



PO Box 22073  
Juneau, AK 99802-2073  
(425) 949-1810msg (206) 260-9111efax

[halibutcoalition@gmail.com](mailto:halibutcoalition@gmail.com)

[www.halibutcoalition.org](http://www.halibutcoalition.org)

June 4, 2009

Ms. Sue Salvesson, Asst. Regional Administrator  
Sustainable Fisheries Division, Alaska Region  
National Marine Fisheries Service  
PO Box 21668  
Juneau, AK 99802-1668  
Attn: Ellen Sebastian

RE: 0648-AW92: Comments on the Proposed Rule to implement a halibut guided sport limited entry program

On behalf of the Halibut Coalition, we are submitting these comments on the proposed rule to implement limited entry for guided sport charter vessels in Alaska. The Halibut Coalition is a non-profit association of halibut fishermen and processors dedicated to sustainable management of the North Pacific halibut resource. Our Coalition includes 13 member groups and over 500 individual members.

The Halibut Coalition SUPPORTS implementation of limited entry in the guided sport halibut fishery. The stated intent of the limited entry program outlined in the Proposed Rule is to curtail growth of fishing capacity in the guided sport fishery. Curtailing growth in the Alaska guided sport fishery is a necessary step toward rationalizing the charter industry. With limits on entry, qualified charter operators will have a defined field of players with whom to work to develop a long-term management strategy for the charter industry. The long-term management strategy is needed to protect the resource, fairly balance the needs of all harvests, and establish a market-based mechanism for transfer between sectors.

As the proposed rule indicates, the charter sector has exceeded its Guideline Harvest Level (GHL) in Area 2C for the past five years and in Area 3A for the past three years. Charter operators have consistently objected to harvest control measures while providing testimony documenting localized depletion. Charter overharvest is contributing to resource declines at both the local and the Area wide level, yet charter operators object that their businesses will be unsustainable if conservation measures are implemented. This downward spiral can have only one result—resource depletion—unless both capacity and effort are curtailed. The limited entry program proposed in this rule provides part of the sustainable management equation.

Alaska Longline Fishermen's Association • Cordova District Fishermen • Deep Sea Fishermen's Union • Fishing Vessel Owners Association • Halibut Association of North America • Kachemak Bay Fisheries Association • North Pacific Fisheries Association • Petersburg Vessel Owners Association • Sea Food Producers Cooperative • Southeast Alaska Fishermen's Alliance • United Cook Inlet Driftnetters Association • United Fishermen's Marketing Association • United Southeast Alaska Gillnetters Association

Initiation of the analysis and Council action on limited entry into the guided sport halibut fishery came directly from the charter industry, following the Council's action to rescind the charter IFQ program in December 2005. The charter industry has overwhelmingly supported this limited entry program throughout its development. Although members of the Halibut Coalition participated in the Stakeholder group that developed elements and options for the moratorium, the details of the program, such as qualifying periods, standards for initial allocation, etc., were created by representatives of the charter industry. We believe that the qualifying criteria for permits and angler endorsements is quite liberal. For example, the Council chose the option that distributed the second largest number of permits from among the options in the analysis, and the angler endorsement issued to each permit will be the highest number of anglers taken on any trip during either of the qualifying years for each applicant. Nonetheless, we believe the recommended options fairly balance past and current participation, provide appropriate opportunities for small coastal communities through the community halibut charter permit program, and establish appropriate standards for transferrable vs. non-transferrable permits. We also have a number of concerns relative to the community halibut program and elements proposed for leasing, excessive share and grandfather provisions. These issues are addressed in more detail below.

*Community halibut permit program:*

Relative to the community permit program, the Coalition maintains that increased capacity in the halibut charter sector could jeopardize the intent of the limited entry program, hence believes careful limits on the program are essential. The Coalition strongly recommends that the number of permits allowed per community be limited to no more than four, as is specified in the proposed rule, and that the charter boats operating under the community permit system be required to begin and end their charter within the community designated on the permit. There is a great risk of new charter businesses developing in 2C under this program, which would undermine resource health and the viability of existing charter businesses. While the HC supports the community permit program, we oppose any expansion from the regulations specified in the proposed rule.

We also strongly recommend that the definition for eligible CQE communities be reviewed to determine whether there was any omission or lapse on the part of the Council as to the consequences of this definition. Under the proposed regulations, a community would be eligible if 10 or fewer active charter *businesses* terminated charter vessel trips in the community in each of the qualifying years. We believe the Council may have intended the definition to be for charter *vessels*, not businesses. Because a charter *business* may own multiple vessels, a community that has two charter businesses owning six vessels would become eligible to apply for even more charter halibut permits. In our view this allows for an expansion of effort far greater than the intent of the community permit program. Such an expansion would also place non-CQE communities with small developing charter fleets at a significant disadvantage. Halibut Coalition members also understood that the Council intended the CQE qualify criteria to include a review of existing conditions in the year prior to implementation, as is included for non-community charter entities. In other words, if more than 10 charter businesses terminated charter vessel trips in a community in the year prior to implementation of these regulations that

community would not qualify for community charter halibut permits. We support this recent qualification period for three reasons: 1) consistency with the qualifying period for non-community entities; 2) consistency with the intent of the limited access program to curtail growth in the halibut charter industry; and, 3) consistency with the Council's intent to avoid undermining established charter operations in small communities.

*Leasing:*

The charter industry includes both owner operators and (perhaps more prevalently) business owners who hire skippers to operate their charter vessels. The proposed limited entry program for the guided sport fleet therefore allows recipients of limited entry permits to hire skippers and, in essence, lease their permits. For this reason, the limited entry program DOES NOT mirror Alaska's commercial limited entry programs that require, except in very limited circumstances, permit holders to be on board the vessel when fishing authorized by the permit occurs. Absentee ownership of access privileges has been identified through the recent re-authorization of the Magnuson-Stevens Act as a significant threat to fishery dependent communities and the working waterfront. As written, the proposed rule: "does not have a prohibition against leasing although the Council recommended a prohibition against leasing." (74 Fed. Reg. 18191). If implemented as proposed, the program will allow limited entry permit holders to divest themselves of all aspects of a charter business except the permit, then lease owned permits to active charter boat operators. In other words, entities with no working connection to the charter industry and fishery dependent communities will be authorized to draw rents from the resource and reduce working charter operators to share croppers. We are very concerned about the effect this will have on transferable permit prices, and the probability that over time permits will become more concentrated in ports with the greatest number of summer visitors, where fishing grounds are already congested and localized depletion is an identified problem. This would be detrimental to independent business owners, subsistence fishermen, the resource, and smaller fishing communities that are trying to develop sustainable tourism industries. The HC recognizes that the current business models of the charter industry function in a way that is "substantially similar to a lease" (*Id.*) but believe establishing regulatory authority for this form of absentee ownership will undermine the socioeconomic contribution of the charter industry to coastal communities. Absentee ownership also minimizes the stewardship principles commonly attributed to limited access programs, since permit leasees may have little or no long-term commitment to the resource. We believe this issue should be addressed in the Final Rule in a substantive way, and are not satisfied that the associated impacts to communities and potential impacts to the resource have been adequately assessed.

*Grandfather rights:*

The proposed rule "grandfathers" current participants that qualify for more than five permits to receive and operate more than five permits while restricting all other entities to five. Grandfathering in this manner has become an accepted practice in Alaska's quota share programs; however, other programs do not allow the grandfather rights (i.e., access privileges in excess of the excessive share cap defined for the fishery) to be sold in total as is proposed in this rule. Such a provision raises serious social equity issues. While a case can be made for allowing

large operations to continue to operate above the cap for a given amount of time, providing the opportunity for those licenses to all be sold to one entity perpetuates the inequity and creates a dynasty. The HC recommends the regulations be modified to restrict purchasers of halibut guided sport limited entry permits to the defined excessive share limit of five permits.

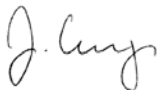
At a minimum we strongly recommend that NMFS remove the requirement that transfer of more than five permits be contingent upon the transfer of all assets, including lodges, vessels and other assets. This provision goes beyond the recommendation of the Stakeholder committee to grandfather in the transfer of permits in excess of the share limit. This provision will inflate the overall value of businesses holding more than five permits, providing them with a windfall that was not intended by the Council. There is simply no need for NMFS to tie all business assets to the transfer of more than five permits; this is a market decision between buyer and seller, and is outside of NMFS purview.

In closing, the Halibut Coalition supports implementation of a guided sport limited entry program and believes controls on capacity are a necessary step to rationalizing the guided sport fishery. Although the limited entry program will not, in itself, resolve conservation and reallocation issue associated with guided sport overharvest, it will define the players who must work together to implement an effective long-term market-based management strategy for the guided sport industry.

Finally, since this is a limited entry program being promulgated under the Halibut Act, 16 U.S.C. 773c(c), the Halibut Coalition recognizes that the program must meet the section 303(b)(6), 16 U.S.C. 1853(b)(6), standards of the Magnuson-Stevens Act (MSA). That means the Secretary must consider seven factors in approving the limited entry program. Those seven factors are 1) present participation, 2) historic participation and dependence on the fishery, 3) the economics of the fishery, 4) the capability of vessels to participate in other fisheries, 5) the cultural and social framework of the fishery and affected communities, 6) the fair and equitable distribution of access privileges, and 7) other relevant considerations. To ensure that each of these required standards are met through the halibut limited access program, the Halibut Coalition recommends that the National Marine Fisheries Service explicitly address in the final rule each standard and explain how each standard is met.

Thank you for the opportunity to comment.

Sincerely,



Julianne Curry, Petersburg Vessel Owners Association



Rochelle van den Broek, Cordova District Fishermen United



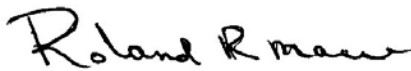
Jeff Stephan, United Fishermen's Marketing Association



Robert Alverson, General Manager, Fishing Vessel Owners Association



Linda Behnken, Alaska Longline Fishermen's Association



Roland Maw, Upper Cook Inlet Driftnetters Association



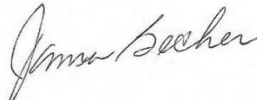
Buck Laukitis, North Pacific Fisheries Association



Tim Henkel, President, Deep Sea Fishermen's Union



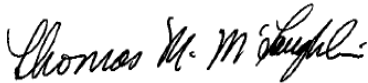
Rhonda Hubbard, Kruzof Fisheries, LLC



James Becker, United Southeast Alaska Gillnetters



Peggy Parker, Executive Director, Halibut Association of North America



Thomas M. McLaughlin, President/CEO Seafood Producers Cooperative



Kathy Hansen, Executive Director, Southeast Alaska Fishermen's Association