered by NMFS for initial qualification. These hardships would recognize any condition or circumstance that would prevent a person from fishing the vessel because of a condition or circumstance that is unavoidable and beyond the person's control. Hardships that could be claimed include natural disasters, weather events, or other unforeseeable events. These hardships would not include economic reasons such as a severe depression in the value of a charter trip due to a reduction in the number of tourists visiting Alaska or a large increase in fuel prices.

The number of unavoidable circumstance claims would likely be linked with the level at which the Council sets the minimum qualification criteria and the scope of unavoidable circumstances allowed by regulation. A more restrictive qualification criterion would increase the number of persons that may appeal because they did not have the necessary qualifying history. Furthermore, more restrictive hardship criteria would result in fewer people that could obtain a permit without the required history. Because data are not available to describe the type and number of hardship claims that could be made, it is not possible to predict the number of entities that could be impacted by a more restrictive hardship definition.

2.6.2.4 Summary of hardship provisions

At final action, the Council could 1) indicate its preference for the issuance of interim permits to an appellant, and 2) provide guidance about the types of hardship claims that could be made by applicants.

The following guidance used by the Council during the development of the groundfish LLP hardship regulations could be applied to the proposed moratorium: (1) the condition or circumstances were unforeseeable and unavoidable; **(2)** the condition or circumstance were severe enough to have kept the applicant from using the vessel either personally or by obtaining an operator; and **(3)** the applicant did everything reasonable under the circumstances to overcome the condition or circumstance. These criteria provide NMFS with guidance about the types of hardship claims that should be considered. Moreover, the criteria established under the groundfish and crab LLP provide an appellant with a transparent set of conditions that must be met to successfully appeal an initial administrative decision.

The groundfish and crab LLP regulations also specify that the hardship circumstance must be unique to a vessel. This provision eliminates hardship claims that are made because of poor weather or other types of natural or man-made occurrences that are not unique to an individual vessel.

Finally, for all hardship claims (included medical and constructive losses) there would need to be some indication that but for the hardship condition, the owner would have operated the vessel. In other words, the hardship condition must prevent the individual from conducting his business for the time period being claimed. For example, a person could be hospitalized in 2004 for an injury that prevented him or her from making a business decision. If later in 2004 the person was no longer incapacitated by the injury, he or she could not claim the medical hardship in 2005 or the year prior to implementation.

2.6.3 Leasing

The Council's preliminary preferred alternative includes a provision under Issue 6 to prohibit leasing in the moratorium program. Leasing is a nebulous term that describes a multitude of arrangements between two or more persons, but generally infers a temporary transfer of a right to possess or use specific property or a property-like privilege (e.g., fishing permit). Leasing arrangements are often designed to generate rent on the property or property-like privilege while allowing the lessee to use the property without the outlay of capital required if the property privilege was transferred. These lease arrangements are often short-term in nature. One type of leasing arrangement that is common in the commercial halibut fishery is the leasing of halibut individual fishing quota (IFQ). Leasing in terms of the IFQ Program occurs when there is a transfer of annual IFQ from the quota share holder to another party. In this situation, the quota share holder retains the quota share and the annual right of receiving IFQ resulting from that quota share, but transfers the annual right to harvest the IFQ to another person. In this way, the persons involved in the transfer (conducted through NMFS) would be expected to have an arrangement that allows for mutual gain.

An important difference between the IFQ program and the moratorium program is that there is not a short-term harvest privilege (i.e., IFQ) associated with the moratorium permit that could be transferred through NMFS. In the case of the proposed charter moratorium, any change of the persons holding the moratorium permit would involve a transfer conducted by NMFS. For example, a permit holder who wanted to "lease" a permit, could conduct short-term transfers through NMFS or completely circumvent NMFS by making private business arrangements without changing the permit holder's name. Thus, in the latter example, NMFS and NOAA OLE would not have any documentation that a private business

exchange took place. Moreover, there may be a greater incentive for permit holders to use private transactions because transaction costs associated with the application process can be avoided.

Private business arrangements are extremely difficult for NOAA OLE to enforce because documentation about the arrangement is often not available, and a large amount of enforcement resources are required to interpret documents, investigate, and prosecute leasing situations. This problem has been encountered by NMFS with current leasing provisions in the groundfish LLP and IFQ. Regulations governing current programs such as the groundfish LLP prohibit leasing and allow NMFS to review transfer agreements to check if leasing has occurred. Despite having access to the transfer agreements, it is very difficult for NMFS to determine if the transfer is a lease. Moreover, defining the term "lease" is problematic because business contracts can be carefully worded to obfuscate a lease so that NMFS cannot deny an application.

The nature of charter businesses also makes it extremely difficult to determine the types of leasing agreements that would be prohibited and those that would be allowed. Many charter businesses hire a captain to take clients fishing, as this represents a typical charter business model. Contracts with captains are business arrangements that can extend within a year, or over a number of years, and may be terminated at any time. These business arrangements make it difficult to determine with certainty whether permits are being leased to a captain or if the captain is working as an employee if the owner. Given the structure of business arrangements within the halibut charter industry, enforcing a prohibition on leasing would be extremely difficult at best, and impossible in many situations. Section 2.3.3 provides more information about enforcement issues associated with a prohibition on leasing.

2.6.3.1 Purpose of prohibiting leasing

Fisheries generally have leasing prohibitions for permits because of concerns by fishermen about the "absentee landlord" syndrome (Wilen and Brown 2000). In fisheries, this syndrome broadly refers to situations where a permit holder does not personally fish the permit or have any direct involvement with the fishery. Business arrangements involving owners who are not operating the charter vessel is common for the halibut charter industry. Many charter business owners hire captains or deckhands to operate the charter vessel, whether the vessel is owned by the business or captain. For example, a charter business owner in Atlanta may own a lodge in Southeast Alaska that relies on staff to manage the lodge, market trips, and provide guide services. Thus, while maintaining and managing capital in the sport fishery, this type of charter business owner is not on site fishing or working in fishery operations. The moratorium program (Alternative 2) would not eliminate or reduce this type of absentee ownership. Alternative 2 was intended to allow charter businesses to operate the way they do currently, which includes owning a business and hiring skipper and crew to operate the vessel, and/or operate several vessels under a single business.

The extent of the absentee ownership issue in the charter fishery is difficult to predict prior to program implementation. Looking at similar situations and economic theory for guidance, most mature markets that involve productive assets ultimately allow leasing and short-term contracting. In fact, it is difficult to find many property-like privilege systems in the world that prohibit short-term leasing and only allow "permanent" transfers in order to eliminate absentee landlords. The widespread tolerance of leasing suggest two possibilities: (1) the benefits associated with short term production flexibility are seen by most participants as outweighing the social costs associated with absenteeism; and/or, (2) the basic incentives in many systems work against absenteeism (Wilen and Brown 2000). The latter seems particularly likely when the productive use of the asset requires specialized skills. For example, in the charter fishery, the skills and knowledge associated with catching halibut may discourage absenteeism. However, absenteeism in the charter fishery may be encouraged by specialized skills such as superior marketing, packaging, and bundling skills that better serve the market niche associated with a primary business. Given that many businesses owners currently operating in the charter fishery do not personally

guide clients or are offsite managing the charter fishing business, incentives that currently exist for absenteeism would likely continue under Alternative 2.

2.6.3.2 Options to discourage leasing

Given the problems associated with enforcing the prohibition on leasing, other types of regulatory controls that do not directly prohibit leasing could be considered by the Council as part of the final preferred alternative. The types of controls that may be considered influence behavior by increasing the transaction and opportunity costs associated with business arrangements.

The IFQ Program has several controls in place that increase transaction costs between IFQ users by limiting the use of a vessel. These types of controls include a requirement for a certain level of vessel ownership before IFQ may be fished from that vessel, and a proposed regulation that prevents short-term transfers of vessel ownership (i.e., vessel ownership for at least 12 months). The vessel ownership regulation requires a corporation, partnership, or entity who did not receive an initial issuance of QS to demonstrate 20-percent ownership of a vessel before the IFQ may be fished (50 CFR 679.42). This capital investment imposes an opportunity cost for individuals wanting to use QS/IFQ and thus reduces the incentive for some individuals to enter contractual agreements. To further reduce the number of short-term leasing transactions, a 12-month vessel ownership requirement was recently published as a proposed rule in the *Federal Regist*er. A vessel ownership requirement is an effective method for limiting some types of short-term transactions; however, a vessel use restriction that requires a unique vessel be registered through RAM is not an option for the charter moratorium program described in Alternative 2. This type of vessel use restriction would require registration of the vessel with NMFS which would substantially reduce the charter fleet's ability to quickly change vessels in case of breakdowns. In December 2006, the Council considered adding a vessel registration requirement, but decided not to do so, primarily due to the additional burden created.

The Council's preliminary preferred alternative under Issue 6 includes an explicit provision intended to help both enforce the use cap and discourage certain lease arrangements. This provision allows halibut charter permit holders to only use their permit onboard a vessel that is identified on an ADF&G saltwater logbook assigned to the person holding the permit. If the permit holder wants to use the permit on a different vessel, he or she must obtain an ADF&G logbook for the new vessel before the permit may be used on that vessel. The logbook could provide linkage between the business holding the moratorium permit and the vessel from which guided fishing occurs. Implementation of this provision would require modifying the ADF&G logbook to allow the recording of moratorium permit numbers for each trip.

The State has indicated its ability and willingness to make the required change to the logbook. This change would allow moratorium permits to be linked to a business operating a charter vessel on a specific trip (assuming the business holding the permit also operated the charter vessel). Note that a permit holder could only use their permit onboard a vessel that is identified on an ADF&G logbook assigned to the person holding the permit. The advantage to this enforcement method is that additional reporting requirements imposed on the charter fleet are minimal and enforcement authorities could determine if a business exceeded its use cap. This measure would not increase NOAA OLE's ability to determine if private leasing arrangements occurred between the permit holder and the person using the permit to guide charter clients. However, the logbook information would allow enforcement to "flag" businesses that exceeded the use cap or were used on a vessel not corresponding to the business holding the moratorium permit.

Current ADF&G regulations require that every charter vessel from which guided trips are being conducted must have a logbook onboard and be an ADF&G licensed sport fish business. The logbook

effectively links a vessel with the ADF&G business operating a charter vessel and is typically unique to each vessel. A business can obtain a logbook for any vessel it may use to conduct guided trips during any point in the season. Thus, at the beginning of a fishing season, a business could obtain a logbook for each vessel it intends to use. For example, a business that generally uses a single vessel, but has a second spare vessel used only occasionally, could obtain a logbook for the spare vessel at the start of season. In this example, the logbook for the spare vessel would also be registered to the ADF&G business that was holding the moratorium permit. In some situations, a single vessel is used by two businesses. In these situations, each business would need to have a unique logbook linked to the vessel to allow identification of the business holding a moratorium permit. The 2006 logbook provides this linkage for each trip fished.

In summary, the no leasing provision is very difficult to enforce on the charter fishery. The Council's preliminary preferred alternative continues to include a prohibition on leasing, and includes provisions that are intended to discourage leasing.

2.6.4 Enforcement

2.6.4.1 Client endorsement

The client endorsement requirement under Alternative 2, Issue 7, is focused on limiting charter operators to a specified number of clients that are allowed to fish for halibut, which could effectively impose a limit on the total number of halibut harvested. Enforcement of a regulation that limits the number of clients allowed to fish would require enforcement officers to determine if a client is fishing for halibut. This poses a significant enforcement challenge because the moratorium program would be specific to the halibut fishery and not concurrent state fisheries.

Several enforcement options were considered by NMFS, including limiting the number of clients onboard the vessel, line limits, and limiting the total number of halibut that may be harvested. Enforcement prefers limiting the total number of halibut harvested. A limit on the number of harvested halibut would link the daily bag limit allowed for each client to the total number of clients endorsed on the vessel or the number of anglers fishing on the vessel, whichever provides for the fewest number of halibut. A line limit infers that regulations would specify the total number of fishing lines that may be fished at any time during a charter halibut trip. Each of these potential enforcement measures are discussed in detail below.

Client limit. A client limit would require the number of clients onboard a vessel to be limited to the designated client endorsement if any harvested halibut are onboard the vessel. An approximate definition for a client would be anyone onboard the vessel that is not the vessel operator (ADF&G licensed guide), employed by the vessel operator, vessel owner, or permit holder. This definition would basically indicate that clients are anyone who is not skipper or crew, including guests of the operator, vessel owner, or permit holder. This definition allows enforcement officers to distinguish the vessel operator (skipper) and crew from clients. Skippers are documented through the ADF&G guide license; however, no documentation exists for crew.

NMFS would need onboard documentation for crew either using the logbook, Federal registration, or employment papers. Federal enforcement officials would need authorization by the State to check state reporting tools (including guide licenses), and a change to the confidentiality statute described in Section 2.6.1 to use the logbook as evidence. Federal registration (crew licenses) would be the most burdensome because crew would be required to provide employment and contact information to NMFS. Employment papers would also be cumbersome because of the large number of employment arrangement that may occur between crew and business operators. For these reasons, NMFS staff recommends that the ADF&G licensed vessel operator declare crew in the logbook. The regulatory definition for crew would

need to include anyone receiving any compensation (monetary or otherwise) from the vessel operator; vessel owner; or charter business owner, operator, managers, permits holder, or booking agent. Even with the designation of crew in the logbook, vessel operators could (illegally) designate an angler that would otherwise be a client as a crew member. Without a Federal crew permit, it would be impossible to completely close this loophole.

Finally, a limit on the number of clients onboard a charter vessel is very difficult to enforce without significantly changing current business practices in the charter fishery. This requirement would constrain non-halibut fisheries by limiting the number of clients that may be onboard a vessel with any harvested halibut. The saltwater charter fishery commonly has a mixture of clients on a vessel during a trip. These clients may target salmon, halibut, rockfish, lingcod, shark, or be a non-angler along for the experience. Combination trips are common, with clients targeting one species using one type of gear then switching to another gear type and target species. For example, a group of clients may focus fishing effort on halibut during the morning and salmon during the afternoon. In this case, the number of clients allowed to fish salmon would be constrained by the permit endorsement for halibut. Another characteristic of the charter fishery are multi-day charter trips. These charters may carry more clients than the number indicated on their halibut permit endorsement. In this situation, no halibut could be harvested because more clients are present than allowed under the permit endorsement.

Line limits. Line limits could either limit the number of lines fishing or the number of rods on a vessel. A large problem with enforcing line limits is determining when the line is fishing and observing the line while fishing. A line would be "fishing" when it is in the water. Thus, enforcement would need to observe and document the number of lines in the water to enforce an infraction of the client endorsement (i.e., more lines in the water than the client endorsement). This would require a significant amount of enforcement resources because dockside checks could not be conducted and enforcement would need to observer the infraction while on the water. NMFS does not recommend this enforcement method.

An alternative to observing a line that is "fishing," is it to limit the number of rods on a vessel. Under this limitation, enforcement could check a vessel at any time and issue a citation if too many rods were onboard the vessel. While this method offers a higher degree of enforceability than observing a line while fishing, it imposes a considerable burden on the charter fleet. A rod limit would greatly reduce an operator's ability to carry spare rods and rods that are specialized for certain conditions and fishing methods.

Harvest limits. The most effective and efficient enforcement method for the client endorsement would be to limit the number of harvested halibut from all sources (client, skipper, and crew). This limit would be linked to the collective daily bag limit associated with the number of charter anglers endorsed on the moratorium permit or aboard the vessel; whichever provides for the fewest halibut.

There are two issues associated with controlling the number of halibut harvested aboard a charter vessel: angler specific bag limits and the "gifting" of fish by skipper and crew. A bag limit of two fish per angler per day is currently promulgated in the IPHC and Federal regulations. The charter moratorium client endorsement would need to be tied to the IPHC bag limit so the total number of halibut harvested on the vessel would not exceed the collective daily bag limit for charter anglers endorsed on the permit or aboard the vessel; whichever provides for the fewest halibut. The second issue involves the gifting of fish to clients by skipper and crew. This poses an enforcement problem because clients may exceed their bag limit by accepting gifted fish from skipper and crew. This situation results in a greater number of halibut harvested than the collective bag limit for the number of endorsed clients. For example, a charter operator may have ten harvested halibut onboard, but only eight halibut would be allowed under an endorsement for four clients. This scenario would prevent enforcement of the client endorsement using a harvest restriction. For this reason, retention of halibut by skipper and crew needs to be eliminated or

controlled by limiting the total number of harvested halibut on the vessel to the number of clients (up to the use cap) onboard the vessel. It should be noted that a prohibition on skipper and crew fish was promulgated by ADF&G in 2006 for Area 2C and was again promulgated in 2007 for Areas 2C and 3A.

Enforcement based on the number of harvested halibut is most desirable because it provides a high level of accountability at sea, at the dock, and post-season. This option would avoid the pitfalls associated with documenting skipper and crew, limiting non-halibut fisheries, and enforcing line limits. Moreover, there would not be any additional documentation required than what is currently recorded in the logbook.

In summary, NMFS recommends a harvest limit based on the bag limit and client endorsement as the best option for enforcing the provisions under Issue 7. This enforcement method would also not restrict other state fisheries or the gear used aboard a vessel. Alternatively, enforcing a limit only on the number of clients onboard a vessel would require a change to the logbook to allow crew to be designated.

2.6.4.2 Business ownership requirement

Section 2.6.1.2 describes issues associated with the 75 percent U.S. business ownership requirements for the moratorium permit and 10 percent ownership rule of affiliation to determine the number of permits that may be associated with a single entity. Additionally, businesses that do not meet the U.S. ownership requirements will be grandfathered into the moratorium permit system; however, a change in ownership invalidates the grandfathered ownership status.

As discussed in Section 2.6.1.2, the affiliation requirements pose significant enforcement issues because of the problems associated with determining affiliation. Without information about business ownership, it is impossible in some situations for NOAA OLE and General Counsel (NOAA GC) to prosecute cases of fraud and enforce the ownership requirements.

2.6.4.3 Leasing

As stated previously, enforcement of a prohibition on leasing is very difficult for NOAA OLE and GC to investigate and prosecute. There are two primary issues that complicate enforcement: (1) often it is not possible for enforcement to obtain private business contracts that are not submitted to NMFS; and (2) even when business contracts are submitted to NMFS, it is not always possible for NMFS and enforcement to determine that the business arrangement described in the contract is a lease. The first issue cannot be avoided under Alternative 2 because of the myriad of small business arrangements that may be arranged by a permit holder. NOAA OLE does not have the capability to enforce private business arrangements outside of agency processes such as requiring transfers and associated contractual documentation through NMFS. Even if NMFS receives contractual documentation during a transfer, the term "lease" is very difficult to define and contracts can be constructed in such a way that they obfuscate lease arrangements by avoiding key terms that may trigger suspicion by enforcement authorities. Thus, attempting to enforce a prohibition on leasing requires substantial staff resources to investigate and prosecute cases. Additionally, many situations would likely not contain the level of documentation necessary to prosecute a case.

2.6.5 Community Quota Entity permits

The term Community Quota Entity (CQE) was created under GOA Amendment 66, for purposes of the commercial halibut and sablefish IFQ Program. These entities, representing a subset of small, isolated, Gulf coastal communities (35 total communities in Areas 2C and 3A combined), are currently eligible to purchase commercial halibut and sablefish catcher vessel quota share on the open market under Amendment 66. Thus, while regulations describing the CQE program are currently only applicable to the

commercial IFQ Program, they could be modified to incorporate the charter halibut moratorium program under Alternative 2, Issue 12.

Currently, a CQE is required to a non-profit entity approved by the governmental structure in the community it represents. CQEs are currently required to disclose business relationships and structure, obtain approval by the Regional Administrator to represent a community, and describe the procedures used to manage and use commercial halibut QS. Thus, CQEs are already required to submit specific information prior to becoming qualified to represent a community as a CQE and as part of an annual report to NMFS.[98] If Issue 12 is selected as part of the Council's final preferred alternative, a participating CQE could also be required to submit information relevant to the use of a charter halibut moratorium permit.

Note that in February 2007, the Council added a requirement that the CQE must identify the recipient of the requested permit prior to issuance of the permit by NMFS (included below). This requirement is intended to force the CQE to undertake the process of determining how the permit will be used and solicit requests from specific businesses prior to requesting the permit from NMFS. The addition of this provision supports the concept that the Council may consider requiring the CQE to submit specific information related to how the CQE is using the halibut charter permit(s). The information that the Council may want to consider requiring under the moratorium program falls into two categories: 1) information NMFS would require of a CQE in a request for a charter permit(s); and 2) annual information NMFS would require related to the use of the charter permit by the CQE. Note that these information requirements are only intended to apply to permits that are *requested* by the CQE from NMFS at no cost (Issue 12); they are not intended to apply to permits *purchased* by a CQE. Purchased permits would be treated similarly to any other business. See below:

1. What might NMFS require of a CQE in a request for a charter permit? For example:
    a. Name of CQE and the communities it represents
    b. A statement that explains the procedures used to solicit requests to use the permit held by the CQE, and that sets out the criteria and procedures to be used to select from among those who have expressed a desire to use the permit (which may be different from the CQEs criteria to determine use of commercial IFQ)
    c. Identification of the intended recipient of the requested permit(s)
2. What information might NMFS require to be added to a CQE's existing annual report? For example:
    a. Number of charter permits held/used
    b. Name and address (residence) of captain retained to use permit (& crew, if any)
    c. Name/ownership info on vessel used
    d. Number of trips during season
    e. Port of landing(s) associated with trips

The CQE regulations for the IFQ program also have a recordkeeping and reporting requirement for IFQ landing and fee calculation. These regulations would not be applicable to the charter fishery and would thus not be carried over to the moratorium system. A CQE would be responsible for selecting the person authorized to use a permit and, under the current options in Issue 12, demonstrating use in the year following the first calendar year the permit was issued.

In addition to meeting CQE qualification requirements in the preceding paragraph, a CQE would also need to meet the minimum qualification criteria detailed in Alternative 2. In evaluating whether a CQE is qualified to receive a moratorium permit, NMFS would use the logbook to determine if the community

[98]See 50 CFR 679.5(l)(8) and 50 CFR 679.41(l)(3), respectively.

met the trip criteria selected at final action. As previously discussed in Section 2.6.1, direct access to the logbook is the most efficient method for NMFS to determine qualified CQEs, as well as notify qualified CQEs that they may apply for a moratorium permit(s). Permits issued to CQEs would be endorsed by area (2C or 3A), designated as six clients per permit, and be non-transferable. The same client endorsement and use cap enforcement issues discussed in Section 2.6.4.1 apply to permits held by CQEs.

Alternative 2, Issue 12 would also require an operator using a CQE permit to originate or terminate in the community represented by the CQE. NOAA OLE staff indicated that to determine a starting or ending point for a trip, they would need to identify the geographic boundaries designating a CQE community as well as having a regulatory definition for a trip. To define community boundaries, NOAA OLE would use U.S. Census data for incorporated communities and census designated places (i.e., unincorporated communities). To facilitate onsite enforcement, each CQE moratorium permit would have the name of the community where the trip is required to originate or terminate.

NMFS will also need to develop a regulatory definition of a trip, including defining when a trip starts or ends. It is likely that a requirement that a trip must terminate in a community would be more enforceable because enforcement officers could evaluate a halibut trip based on harvested halibut either being on the vessel or offloaded. A requirement to originate in a community would likely require charter operators to declare in the ADF&G logbook that the trip being taken is for halibut. It is also more problematic because the regulation would need to be drafted to exclude situations where clients are picked up in a non-CQE community and transported to a CQE community where the fishing trip would originate. A requirement for a trip to terminate in a community may also limit multi-day charters because clients may arrive or depart from a vessel in waters outside the community (e.g., float plane drop-off).

An alternative approach was used in addressing a similar, but not identical, situation in GOA Amendment 66 implementing the original CQE Program. This program requires that only permanent residents of the community represented by the CQE can lease commercial halibut and sablefish IFQ derived from quota share purchased by the CQE under this program. As opposed to delineating geographic boundaries designating the specific areas within and/or surrounding a community that would constitute legitimate residency in the community, NMFS requires that the resident applying to receive the annual IFQ sign an affidavit attesting that they: (1) are a U.S. citizen; (2) have maintained a domicile in the eligible community for the 12 consecutive months immediately preceding the time when the assertion of residence is made; (3) are not claiming residency in another community, state, territory, or country, and (4) qualify as an IFQ crew member. If credible information was made available which contradicted the affidavit, an investigation could be initiated.

2.6.6 Program costs

The halibut charter moratorium program will increase administrative and enforcement burdens on agency resources. This burden can be translated into costs imposed on the agency that include the hiring of new staff or the redirection of current staff resources. Redirection of staff resources would reduce the ability of the agency to administer current management programs and enforcement activities. It is not possible to determine which management functions would suffer from a redirection of staff resources because some programs are currently being developed and agency resources for existing programs change through time. Moreover, the annual agency budget also determines the availability of resources and to a certain extent how those resources are applied. The cost estimates provided should be considered approximate estimates of staff resources required to administer and enforce the moratorium system.

Table 36 provides a summary of the costs associated with implementing the moratorium system.

2.6.6.1 Enforcement costs

To provide adequate enforcement coverage for the moratorium system, NOAA OLE would need to have enforcement presence and administrative support for the following communities: Petersburg, Sitka, Juneau, Anchorage, Homer, and Seward. With the exception of Anchorage, all other communities are major charter fishery ports, with Sitka, Homer, and Seward being major landing sites for charter clients fishing for halibut. Enforcement officers based in Anchorage would be used to enforce regulations in Prince William Sound communities, including Valdez, Whittier, and Cordova. These officers may also be used to meet enforcement needs in Kodiak. NOAA OLE estimates that one enforcement officer at an annual cost of $150,000 would needed for each of these ports, with two officers based in Anchorage. The annual cost for seven officers is approximately $1,050,000. This cost estimate includes the enforcement time required to conduct on-the-water enforcement, collect evidence, and perform other administrative duties. Enforcement staff would either need to be hired or redirected from other management programs to provide this level of coverage.

The enforcement costs for the program are significant due to the large number of charter vessels that operate annually, the low level of current enforcement coverage for the charter fishery, and certain elements in the moratorium program. NOAA OLE would be charged with the task of ensuring the integrity of the permit system is maintained for the moratorium program and any long-term management be linked to the moratorium program.

As described in Section 2.5.10, the number of moratorium permits issued for Area 2C could range from 509 – 761 permits, with the potential for an additional 54 – 126 new permits issued to CQEs. In Area 3A, 481 – 662 permits are estimated to be issued under the moratorium, with the potential for an additional 56 – 210 new permits issued to CQEs. NOAA OLE has indicated that a large amount of staff are necessary to enforce permit use on the charter fleet, which took approximately 43,000 trips annually in 2004 and 2005 (Areas 2C and 3A combined, see Table 4), with the average annual number of bottomfish trips taken by each vessel being 30 and 40 trips. By comparison, approximately 1,400 vessels completed 7,500 IFQ trips in the commercial halibut IFQ fishery. Thus, the charter fishery has approximately 5.7 times more annual bottomfish trips than the halibut IFQ fishery.

In 2006, NOAA OLE inspected 146 of the IFQ trips whereas only 14 charter bottomfish trips were inspected. The USCG indicated at the 2007 IPHC meeting that they did not inspect any charter vessels in 2006. The current low level of coverage in the charter fishery is at least partially the result of other programs requiring enforcement, including 12,000 subsistence halibut fishers that were added to the enforcement workload without an increase in staff.

In addition to the issues associated with enforcing the regulation on a very large number of vessels distributed over a large geographical area, certain characteristics of the moratorium program increase the burden on enforcement resources. One issue is that the moratorium permits will be issued to individuals that may transfer the permits across vessels. Thus, the permit holder could change the vessel on which the permit is being used without changing information on the permit through RAM. For this reason, the vessel on which the permit is being used could change daily in some cases. Note that the Council has included a provision that would require that halibut charter permit holders only use their permit onboard a vessel that is identified on an ADF&G logbook assigned to the person holding the permit. Each new vessel on which the permit is used must have an ADF&G logbook, and the permit number must be recorded on the correct logbook for each trip.

These attributes increase the staff time associated with enforcement because charter vessels will need to be inspected regularly to ensure that a vessel has a valid permit identified on the ADF&G logbook on any fishing day and that the logbook is assigned to the permit holder. In addition, enforcement will have to

ensure that the number of clients on board the vessel does not exceed the permit endorsement. Moreover, because charter trips characteristically terminate at a certain time of day (before dinner or before the cruise ship leaves), a single enforcement officer could only inspect a relatively small percentage of vessels in communities with at least moderately sized charter fleets. As a result, multiple enforcement officers at a single port would be required to cover more vessels. In addition, many ports and lodges are remote, and thus require resources for travel and multiple enforcement officers to provide coverage and meet safety needs.

In the case of the most rural CQE communities, enforcement staff is not stationed near these communities and would thus need to make special arrangements to patrol these areas. Enforcement staff based out of Anchorage would be required to cover Prince William Sound communities and collect evidence. Finally, full time enforcement officers are required for the entire charter fishing season because of the large amount of time devoted to case investigation, administrative work, and training. Moreover, the Council is currently considering long-term management measures for the charter halibut sector that may build upon the proposed moratorium program. As a result, these enforcement officers could also be applied to other long-term management solutions being developed by the Council and be available to enforce future programs.

Costs required to prosecute cases are considered part of enforcement costs. NOAA GC estimates that one full time attorney (GS-11) at an annual cost of $100,000 would be required to prosecute violations under the moratorium program. This cost is based on a substantial increase in enforcement staff that will be generating cases that will require prosecution by NOAA GC. Civil administrative prosecution of these cases takes considerable staff resources. Prosecution could include reviewing cases and evidence of any alleged violations, preparation of the necessary documents and pleadings, working with witnesses, conducting hearings, and addressing legal issues and challenges. Given the level of workload expected from the additional enforcement officers, NOAA GC does not have the staff available to maintain current staffing levels for existing programs and also meet the needs of the new moratorium program. Staff could be redistributed at the detriment of other programs, but this is not recommended given the continuing need to enforce all regulations.

Given the 2007 Federal budget, additional money would likely be difficult to obtain. For this reason, NOAA OLE has determined that a redirection of NOAA OLE and GC staff, to the detriment of other programs, would need to occur to obtain an adequate level of enforcement for the proposed moratorium program. The magnitude of the effect would depend on the level of staff reduction for each program.

2.6.6.2 Administrative costs

Additional NMFS staff would be required to process applications, provide notification of eligibility, and potentially distribute and collect logbooks. NMFS estimates that one full-time staff person at an annual cost of $75,000 would be required to cover administrative needs, including entering permit and logbook information, issuance of permits, determining eligibility, and addressing public inquiry. Initial programmer time would also be required to construct the database used to hold personal/business information associated with permit holders, including logbook information about eligibility, permit holder information, and CQE information. The initial cost estimate for the database to securely store State logbook information and create a website is approximately $5,000. Annual database maintenance is expected to be minimal, requiring a maximum of one to two weeks of NMFS programmer time at an annual cost of $2,500 – $5,000.

Table 36 Federal agency cost estimates for implementing the moratorium program

Attribute	Estimated Cost	Justification
Six full time enforcement officers	Seven officers at $150,000 each Total = $1,050,000	Provide enforcement coverage for Petersburg, Sitka, Juneau, Homer, Seward, and an additional officer based in Anchorage
One GS -11 attorney	$100,000	Prosecute cases for a moratorium permit violation
One full time RAM staff person	$75,000	Process applications and administer program
Logbook processing and production costs (assumes state logbook is used)	Initial year: $5,000 Annual: approximately $2,500 – $5,000	Database/website construction to maintain permit information Database/website maintenance
Total annual cost	**$1,227,500 – 1,230,000**	

2.6.7 Future logbook requirements

The Council is considering long-term management options that would utilize the charter moratorium/limited entry program to establish a group of persons qualified for either a more refined limited access program or a quota share based system in the future. Long-term management programs for the charter fishery being considered by the Council currently do not use a qualifying period for logbook history that includes years after implementation of the moratorium; however, the Council may amend the options being considered at a later date. For this reason, it may be desirable to collect catch and effort information that is specific to each moratorium permit upon implementation. The current State of Alaska logbook could be used to collect moratorium-specific information if it is modified to record catch associated with each moratorium permit. The scope of this change is currently unknown.

2.6.8 Summary of implementation issues

In summary, the Council should be aware of the following implementation or enforcement issues and consider providing further guidance at final action where identified:

- **The Council should state whether it wants to issue interim permits to someone appealing their permit status.** Issuance of interim permits may increase illegitimate claims; however, an interim permit would allow businesses with legitimate hardship claims to continue fishing during the appeals process. Without an interim permit, appellants would not be able to halibut charter fish unless they made arrangements to use a valid moratorium permit.

- There are difficulties with enforcing the client endorsements provided for under Issue 7. A harvest limit for a vessel that is linked to an angler's bag limit and client endorsement on the moratorium permit is the most enforceable option. The charter moratorium client endorsement would be tied to the IPHC bag limit in such a way that the total number of halibut harvested on the vessel could not exceed the collective daily bag limit for charter anglers endorsed on the

permit or aboard the vessel. **Unless directed otherwise, NMFS would likely use this approach to enforce the client endorsements selected under Issue 7.**

- The prohibition on leasing is very difficult to enforce, given the typical business operations of the charter fishery. However, the Council's preliminary preferred alternative under Issue 6 includes provisions that could discourage lease arrangements. These include requiring that moratorium permit numbers be recorded in the State logbook for each trip (Section 2.6.3), and that a permit holder could only use their permit onboard a vessel that is identified on a logbook assigned to the permit holder. This information would be used by NOAA OLE to determine if a permit holder exceeded its use cap or used a permit on a vessel with a logbook not registered to the ADF&G licensed business holding the moratorium permit.

- **The Council should provide a record as to the extent of constructive loss, medical hardships, and other hardships that should be considered by NOAA Office of Administrative Appeals (Section 2.6.2).** The Council could adopt language similar to that implemented under the groundfish LLP (described in Section 2.6.2.4).

2.7 Summary

Table 37 provides a summary of the costs and benefits that are expected to result from the two alternatives considered. Overall, the status quo will continue to allow new entry into the charter fishery. Client demand will continue to determine the number of trips taken. Prices for charter trips will be set in a competitive market based on the forces of supply and demand. Persons taking trips with fewer clients will operate inefficiently and waste resources. Those wasted resources are additional expenditures that may benefit suppliers of charter businesses.

The moratorium is not expected to limit the number of halibut charter trips in the near future. As charter catch increases, the halibut assigned to the commercial IFQ fishery will decline. The impact of that decline on firm revenues will depend on the elasticities of supply and demand. Charter client's consumer surplus will not be impacted if they continue to be able to book trips that generate the same utility as under the open access at a competitive market price. Charter operators will be protected from competition from new entrants, but will be allowed to expand the number of trips they take, in most cases. The only time trip supply may be a constraint in the near term would be during holidays (e.g., July 4th) and perhaps popular fishing weekends.

Table 37 Summary of costs and benefits by alternative

Issue	Alternative 1. No Action (status quo)	Alternative 2 example Moratorium 1 (M-1)	Alternative 2 example Moratorium 2 (M-2)
Summary of the Alternatives	No Action (status quo). Continue current management structure of the halibut charter fishery, including the GHL program approved by the Council	• Persons holding permits must be U.S. citizens or businesses with at least 75 percent U.S. ownership. (grandfather initial recipients) • Permits issued to ADF&G licensed fishing guide business owner • Permits would be designated for use in either IPHC Area 2C or 3A • Permits would be allowed to be stacked • Leasing of permits would be prohibited, but enforcing the provision may not be possible. • Allow transfers of permits • Endorse permits for the highest number of clients on any trip, but not less than 4 • Qualification for a permit would be based on Option 10.2 and require 20-trips during 2004 or 2005 and the year prior to implementation • No use caps would be imposed • No permit allocations to CQE communities that do not meet the initial allocation requirements	• Persons holding permits must be U.S. citizens or businesses with at least 75 percent U.S. ownership (grandfather initial recipients) • Permits issued to ADF&G licensed fishing guide business owner • Permits would be designated for use in either IPHC Area 2C or 3A • Permits would be allowed to be stacked • Leasing of permits would be prohibited, but enforcing the provision may not be possible • Allow transfers of permits that were earned by vessels that qualified at trip levels of at least 20 trips • Endorse permits for the highest number of clients on any trip (capped at 8 in 2C and 20 in 3A), but not less than 4 • Qualification for a permit would be based on Option 10.1 and require 10-trips during 2004 or 2005 and the year prior to implementation. A minimum of 20 trips in a qualifying year would be required to earn a transferable permit. • Use caps would be set at 5 permits • Allocations to CQEs, representing communities in which 10 or fewer active charter businesses terminated trips in 2004 and 2005. Limit of 5 requested permits per community in 2C and 7 requested permits in 3A. Overall (purchased or requested) CQE use caps would be 10 permits per 2C community and 14 per 3A.

Issue	Alternative 1. No Action (status quo)	Alternative 2 example Moratorium 1 (M-1)	Alternative 2 example Moratorium 2 (M-2)
Impacts on resource management	None	Could provide a foundation for future management actions that better limit growth in charter harvests of halibut. This moratorium is not expected to constrain client trips. A moratorium that does not prevent clients from taking halibut trips will have no impact. However, if the moratorium is constraining in the future, it could result in increased effort for other species like salmon, rockfish, and ling cod.	Same as M-1
Impacts on producer surplus in the commercial sector	Growth in the halibut harvests by charter clients will continue to increase. Because changes in quantity of halibut sold in the commercial market have little impact on ex-vessel prices (inelastic ex-vessel demand), producer surplus in the commercial IFQ fishery will decline as the amount of halibut they harvest decreases.	Impacts will be similar to the status quo. However, if the moratorium is ever constraining (at current growth rates a minimum of more than 10 years from 2006), it could slow the decline in producer surplus.	Impacts will be similar to the status quo. However, if the moratorium is ever constraining (expected to take longer than M-1), it could slow the decline in producer surplus.
Impacts on post-harvest surplus (consumer surplus of commercial halibut).	Will decline as the amount of Alaskan halibut on the market decreases. Post-harvest surplus is expected to substantially contribute to the overall commercial surplus.	Will decline as the amount of Alaskan halibut on the market decreases. Post-harvest surplus is expected to substantially contribute to the overall commercial surplus.	Similar to M-1.
Commercial QS values in Areas 2C and 3A	Decreases in harvest amounts will not be offset by ex-vessel price increases. QS values will decline due to the expected decrease in the revenue stream of the shares.	Decreases in harvest amounts will not be offset by ex-vessel price increases. QS values will decline due to the expected decrease in the revenue stream of the shares. Decreases would be moderated, if the moratorium constrains harvests in the long-term. However, the moratorium is not expected to constrain harvests.	Similar to M-1.

Issue	Alternative 1. No Action (status quo)	Alternative 2 example Moratorium 1 (M-1)	Alternative 2 example Moratorium 2 (M-2)
Commercial QS values in Areas 3B - 4E	Minimal positive impact. Because the change in quantity sold has little impact on ex-vessel price, increased halibut harvests by the charter sector are expected to slightly increase ex-vessel prices and QS values in these areas.	Minimal positive impact. If the moratorium does not constrain charter harvests, the impacts will be the same as the status quo. Price increases will be constrained if the moratorium limits charter catch.	Minimal positive impact. If the moratorium is a constraint in the future, it will increase QS values. The magnitude of the increase should fall between those expected from the status quo and M-1.
Benefits to guided anglers (Compensating variation)	Compensating variation will increase. Compensating variation per client in the lower Cook Inlet in 1997 was estimated to be about $83 per Alaskan angler and $119 per non-residents for all saltwater sport fishing trips. While these amounts are not expected to carry over to the halibut charter fishery or all areas of the State, they do indicate that additional charter clients will increase total compensating variation.	Impacts similar to status quo. Any reductions in the number of clients taking trips will reduce compensating variation.	Similar to M-1. Limiting the transfer of some permits will prohibit about 150 businesses from selling permits they are issued. An additional 81 businesses would be allowed to sell some permits. Limiting a person's ability to sell permits (assuming they cannot "lease" the permit) will constrain effort and those permits would have no value when the owner leaves the fishery.
Charter operators benefits (producer surplus)	Charter operators are expected to earn normal profits (no producer surplus) in the long-term. Producer surplus could be earned for a short time, but free entry into the business would ensure that competition would drive charter prices back to the level where normal profits are earned.	Limiting the number of vessels that may operate would help limit competition from new entrants in the fishery, but competition from existing permit holders is expected to keep businesses from earning above normal profits.	Limiting the number of vessels that may operate would help limit competition from new entrants in the fishery, but competition from existing permit holders is expected to keep businesses from earning above normal profits. Limiting the transfer of some permits will prohibit about 150 businesses from selling permits they are issued. An additional 81 businesses would be allowed to sell some permits. Limiting a person's ability to sell permits (assuming they cannot "lease" the permit) will constrain effort and those permits would have no value when the owner leaves the fishery. Use caps could prevent some businesses from expanding their operations, potentially reducing the market price of the permits.

Issue	Alternative 1. No Action (status quo)	Alternative 2 example Moratorium 1 (M-1)	Alternative 2 example Moratorium 2 (M-2)
Regional impacts	In the lower Cook Inlet, a 10 percent increase in participation resulted in an 18 percent increase in compensating variation and a 5 percent increase in expenditures, personal income, and jobs. As participation increases, expenditures, personal income, and jobs are expected to increase, but at a decreasing rate. Those impacts cannot be directly applied to other areas of the state, but do provide information on the magnitude of impacts that could be expected. Redistributing charter activity from one area to another would change the benefits derived by the community, but overall net National benefits would not be expected to change.	Same as status quo.	Same as status quo. Allowing 23 – 33 small, rural communities to request additional permits could increase economic activity in those areas. The effectiveness of the program will depend on the communities' ability to attract charter clients.
Costs to Federal government	No change in costs	Implementing the program is expected to require 6 additional enforcement officers, 1 additional attorney, and 1 additional RAM staff. The anticipated cost increase is about $1.23 million.	Same costs as M-1.
Estimated net benefits to the Nation	The difference between long-run charter angler surplus and the post-harvest surplus will determine whether an increased harvest by the charter sector will increase or decrease net National benefits.	Same as status quo.	Same as status quo.
Program objectives	Does not address issues of unconstrained growth of the halibut charter fleet or the amount of halibut they harvest. The GHL imposes a target harvest amount, but the tools currently used to limit charter growth have not constrained catches to the GHL.	Limits the number of charter vessels that may operate. Not expected to limit the number of clients that fish or to constrain charter harvests to the GHL. Provides a platform to build a more restrictive program in the future. Defines the beneficiaries in future allocation programs.	Impacts are similar to M-1. More vessels and businesses would qualify under this structure. Allocating non-transferable permits could increase the complexity of future management actions that build on this program.

Issue	Alternative 1. No Action (status quo)	Alternative 2 example Moratorium 1 (M-1)	Alternative 2 example Moratorium 2 (M-2)
Unguided anglers	Minimal impacts. Unguided angler harvests are not constrained by the charter harvests under the status quo. They will be allowed to continue to increase their harvest levels that are primarily constrained by bag limits and number of trips. They will continue to share fishing areas with charter operators, so increased charter trips could slightly increase competition for fishing areas. Alternatively, unguided fishermen may follow guided vessels for safety reasons or to obtain information on fishing areas. Allowing more charter vessels in the fleet would benefit unguided anglers in those cases. The compensating variation of the unguided anglers would be expected to increase as the number of trips increases.	Impacts similar to the status quo. Reductions in the number of charter vessels on the fishing grounds could reduce competition for fishing grounds. Those conflicts are expected to be minimal under any alternative.	Impacts similar to the status quo. Reductions in the number of charter vessels on the fishing grounds could reduce competition for fishing grounds. Those conflicts are expected to be minimal under any alternative.
Personal use/subsistence	No impact. Unless personal use and subsistence users are unable to access halibut as a result of increased charter harvests (which is not expected to occur), no impact on their harvest is expected.	Same as status quo.	Same as status quo.
E.O. 12866 significance	Does not appear to be significant.	Does not appear to be significant.	Does not appear to be significant.

3.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS

3.1 Introduction

The Council considered limiting the vessels that may operate in the halibut charter industry by implementing a moratorium on new entrants. The Regulatory Flexibility Act (RFA) emphasizes predicting significant adverse economic impacts on small entities (e.g., businesses) as a group distinct from other entities, which may result from regulations being proposed. Since the RFA is applicable to businesses, non-profit organizations, and governments, guided anglers fall outside of the scope of the RFA. Therefore, they will not be discussed in the RFA context. The focus of the RFA section will be the halibut charter businesses and the 23 - 33 rural communities that may expand their participation in this fishery.

Until the Council makes a final decision, a definitive assessment of the proposed management alternative(s) cannot be conducted. In order to allow the agency to make a certification decision, or to satisfy the requirements of an Initial Regulatory Flexibility Analysis (IRFA) of the final preferred alternative, this section addresses the requirements for an IRFA, which is specified to contain the following:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:

    1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
    2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
    3. The use of performance rather than design standards;
    4. An exemption from coverage of the rule, or any part thereof, for such small entities.

3.2 A description of the reasons this action is being considered

The Pacific halibut resource is fully utilized by commercial and sport fishermen in IPHC Areas 2C and 3A. The Council has adopted a GHL for guided sport fishermen, but that action alone has not resolved allocation issues between the guided sport sector and other users of the halibut resource. The open-ended reallocation between the commercial and guided sport fishermen still exists, and members of the commercial halibut sector are concerned about the stability of their access to the halibut resource. While this action is not expected to slow charter halibut harvests in the short-term, the program may limit long-

term growth and may provide a foundation on which measures to more effectively limit charter harvests can be built.

National Standard 8 of the Magnuson-Stevens Act directs that "conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to: (a) provide for the sustained participation of such communities, and (b) to the extent practicable, minimize adverse economic impacts in such communities." Although the halibut IFQ program was developed under the Halibut Act, which does not require consistency with all of the Magnuson-Stevens' national standards, the Council believes Congress clearly intended that the Council consider the impacts of all its management measures, including halibut management regulations, on communities substantially dependent upon, or engaged in, fisheries.

A major motive in developing this program was to take a first step towards stabilizing sector harvests of halibut taken as part of the commercial and charter fisheries. Commercial halibut fishermen were concerned that, if left unchecked, growth in the charter fleet would erode their percentage of the harvest. That could result in negative impacts on the communities that benefit from the commercial fishery. However, because communities that benefit exclusively from the commercial IFQ program are not directly regulated by this amendment, they are not considered under this Regulatory Flexibility Act analysis.

The moratorium options, with qualification based on the number of trips taken in 2004 or 2005, are not designed to provide community development opportunities. One aspect of the proposed action focuses specifically on communities within which relatively few businesses have terminated trips in the past. These businesses will likely receive an insufficient number of permits to sustain or increase economic development opportunities in the halibut charter industry in specified, small, rural communities.

In pursuing allowing a community entity (CQE) to receive a limited number of halibut charter permits at no cost, the Council seeks to:

a) prevent introducing an economic barrier to entry in the halibut charter fishery for rural, small communities with under-developed charter ports;

b) provide for sustained participation in the charter industry;

c) increase geographical diversity of charter operations and;

d) foster economic development and stability in these communities.

3.2.1 Objective Statement of Proposed Action and its Legal Basis

The objective of the proposed action is to design a program that will start the process to resolve conflicts between the commercial and guided sport sectors of the halibut fishery in IPHC Areas 2C and 3A. During the early 1990s, the guided sport fleet experienced substantial growth. Projections made in the mid-1990s, indicated that, if left unchecked, the charter fleet could grow to a level equal to or greater than the commercial fleet in Areas 2C and 3A by year 2008. Growth rates in charter fleet harvests are difficult to ascertain, but a clear trend in growth has been apparent over the past 10 years. Yet, it is highly unlikely that those early projections would be realized. However, decreases in halibut biomass levels, combined with any growth in catch by the charter fleet, results in a *de facto* reallocation away from the commercial halibut fleet, under the status quo. The Halibut Act, along with the Magnuson-Stevens Act, grants the Council authority to oversee allocations of the halibut fishery in Alaskan and Federal waters. Setting overall removals of halibut is under the authority of the International Pacific Halibut Commission.

3.2.2 Description of each Action (non-mutually exclusive alternatives)

A complete list of the primary alternatives is contained in Chapter 1 of this document. That section is incorporated here, by reference. The major alternatives being considered are:

Alternative 1. No Action - Do not develop measures to implement a moratorium on new entrants into the halibut charter fishery.

Alternative 2. Implement a moratorium on entry into the halibut charter fishery in Areas 2C and 3A (using a control date of December 9, 2005), and include an option that would issue additional permits to small, isolated, rural communities that have few or no halibut charter businesses operating out of their community.

3.2.3 Reason for, and focus of, an IRFA

To ensure a broad consideration of impacts and alternatives, this draft IRFA has been prepared pursuant to 5 USC 603, without first making the threshold determination of whether or not the proposed actions would have a significant adverse economic impact on a substantial number of small entities. In determining the scope, or 'universe', of the entities to be considered in an IRFA, NMFS generally includes only those entities, both large and small, that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the directly regulated group(s) (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis.

3.2.4 Requirement to Prepare an IRFA

The RFA, first enacted in 1980, was designed to place the burden on the government to review all proposed regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or non-profit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting (negative) impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action.

3.2.5 What is a Small Entity?

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) and small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a 'small business' as having the same meaning as 'small business concern' which is defined under Section 3 of the Small Business Act. 'Small business' or 'small business concern' includes any firm that is independently owned and operated and not dominate in its field of operation. The SBA has further defined a "small business concern" as one "organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor... A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust, or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture."

The SBA has established size criteria for all major industry sectors in the U.S., including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $4 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the $4 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. And, of particular relevance to this proposed action, SBA specifies that for marinas and charter/party boats, a small business is one with annual receipts not in excess of $6.0 million.

The SBA has established "principles of affiliation" to determine whether a business concern is "independently owned and operated." In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805, are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50% or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or has the power to control less than 50% of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners control the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venturers if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations. The RFA defines "small organizations" as any nonprofit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

3.2.6 Description of the Businesses and Communities Directly Regulated by the Proposed Action(s)

3.2.6.1 Charter Fishery

Businesses: Chapter 2 of this document provides a detailed description of the current guided halibut sport fishery. Chapters 3 and 5 of the halibut charter IFQ EA/RIR/IRFA (NPFMC 2005), the associated appendices, and particularly the 1997 EA/RIR/IRFA (NPFMC 1997), provide detailed descriptions of the guided halibut sport fishery in earlier years. In summary, the number of businesses that submitted ADF&G logbooks for bottomfish activity in IPHC Area 2C, between 1999 and 2005, ranged from 352 in 2002 to 412 in 2000. More businesses submitted logbooks for bottomfish activity in IPHC Area 3A. The number of businesses over the same time period ranged from 402 in 2003 to 455 in 2000. Table 38 shows the number of businesses that reported bottomfish activity in ADF&G logbooks from 1999 through 2005.

Table 38 Number of bottomfish guide businesses submitting ADF&G logbooks, 1999 - 2005

Area	1999	2000	2001	2002	2003	2004	2005
2C	388	412	386	352	355	364	381
3A	454	455	452	406	402	421	451

Source: ADF&G Bottomfish Logbook Data, 1999-2005.

The proposed moratorium (Alternative 2) would issue permits based on whether a business achieved a specified level of participation during 2004 or 2005, and in the year prior to implementation of the program. Because a final alternative has not been selected, the number of businesses that may qualify for a permit cannot be determined. The maximum number of businesses projected to qualify range from 255 to 446 in Area 2C and 360 to 520 in Area 3A, depending on the option selected. Because the qualifying criteria include participation in the year prior to implementation, the final number of qualifying businesses would not be known until the implementation of the program.

The charter fleet is a fairly homogeneous group with similar operating characteristics and vessel sizes, with the exception of a few larger, 'headboat' style vessels, and lodges that operate several vessels. The vast majority of vessels are 25'- 50' in length and carry up to six clients each. While these vessels are very similar in size, the operations have different annual participation patterns in the fishery. Table 3 shows the number of businesses and vessels that participated in the commercial and charter halibut fisheries from 1995 to 2005. Table 17 provides detailed data on the maximum number of trips charter vessels took in 2004 or 2005. In IPHC Area 2C, 477 businesses used 855 vessels to carry clients in 2004 or 2005. In IPHC Area 3A, 520 businesses used 709 vessels to carry clients those years. Table 17 also shows the average number of clients carried on each vessel during 2004 or 2005.

The EA/RIR/IRFA developed to provide information on implementing a halibut charter IFQ program provided information on catch by vessel (NPFMC 2005). That analysis reports the halibut catch by owner during 1999. According to those data, about 175 vessels in Area 3A and 240 vessels in Area 2C harvested fewer than 100 halibut each. Therefore, over one-third of the fleet harvested fewer than 100 halibut that year. These vessels retained an average of 5 and 9.6 halibut per trip in Areas 2C and 3A, respectively, according to 1999 logbook data. To retain 100 halibut at these rates, vessels would need to make 20 trips in Area 2C and 10.4 trips in Area 3A. At $1,000 per trip ($200 per person and assuming, on average, five clients) this amounts to $10,000 to $20,000 per owner. These charter operators likely spend only part of the year taking halibut clients fishing, given that number of trips and the gross revenue it would generate. The remainder of the year they may have been offering charters for other types of fishing, sightseeing, hunting, or camping activities. Alternatively, these owners may only be part-time

participants in the charter business. During the remainder of the year they may hold other jobs outside of the charter boat for hire field.

The four owners with the largest catch histories harvested over 4,000 halibut, on average, in Area 2C and just under 3,800 halibut in Area 3A during 1999 (NPFMC 2005). At an estimated 20 pounds per fish, this equates to 80,000 pounds of halibut for those four Area 2C owners on average, and 76,000 pounds for the four Area 3A vessel owners on average. The largest of these companies, which are lodges, may be considered large entities under SBA standards, but that cannot be confirmed. All of the other 800-plus charter operations would likely be considered small entities, based upon SBA criteria, since they would be expected to have gross revenues of less than $6.0 million on an annual basis.

Chapter 2 contains more detailed breakdowns on the businesses that operated in 2004 and 2005. Some information presented reports the number of vessels that a business submitted logbooks for during the year, the maximum number of clients carried, number of trips taken, and port where the trip terminated. Additional information on the economic characteristics of vessels operating in the Cook Inlet portion of Area 3A has been described by Hermann (Hermann et al 1999 and Hermann 1999).

The halibut charter IFQ amendment showed that only 13 of the 434 charter business in Area 3A were run by residents of states other than Alaska (the residence of 3 of the owners were unknown) (NPFMC 2005). Therefore, about 97% of the charter owners in Area 3A reside in Alaska. In Area 2C, 48 of the 386 business owners resided outside Alaska. That translates into just under 87% of businesses being Alaskan-owned. It is likely that most of the Alaskan owners reside in small communities. Owners from outside Alaska may reside in either small or large communities.

The moratorium program was created to limit the number of vessels that may operate at one time in the halibut charter fleet. Issuing moratorium permits effectively limits the number of vessels, but is not expected to constrain the amount of halibut retained in the guided sport halibut fishery to historic levels identified in the GHL. An additional benefit of the moratorium is to identify persons that may be eligible for additional rationalization measures. For example, if the Council proceeds with adding endorsements to the permits or allocating individual fishing privileges in future amendments, the persons owning the moratorium permits could create the pool of eligible participants.

Communities: Traditional charter communities are not directly regulated as part of this amendment. The only regulations that directly regulate communities are included in the permit allotment part of this action (Issue 12). That action seeks to help small, remote communities in Area 2C and 3A develop charter businesses, by mitigating the economic barrier associated with purchasing a charter halibut permit and creating a number of non-transferable permits that can only be held by the non-profit entity representing the eligible community. Under the proposed options, a range of 23 – 33 small communities could be eligible, depending upon the final preferred alternative. All of these communities would be considered small entities under the SBA definitions. If these communities are able to benefit from the additional permits, it would be partially at the expense of communities that have traditionally been involved in the fishery. Almost all of the communities that have existing, fully developed charter industries operating from their ports would also be considered small entities.

The 23 - 33 communities in Area 2C and 3A directly regulated as part of this amendment are discussed in Section 2.5.12.2. Each of those communities is eligible for the community permit program because they were eligible under GOA Amendment 66 and also met a specified maximum level of charter halibut business participation in 2004 and 2005. The universe of communities eligible under Am. 66 has the following characteristics:

1) population of greater than 20 but less than 1,500 according to the U.S. Census;
2) located on the coast of the Gulf of Alaska (in Areas 2C and 3A);
3) have a commercial landing of either halibut or sablefish by a resident between 1980 – 2000, according to the Commercial Fisheries Entry Commission data for permit and fishing activity;
4) not connected to a larger community on the road system; and
5) designated on Table 21 to Part 679 of Federal regulations.

In addition, Amendment 66 communities in Area 2C and 3A must meet the following criteria (to be eligible at final action) in order to request halibut charter permits under this program:

1) [5 or fewer or 10 or fewer] active[99] charter businesses must have terminated trips in the community in each of the years 2004 and 2005; and
2) the community must form a Community Quota Entity (CQE), as defined under Amendment 66.

Communities that meet these requirements were deemed by the Council to deserve consideration for a separate allocation of permits because of their limited economic opportunities and under-developed halibut industry. Any of the 23 - 33 communities that meet the selected threshold for active halibut charter businesses in their community and form a qualified CQE are eligible to apply for a limited number of additional permits from NMFS. The permits will be held by the community's CQE (this subset of new permits cannot be transferred) and must be used in the community represented by the CQE (i.e., the trip must originate or terminate in the community). The Council expressed a desire to create a community-based permit program that is designed to support business opportunities in the smallest, rural, coastal communities, all of which are considered small entities.

3.2.6.2 Commercial fishery

Businesses operating in the commercial halibut fishery are not directly regulated by this action. These businesses will continue to operate under the existing IFQ program. The commercial fishery catch limits will be set after guided sport removals have been deducted from the pool of halibut available for the two fisheries.

3.2.7 Recordkeeping requirements

Permit applications must be submitted prior to start of the program. The application will require information about the business applying for the permit including the ownership structure of the business (U.S. citizenship papers for individuals) and information on the charter activities of the business (see Section 2.5.1). After submitting the initial permit application, additional applications will not be required. NMFS will only require additional reports when the structure of the business owning the permit changes or the permit is transferred. NMFS may also require some additional reports, depending on how well the current ADF&G logbooks meet their management and enforcement needs and the level of access NMFS has to those data. A complete discussion of the recordkeeping and reporting requirements may be found in Section 2.6.

In and of itself, the proposed recordkeeping and reporting requirements would not likely represent a 'significant' economic burden on the small entities operating in this fishery.

[99] Active is defined as it is defined in the general moratorium program under Issue 10 (e.g., at least 1, 5, 10, 15, or 20 bottomfish trips). The Council will make this determination at final action.

3.2.8 Potential Impacts of the Alternatives on Small Entities

3.2.8.1 Alternative 1: Status quo

The status quo alternative specifies the GHL as a target amount of halibut that the charter fleet can harvest. If the GHL is exceeded then management measures would be imposed to constrain the harvest of halibut. For example, ADF&G did not allow skipper and crew to retain halibut for part of 2006 in Area 2C. An example of another action that could be taken by management agencies to curtail catch would be to reduce bag limits for the guided angler. That action could result in fewer trips, thereby reducing revenues for the charter fleet. Harvests (and revenues, given our current understanding of price elasticities) in the commercial sector then would be larger than without the GHL, since charter harvests directly reduce the amount of halibut available to the commercial sector.

Because both the charter and commercial sectors are primarily comprised of small businesses, the impacts of the status quo will be to shift benefits between small businesses in the commercial and charter sectors. The way that the GHL is structured, benefits will likely flow from the commercial sector to the charter sector as charter harvests increase. If stricter management measures are imposed (i.e., bag limit reductions), benefits could flow from the charter sector to the commercial sector, at least in the short-term.

3.2.8.2 Alternative 2: Implement a moratorium on new entry into the halibut charter fishery

Passage of a moratorium would likely benefit the current owners of charter businesses, which are almost all small businesses, because the total number of charter operations would be limited. The status quo implements management measures that are designed to limit the charter harvest of halibut to the GHL targets (e.g., prohibition on skipper and crew fish), but the number of vessels that can enter the fishery is not limited. Therefore, potentially, as more vessels enter the fishery, each vessel (on average) would be able to harvest fewer halibut, if the sector were to remain at or below the GHL. The moratorium would provide an upper bound on the number of vessels that would be allowed to participate in the fishery at any one time. Persons wishing to leave the fishery would then be allowed to sell their moratorium permit and receive some compensation. However, the sale of the permit may negatively impact the other charter owners remaining in the fishery if the new business is able to attract clients that would allow them to harvest more halibut than the business they replaced. The impact of a moratorium is to redistribute the benefits from the charter operator currently in the fishery and those that wish to enter (or that do not have enough participation history to qualify for a moratorium permit). All of those businesses are likely to be small entities. Additional information can be found in Chapter 2.

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APPENDIX 1

History of Actions Related to Management of the Charter Halibut Fisheries in Areas 2C and 3A

1993 Control Date In the early 1990s, the rapid growth of the guided recreational (or charter) halibut fishery fleet led to increased concerns that unrestrained catch by the charter fishery would result in smaller allocations of halibut resources to the commercial sector. In 1993, the Council created a Halibut Charter Working Group and directed it to develop suitable alternatives for a regional or statewide moratorium on the entry of new charter vessels into the fisheries in Areas 2C and 3A. The Group presented various management options to the Council for consideration and the Council announced a *control date of September 23, 1993*, as the last day to qualify for a potential moratorium on entry into the fisheries. The Council deferred further action on the issue because of other priorities. In 1995, the Council reviewed the Group's findings, received public testimony, developed a problem statement, and discussed development of alternatives for managing harvests of halibut by the charter fishery. Again, staffing priorities and lack of funding for adequate research delayed formal analysis of the management alternatives until 1996.

Guideline Harvest Level In 1996, the Council narrowed the scope of potential management alternatives by eliminating consideration of the unguided sport fishery and focusing alternatives exclusively on the guided segment of the halibut sport fishery, which includes lodges, outfitters, and charter vessel guides. The Council also reviewed the possibility of allowing charter vessel owners and operators to purchase or lease IFQ in the existing commercial halibut IFQ Program. Two GHL analyses included an alternative for *a moratorium on entry into the charter halibut fisheries.* Instead, the Council identified its preferred alternative to implement guideline harvest levels (GHLs) in Areas 2C and 3A for controlling charter halibut harvests. In both cases, the GHLs were intended as an initial step towards developing a management strategy that would limit charter halibut harvests while maintaining the historic length of the charter season and allowing growth in the charter halibut fishery. The GHLs define the level of harvests permissible in the charter halibut fishery without further reallocating halibut from the commercial sector; however, they do not constrain harvests without restrictive management measures. The 1997 preferred alternative was rejected by NMFS because it did not contain those restrictive measures; the 2000 preferred alternative was rejected by NMFS because it did contain restrictive measures that would be frameworked in regulation. Case law had changed in the intervening years to disallow each approach.

Based on the Council's third recommendation of a preferred alternative, a final rule established a GHL for charter halibut harvests and a process whereby the Council is notified if the GHL is exceeded in the two areas in September 2003. The GHLs established pre-season estimates of acceptable annual harvests for the halibut fisheries in Areas 2C and 3A, beginning in 2004. To accommodate limited growth of the charter fleet while approximating historical harvest levels, the GHL for each area was based on 125 percent of the average of 1995-99 charter harvest estimates, as reported by the ADF&G Statewide Harvest Survey (SWHS). The GHLs were set at 1,432,000 lb net weight in Area 2C and 3,650,000 lb net weight in Area 3A. Upon notification that a GHL has been achieved, the Council may initiate analysis of possible harvest reduction measures and NMFS may initiate subsequent rulemaking to reduce charter harvests. While the Council's second preferred alternative included a suite of measures tied to ranges of harvest reductions that were intended to be implemented when harvests exceeded the GHLs, the final rule did not implement the proposed measures. The final rule did not prevent the Council from recommending measures before the charter harvests exceeded a GHL, nor did it obligate the Council to take specific action if the GHL is exceeded. This GHL policy, as implemented, serves only to notify the Council that a specific level of charter harvests has been achieved. Area 2C charter halibut harvests exceeded the GHL during the first year of the program in 2004, and the Council recommended a 5-fish annual limit for charter halibut anglers. This preferred alternative was rescinded in December 2006, based on a

recommendation from NMFS that estimated enforcement costs of $600,000 were excessive. The Council has scheduled a revised analysis with additional restrictive measures for action in June 2007. The Council may also consider increasing the GHLs to reflect increased harvests by that sector in both areas in recent years. A discussion paper is scheduled for review in April 2007.

While commercial quotas fluctuate directly with stock abundance, the fixed GHL is established annually in pounds. The GHL is responsive to reductions in stock abundance. If either area's total Constant Exploitation Yield (CEY) is reduced by at least 15 percent below the average 1999-2000 total CEY, as determined by the IPHC, then the GHL would be reduced. For example, if the total CEY in Area 2C were to fall between 15 and 24 percent below its 1999-2000 average, then that GHL would be reduced by 15 percent to 1,217,200 lb. If it fell between 25 and 34 percent, then it would be reduced by an additional 10 percent to 1,095,480 lb. If the total CEY continued to decline by at least 10 percent, then it would be reduced by an additional 10 percent.

These "stair step" reductions were implemented because at the time of final action in 2000: (1) the status of the halibut stock was predicted to have been at its peak and declining; (2) the GHL formula allowed for a 25 percent increase in past harvests; and (3) the charter sector requested a fixed allocation to provide better predictability for planning bookings for the next summer's fishing season. The overall intent was to maintain a stable charter fishery season of historic length, using area specific measures to control harvests to the GHLs.

Charter IFQ Program Concurrent with the adoption of the GHL Program in February 2000, the Council initiated an analysis for integrating the charter sector into the commercial halibut IFQ Program. The 2001 analysis also included an alternative to establish a *moratorium in the charter halibut fishery in Areas 2C and 3A*. In April 2001, the Council adopted its preferred alternative that incorporated the charter sector into the existing commercial halibut IFQ Program. Under the preferred alternative, quota share would be issued only to a person who owned or leased a charter vessel that transported guided clients who caught halibut during 1998 or 1999 from Areas 2C or 3A. During the next several years, NMFS developed the proposed regulation and implementation plan for the recommended charter halibut IFQ Program. However, the Assistant Administrator for Fisheries sent a letter to the Council in August 2005, which requested that the Council confirm its support of its 2001 preferred alternative to incorporate the charter sector into the commercial halibut IFQ Program before NMFS published the proposed rule in the *Federal Register*. After receiving public testimony about the proposed charter halibut IFQ Program, the Council indicated its concern for the lengthy process, but neither confirmed nor denied its continued support of the proposed charter halibut IFQ Program. At a subsequent meeting, the Council adopted a motion to amend its April 2001 action recommending a charter halibut IFQ Program. The preamble to the motion cited the following concerns about the time delay in implementing the charter halibut IFQ: "a lengthy delay in enacting this program has resulted in a large number of current participants that do not qualify for quota share. This has resulted in controversy and a lack of broad support for the program as well as potential legal vulnerabilities."

2005 Charter Control Date In response to public testimony, the Council formed a stakeholder working group comprised of representatives of affected charter and commercial groups. This group is responsible for developing alternatives that provide for the long-term management of the charter halibut fishery. Because these management alternatives may limit access to the charter halibut fishery, the Council set a control date of December 9, 2005, after which charter operators entering the charter halibut fishery will not necessarily be assured access to the halibut resource.

The Council and NMFS intend, in setting the control date, to discourage speculative entry into the charter sport fishery for Pacific halibut while potential entry or access control management measures are considered by the Council. The control date will help distinguish established participants from speculative

entrants into the fishery. Although participants are notified that entering the charter sport fishery for Pacific halibut after the control date will not assure them of future access to the fishery based on participation, additional or other qualifying criteria may be applied. The proposed limited entry program that is the subject of this analysis is the result of this control date.

APPENDIX 2

Communities in which projected permit holders terminated trips in the year they qualified (2004 or 2005) and residence of commercial halibut QS holders

Table A1. Number of qualified vessels that terminated a trip in the community during the qualifying years

Community	Am. 66	Option 10.1					Option 10.2				
		1 trip	5 trips	10 trips	15 trips	20 trips	1 trip	5 trips	10 trips	15 trips	20 trips
Afognak		1	1	1	1	1	1	1	1	1	1
Amook Island		2	2	2	2	2	2	2	2	2	2
Amook Pass		1	1	1	1	1	1	1	1	1	1
Anchor Point		60	58	56	52	51	60	57	54	51	50
Anchor River		1	1	1	1	1	1	1	1	1	1
Angoon	Yes	13	13	12	12	11	13	13	12	12	11
Anton Larsen Bay		6	6	6	6	4	6	5	5	5	3
Auke Bay		45	35	25	22	16	45	34	24	21	15
Bar Harbor		4	1	1	1	1	4	1	1	1	1
Bartlett Cove		6	5	5	4	4	6	5	4	4	4
Bay Of Pillars		3	3	3	3	3	3	3	3	3	3
Boardwalk		3	3	3	3	2	3	3	2	2	2
Camp Island		1	1	1	1	1	1	1	1	1	1
Cannery Cove		6	5	5	5	5	6	5	5	5	5
Cape Chacon		3	3	2	1	0	3	2	1	0	0
Cape Ninilchik		2	2	1	0	0	2	2	1	0	0
Cedars Lodge		10	8	7	7	6	10	8	7	7	5
Chenega	Yes	1	1	1	1	0	1	1	1	1	0
Clover Bay		2	2	2	2	2	2	2	2	2	2
Clover Pass		14	14	13	11	10	14	13	12	9	9
Coffman Cove	Yes	7	7	7	7	7	7	6	6	5	5
Cordova		9	7	7	6	5	9	7	7	5	3
Craig	Yes	74	72	68	64	62	74	68	63	57	54
Cranberry Creek		1	1	1	1	1	1	1	1	1	1
Crescent Harbor		4	4	3	3	1	4	4	3	2	1
Dall Island		1	1	1	1	1	1	1	1	1	1
Deep Creek		114	107	98	90	88	114	106	98	90	87
Dog Bay Harbor		1	1	0	0	0	1	1	0	0	0
Eagle Creek Lodge		1	1	1	1	1	1	1	1	1	1
Eagle Harbor		1	0	0	0	0	1	0	0	0	0
El Capitan Lodge		7	7	7	7	7	7	6	6	6	6
Elfin Cove	Yes	31	31	31	29	28	31	31	31	28	27
Ellamar		1	1	1	1	1	1	1	1	1	1
Excursion Inlet		2	2	1	1	0	2	2	1	1	0
False Island		5	5	5	5	5	5	5	5	5	5
Fishermans Bend		4	3	2	2	2	4	3	2	2	2
Funter Bay		2	2	2	1	1	2	2	2	1	1
Glacier Bay		1	1	1	1	1	1	1	1	1	1
Gold Coast Lodge		1	1	1	1	1	1	1	1	1	1
Gull Cove		2	2	2	2	1	2	1	1	1	1
Gustavus	Yes	25	24	20	20	20	25	24	20	20	20
Haines		4	4	4	3	2	4	4	4	3	2
Halibut Cove	Yes	1	1	0	0	0	1	1	0	0	0

Community	Am. 66	Option 10.1					Option 10.2				
		1 trip	5 trips	10 trips	15 trips	20 trips	1 trip	5 trips	10 trips	15 trips	20 trips
Hallo Bay		1	1	1	0	0	1	1	1	0	0
Hanus Bay		1	1	0	0	0	1	1	0	0	0
Happy Valley		8	8	8	8	8	8	8	8	8	8
Hawk Inlet		1	1	1	1	1	1	1	1	1	1
Hidden Basin		1	1	1	1	1	1	1	1	1	1
Hollis	Yes	1	0	0	0	0	1	0	0	0	0
Homer		203	196	189	181	176	203	194	186	180	174
Hood Bay		2	1	1	0	0	2	1	1	0	0
Hoonah	Yes	14	12	10	9	5	14	11	10	9	5
Iliamna Bay		1	1	1	0	0	1	1	1	0	0
Iron Creek		2	2	2	2	2	2	2	2	1	1
Juneau		35	30	24	18	15	35	30	22	18	15
Kake	Yes	1	1	0	0	0	1	1	0	0	0
Kalinin Bay		2	1	0	0	0	2	1	0	0	0
Kasitsna Bay		1	1	1	1	1	1	1	1	1	1
Kelp Bay		3	3	3	3	3	3	3	3	3	2
Ketchikan		69	53	45	37	33	69	50	42	35	31
Killisnoo		5	5	5	5	5	5	5	5	4	4
Kiluda Bay		1	1	1	1	1	1	1	1	1	1
Klawock	Yes	19	19	17	17	16	19	19	15	14	13
Knudson Cove		21	16	12	9	7	21	15	12	8	5
Kodiak		42	40	33	29	26	42	39	32	28	25
Kukak Bay		3	3	3	2	2	3	3	3	2	2
Kupreanof Island		1	0	0	0	0	1	0	0	0	0
Larsen Bay	Yes	15	15	14	14	12	15	13	12	11	8
Little Tutka Bay		1	1	1	1	1	1	1	1	1	1
Log Cabin Resort		1	1	1	1	1	1	1	1	1	1
Millers Landing		2	2	2	2	2	2	2	2	2	2
Morne Island		3	3	3	3	3	3	3	3	2	2
Narrows Inn		3	3	3	3	3	3	3	3	3	3
Naukati		3	3	3	3	2	3	3	3	3	2
Ninilchik		16	16	16	14	13	16	16	16	14	13
Old Harbor	Yes	10	10	10	10	9	10	10	9	9	7
Orr Island		1	1	1	1	1	1	1	1	1	1
Ouzinkie	Yes	1	1	1	1	0	1	1	1	1	0
Pasagshak Bay		1	1	1	1	1	1	1	1	1	1
Pelican	Yes	9	8	8	6	4	9	8	8	6	4
Petersburg		40	35	31	25	22	40	35	29	24	21
Point Baker	Yes	3	3	3	2	2	3	3	3	2	2
Poohs Landing		1	1	1	1	1	1	1	1	1	1
Port Alexander	Yes	6	6	6	6	5	6	6	6	6	5
Port Lions	Yes	14	13	10	9	7	14	12	9	8	6
Port Protection	Yes	3	3	2	2	2	3	3	2	2	1
Port St Nicholas		2	2	2	2	2	2	2	2	2	2
Port Wakefield		4	4	3	3	1	4	3	3	3	1
Port William		1	1	1	1	1	1	1	1	1	1
Prince Rupert		1	1	1	1	0	1	1	1	1	0
Pybus Point		4	4	4	4	4	4	4	4	4	4
Raspberry Island		3	3	3	2	2	3	2	2	2	2

Community	Am. 66	Option 10.1					Option 10.2				
		1 trip	5 trips	10 trips	15 trips	20 trips	1 trip	5 trips	10 trips	15 trips	20 trips
Rocky Pass Resort		2	2	2	2	2	2	2	2	2	1
Rocky Point		1	1	1	1	1	1	1	1	1	1
S Kaigani Bay		5	5	5	5	5	5	5	5	5	5
Sadie Cove		1	1	1	1	1	1	1	1	1	1
Saginaw Bay		1	1	1	1	1	1	1	1	1	1
Salmon Falls		18	17	16	10	7	18	14	11	8	7
Salmon Landing		7	7	7	7	7	7	7	7	7	7
Saltery Cove		1	1	1	1	1	1	1	1	1	1
Sarkar Cove		1	1	1	1	1	1	1	1	1	1
Sea Otter Sound		1	1	1	1	1	1	1	1	1	1
Seal Bay (Sc)		3	3	3	3	3	3	3	3	3	3
Sealing Cove		6	6	6	6	5	6	6	6	6	5
Seldovia	Yes	12	12	12	11	10	12	12	12	11	10
Seward		151	136	126	117	110	151	133	121	111	103
Shelter Island		7	7	7	7	6	7	7	7	7	6
Shuyak Island		1	1	1	1	1	1	1	1	1	1
Silver King Lodge		6	6	6	6	6	6	6	6	6	6
Silver Salmon		2	2	2	2	2	2	2	2	2	2
Sitka		197	187	165	154	146	197	183	159	149	142
Skagway		3	3	2	1	1	3	3	1	1	1
Sportsman Cove		12	12	12	12	12	12	11	10	10	9
Spruce Mill New Flt		4	4	4	4	4	4	3	3	3	3
Ssbh		5	5	5	5	5	5	5	5	5	5
Swanson Harbor		1	1	1	1	1	1	1	1	1	1
Tenakee	Yes	4	4	3	2	2	4	3	3	2	2
Thomas Basin		4	3	3	3	2	4	3	3	3	2
Thorne Bay	Yes	11	11	10	10	9	11	11	9	9	9
Tokeen		1	1	1	0	0	1	1	1	0	0
Tutka Bay		1	1	1	1	1	1	1	1	1	1
Ugak Bay		6	6	5	4	3	6	5	4	4	3
Uganik Bay		4	4	4	2	2	4	4	4	2	2
Uyak Bay		3	3	2	2	2	3	3	2	2	2
Valdez		55	46	40	31	29	55	45	37	30	28
Wakefield		1	1	1	1	0	1	1	1	1	0
Warm Springs Bay		10	10	9	9	9	10	10	9	8	7
Waterfall		25	25	25	25	25	25	25	25	25	24
Whale Pass (Pow-Se)	Yes	6	6	6	6	4	6	6	5	5	4
Whale Pass (Sc)		2	1	1	0	0	2	1	1	0	0
Whalers Cove		3	3	3	3	3	3	3	3	3	3
Whiskey Gulch		4	4	4	3	2	4	4	4	3	2
Whitestone Harbor		1	1	1	1	1	1	1	1	1	1
Whittier		27	25	23	21	18	27	25	23	21	18
Williamsport		1	1	1	0	0	1	1	1	0	0
Wrangell		14	13	12	8	3	14	13	11	7	3
Yakutat	Yes	16	15	14	13	13	16	15	14	13	12
Yes Bay		13	13	13	13	10	13	11	9	8	6
Zachar Bay		7	7	5	5	4	7	7	4	4	2

Table A2. Number of qualified businesses that terminated a trip in the community during the qualifying years

Community	Am. 66	Option 10.1					Option 10.2				
		1 trip	5 trips	10 trips	15 trips	20 trips	1 trip	5 trips	10 trips	15 trips	20 trips
Afognak		1	1	1	1	1	1	1	1	1	1
Amook Island		2	2	2	2	2	2	2	2	2	2
Amook Pass		1	1	1	1	1	1	1	1	1	1
Anchor Point		57	55	53	50	49	57	54	52	49	48
Anchor River		1	1	1	1	1	1	1	1	1	1
Angoon	Yes	9	9	8	8	7	9	9	8	8	7
Anton Larsen Bay		5	5	5	5	3	5	5	5	5	3
Auke Bay		39	29	20	17	12	39	29	20	17	12
Bar Harbor		4	1	1	1	1	4	1	1	1	1
Bartlett Cove		6	5	5	4	4	6	5	4	4	4
Bay Of Pillars		2	2	2	2	2	2	2	2	2	2
Boardwalk		2	2	2	2	2	2	2	2	2	2
Camp Island		1	1	1	1	1	1	1	1	1	1
Cannery Cove		3	2	2	2	2	3	2	2	2	2
Cape Chacon		3	3	2	1	0	3	2	1	0	0
Cape Ninilchik		1	1	1	0	0	1	1	1	0	0
Cedars Lodge		9	7	6	6	5	9	7	6	6	5
Chenega	Yes	1	1	1	1	0	1	1	1	1	0
Clover Bay		1	1	1	1	1	1	1	1	1	1
Clover Pass		13	13	12	10	9	13	12	11	9	9
Coffman Cove	Yes	6	6	6	6	6	6	5	5	5	5
Cordova		8	6	6	5	4	8	6	6	5	3
Craig	Yes	36	34	31	30	28	36	33	29	27	26
Cranberry Creek		1	1	1	1	1	1	1	1	1	1
Crescent Harbor		4	4	3	3	1	4	4	3	2	1
Dall Island		1	1	1	1	1	1	1	1	1	1
Deep Creek		97	90	81	74	72	97	89	81	74	71
Dog Bay Harbor		1	1	0	0	0	1	1	0	0	0
Eagle Creek Lodge		1	1	1	1	1	1	1	1	1	1
Eagle Harbor		1	0	0	0	0	1	0	0	0	0
El Capitan Lodge		2	2	2	2	2	2	2	2	2	2
Elfin Cove	Yes	18	18	18	16	15	18	18	18	16	15
Ellamar		1	1	1	1	1	1	1	1	1	1
Excursion Inlet		2	2	1	1	0	2	2	1	1	0
False Island		3	3	3	3	3	3	3	3	3	3
Fishermans Bend		4	3	2	2	2	4	3	2	2	2
Funter Bay		2	2	2	1	1	2	2	2	1	1
Glacier Bay		1	1	1	1	1	1	1	1	1	1
Gold Coast Lodge		1	1	1	1	1	1	1	1	1	1
Gull Cove		2	2	2	2	1	2	1	1	1	1
Gustavus	Yes	21	21	17	17	17	21	21	17	17	17
Haines		4	4	4	3	2	4	4	4	3	2
Halibut Cove	Yes	1	1	0	0	0	1	1	0	0	0
Hallo Bay		1	1	1	0	0	1	1	1	0	0
Hanus Bay		1	1	0	0	0	1	1	0	0	0
Happy Valley		2	2	2	2	2	2	2	2	2	2
Hawk Inlet		1	1	1	1	1	1	1	1	1	1

Community	Am. 66	Option 10.1					Option 10.2				
		1 trip	5 trips	10 trips	15 trips	20 trips	1 trip	5 trips	10 trips	15 trips	20 trips
Hidden Basin		1	1	1	1	1	1	1	1	1	1
Hollis	Yes	1	0	0	0	0	1	0	0	0	0
Homer		180	173	166	159	154	180	172	165	159	154
Hood Bay		2	1	1	0	0	2	1	1	0	0
Hoonah	Yes	12	11	10	9	5	12	11	10	9	5
Iliamna Bay		1	1	1	0	0	1	1	1	0	0
Iron Creek		1	1	1	1	1	1	1	1	1	1
Juneau		27	22	19	15	13	27	22	17	15	13
Kake	Yes	1	1	0	0	0	1	1	0	0	0
Kalinin Bay		2	1	0	0	0	2	1	0	0	0
Kasitsna Bay		1	1	1	1	1	1	1	1	1	1
Kelp Bay		2	2	2	2	2	2	2	2	2	1
Ketchikan		56	41	34	27	23	56	40	32	25	21
Killisnoo		3	3	3	3	3	3	3	3	2	2
Kiluda Bay		1	1	1	1	1	1	1	1	1	1
Klawock	Yes	13	13	11	11	10	13	13	10	10	9
Knudson Cove		17	12	11	8	6	17	12	11	8	5
Kodiak		42	40	33	29	26	42	39	32	28	25
Kukak Bay		3	3	3	2	2	3	3	3	2	2
Kupreanof Island		1	0	0	0	0	1	0	0	0	0
Larsen Bay	Yes	8	8	7	7	7	8	8	7	7	7
Little Tutka Bay		1	1	1	1	1	1	1	1	1	1
Log Cabin Resort		1	1	1	1	1	1	1	1	1	1
Millers Landing		1	1	1	1	1	1	1	1	1	1
Morne Island		2	2	2	2	2	2	2	2	2	2
Narrows Inn		3	3	3	3	3	3	3	3	3	3
Naukati		3	3	3	3	2	3	3	3	3	2
Ninilchik		16	16	16	14	13	16	16	16	14	13
Old Harbor	Yes	6	6	6	6	5	6	6	6	6	5
Orr Island		1	1	1	1	1	1	1	1	1	1
Ouzinkie	Yes	1	1	1	1	0	1	1	1	1	0
Pasagshak Bay		1	1	1	1	1	1	1	1	1	1
Pelican	Yes	8	7	7	6	4	8	7	7	6	4
Petersburg		38	33	29	24	21	38	33	29	24	21
Point Baker	Yes	2	2	2	1	1	2	2	2	1	1
Poohs Landing		1	1	1	1	1	1	1	1	1	1
Port Alexander	Yes	5	5	5	5	5	5	5	5	5	5
Port Lions	Yes	14	13	10	9	7	14	12	9	8	6
Port Protection	Yes	3	3	2	2	2	3	3	2	2	1
Port St Nicholas		1	1	1	1	1	1	1	1	1	1
Port Wakefield		2	2	2	2	1	2	2	2	2	1
Port William		1	1	1	1	1	1	1	1	1	1
Prince Rupert		1	1	1	1	0	1	1	1	1	0
Pybus Point		3	3	3	3	3	3	3	3	3	3
Raspberry Island		2	2	2	2	2	2	2	2	2	2
Rocky Pass Resort		2	2	2	2	2	2	2	2	2	1
Rocky Point		1	1	1	1	1	1	1	1	1	1
S Kaigani Bay		2	2	2	2	2	2	2	2	2	2
Sadie Cove		1	1	1	1	1	1	1	1	1	1

Community	Am. 66	Option 10.1					Option 10.2				
		1 trip	5 trips	10 trips	15 trips	20 trips	1 trip	5 trips	10 trips	15 trips	20 trips
Saginaw Bay		1	1	1	1	1	1	1	1	1	1
Salmon Falls		3	2	2	1	1	3	2	2	1	1
Salmon Landing		4	4	4	4	4	4	4	4	4	4
Saltery Cove		1	1	1	1	1	1	1	1	1	1
Sarkar Cove		1	1	1	1	1	1	1	1	1	1
Sea Otter Sound		1	1	1	1	1	1	1	1	1	1
Seal Bay (Sc)		2	2	2	2	2	2	2	2	2	2
Sealing Cove		5	5	5	5	4	5	5	5	5	4
Seldovia	Yes	12	12	12	11	10	12	12	12	11	10
Seward		122	108	99	90	84	122	108	98	89	83
Shelter Island		4	4	4	4	3	4	4	4	4	3
Shuyak Island		1	1	1	1	1	1	1	1	1	1
Silver King Lodge		6	6	6	6	6	6	6	6	6	6
Silver Salmon		2	2	2	2	2	2	2	2	2	2
Sitka		137	127	110	102	96	137	126	108	101	95
Skagway		3	3	2	1	1	3	3	1	1	1
Sportsman Cove		3	3	3	3	3	3	3	2	2	2
Spruce Mill New Flt		1	1	1	1	1	1	1	1	1	1
Ssbh		4	4	4	4	4	4	4	4	4	4
Swanson Harbor		1	1	1	1	1	1	1	1	1	1
Tenakee	Yes	3	3	3	2	2	3	3	3	2	2
Thomas Basin		4	3	3	3	2	4	3	3	3	2
Thorne Bay	Yes	7	7	6	6	6	7	7	6	6	6
Tokeen		1	1	1	0	0	1	1	1	0	0
Tutka Bay		1	1	1	1	1	1	1	1	1	1
Ugak Bay		3	3	3	3	3	3	3	3	3	3
Uganik Bay		2	2	2	2	2	2	2	2	2	2
Uyak Bay		3	3	2	2	2	3	3	2	2	2
Valdez		51	42	36	28	27	51	42	35	27	26
Wakefield		1	1	1	1	0	1	1	1	1	0
Warm Springs Bay		3	3	2	2	2	3	3	2	2	2
Waterfall		1	1	1	1	1	1	1	1	1	1
Whale Pass (Pow-Se)	Yes	4	4	4	4	3	4	4	4	4	3
Whale Pass (Sc)		2	1	1	0	0	2	1	1	0	0
Whalers Cove		2	2	2	2	2	2	2	2	2	2
Whiskey Gulch		2	2	2	2	1	2	2	2	2	1
Whitestone Harbor		1	1	1	1	1	1	1	1	1	1
Whittier		27	25	23	21	18	27	25	23	21	18
Williamsport		1	1	1	0	0	1	1	1	0	0
Wrangell		13	12	11	7	3	13	12	10	7	3
Yakutat	Yes	12	11	10	9	9	12	11	10	9	9
Yes Bay		2	2	2	2	2	2	2	2	2	2
Zachar Bay		3	3	2	2	1	3	3	2	2	1

Table A3. Percent of commercial halibut QS by owner residence

City	Area	
	2C	3A
Anchor Point	0.00%	0.86%
Anchorage	0.19%	3.01%
Anderson	0.00%	0.00%
Angoon	0.58%	0.00%
Aniak	0.00%	0.00%
Auke Bay	1.23%	0.16%
Central	0.00%	0.00%
Chenega Bay	0.00%	0.00%
Chignik Lagoon	0.00%	0.00%
Chiniak	0.00%	0.01%
Chitina	0.00%	0.02%
Chugiak	0.00%	0.02%
Clam Gulch	0.00%	0.27%
Cooper Landing	0.00%	0.00%
Copper Center	0.00%	0.00%
Cordova	0.01%	3.67%
Craig	3.22%	0.00%
Delta Junction	0.00%	0.72%
Dillingham	0.00%	0.43%
Douglas	1.45%	0.61%
Dutch Harbor	0.00%	0.01%
Eagle River	0.00%	0.58%
Edna Bay	0.20%	0.00%
Eilsen Airforce Base	0.00%	0.00%
Elfin Cove	0.86%	0.14%
Fairbanks	0.21%	0.02%
Fritz Creek	0.10%	0.16%
Gakona	0.00%	0.02%
Girdwood	0.00%	0.14%
Gustavus	0.50%	0.14%
Haines	2.75%	0.29%
Halibut Cove	0.00%	0.28%
Homer	0.00%	8.71%
Hoonah	1.37%	0.19%
Hydaburg	0.16%	0.00%
Hyder	0.06%	0.01%
Indian	0.00%	0.00%
Juneau	7.99%	1.80%
Kake	1.18%	0.00%
Kasilof	0.00%	0.52%
Kenai	0.00%	1.27%
Ketchikan	6.14%	0.52%
King Salmon	0.00%	0.00%
Klawock	0.01%	0.00%
Kodiak	0.03%	17.14%
Larsen Bay	0.00%	0.00%
Manokotak	0.00%	0.00%

Mekoryuk	0.00%	0.25%
Metlakatla	0.39%	0.00%
Meyers Chuck	0.08%	0.00%
Moose Pass	0.00%	0.00%
Naknek	0.00%	0.00%
Nikiski	0.00%	0.20%
Nikolaevsk	0.00%	0.48%
Ninilchik	0.00%	0.24%
Nome	0.04%	0.03%
Non-Alaska City	17.45%	39.57%
North Pole	0.01%	0.01%
Old Harbor	0.00%	0.08%
Ouzinkie	0.00%	0.28%
Palmer	0.19%	0.22%
Pelican	1.13%	0.12%
Petersburg	25.54%	6.54%
Point Baker	0.28%	0.00%
Port Alexander	0.75%	0.01%
Port Graham	0.00%	0.05%
Port Lions	0.00%	0.07%
Salcha	0.00%	0.00%
Sand Point	0.00%	0.01%
Seldovia	0.00%	0.93%
Seward	0.00%	1.62%
Sitka	17.25%	3.64%
Skagway	0.05%	0.00%
Soldotna	0.00%	1.01%
South Naknek	0.00%	0.00%
St George Island	0.00%	0.00%
St Paul Island	0.03%	0.02%
Sterling	0.00%	0.14%
Sutton	0.00%	0.03%
Tenakee Springs	0.15%	0.06%
Thorne Bay	0.17%	0.00%
Togiak	0.00%	0.00%
Twin Hills	0.00%	0.00%
Unalaska	0.11%	0.00%
Valdez	0.00%	0.42%
Wards Cove	0.52%	0.00%
Wasilla	0.05%	0.92%
Whittier	0.00%	0.09%
Willow	0.00%	0.25%
Wrangell	7.56%	0.33%
Yakutat	0.00%	0.67%
Grand Total	100.00%	100.00%