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**IPHC Actions to Limit Southeast Alaska (Area 2C) Charter Catch
Are Legitimate and Necessary.**

Recent [statements](#) by members of the halibut charter industry claim that action by the International Pacific Halibut Commission (IPHC) to limit the Southeast Alaska charter industry to its quota circumvents U.S. law and that the 37 inch rule was not properly considered. These allegations are not correct.

Allegation 1. Each country should assign harvest privileges amongst the various user groups domestically, not the IPHC.

The IPHC is not allocating harvest privileges. The IPHC is enforcing a domestic allocation already adopted in U.S. law under the Administrative Procedure Act to protect the halibut resource from overfishing. The charter industry challenged this domestic allocation and the resulting one fish bag limit in court in 2009. The court [upheld](#) the regulation noting that the charter industry's quota, called the Guideline Harvest Level (GHL), was a properly adopted allocation, it should be adhered to, and the charter industry should not be rewarded for bad behavior in violating its conservation quota. The IPHC is not assigning domestic harvest privileges. The North Pacific Fishery Management Council and the Secretary of Commerce, working together in compliance with the Administrative Procedure Act, created the domestic allocation between commercial fishermen and the charter industry. The IPHC is adhering to that domestic allocation.

Since 1923, a treaty between the United States and Canada has governed the harvest of Pacific halibut by all users. This partnership successfully rebuilt depleted stocks in the early 20th century and kept them healthy. A critical component to maintaining a healthy resource is that catch quotas cannot be exceeded. This means everyone -- charter boat operators or commercial fishermen, Canadian and American. Without the IPHC action, the charter industry is expected to exceed its 2011 quota by 62%.

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

Allegation 2: The IPHC does not have the authority to apply size limits to achieve domestic allocations.

Article 1, Clause 2, of the Treaty provides that U.S. and Canada nationals may fish "only in accordance with this Convention ... and as provided by the International Pacific Halibut Commission (IPHC) in regulations...." As to the scope and content of these regulations, Article III, Clause 3 states the IPHC may "(c) limit the size of the fish and the quantity of the catch to be taken...." As to what the U.S. does with any such regulations, Article IV specifically states that the Parties "shall take any action ... as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder." In other words, the Treaty gives the IPHC the authority to do what it did and the Treaty requires the U.S. to enforce the IPHC regulations unless the U.S. files an objection. And why would the U.S. do that if the IPHC is only using its Treaty powers to effectuate a U.S. conservation regulation. Those charter industry representatives opposing the IPHC conservation regulation are really saying that they do not want anyone to enforce the conservation quotas adopted by the U.S. under the Administrative Procedure Act so that the charter industry can continue to overfish the resource.

Allegation 3. This action would circumvent the U.S. regulatory process associated with the Administrative Procedure Act (APA).

The charter industry participated fully in the U.S. Administrative Procedure Act process that resulted in the charter quota (GHL rule making) and in the public deliberations that adopted the Catch Share Plan management measures (e.g. bag and size restrictions). The IPHC is only enforcing a size restriction because the charter industry exceeded its conservation quota by 22%-115% in every year since it was established (the commercial sector has never exceeded its quota). The IPHC gave notice in January 2010 of their intent [[IPHC Press Release](#)] to act to protect the resource from overfishing if the U.S. did act to control the charter harvest in 2011. This gave charter operators a year to prepare recommendations on management measures to control their harvest. The charter industry gave the IPHC no proposal to accomplish that. Indeed, when the IPHC Conference Board met, the charter representatives voted against every measure that would keep them within their conservation quota, meaning that they were voting to once again allow the charter industry to overfish the resource. Such a position flaunts the conservation needs of the resource. Since 2006, the commercial sector has been cut 78% for conservation reasons while the charter industry has seen their quota reduced only 20%, and they have overharvested their quota every year.

The IPHC staff presented options to the Commissioners based on measures contained in the Catch Share Plan adopted by the North Pacific Fishery Management Council in October 2008. Potential management actions, including season and size limitations, were considered by the Council, in consultation with its Scientific and Statistical Committee before final action was taken in October 2008. The 169 page analysis included input from the Alaska Department of Fish and Game and the public, including hundreds of written comments and two days of verbal testimony. The public will have yet another opportunity to comment when the proposed catch share rule is published by the National Marine Fisheries Service in April.

At its January 2011 meeting, the IPHC Commissioners (three Canadians and three U.S.) determined that the health of the Southeast stocks had declined, that strong action was needed,

and that a Catch Sharing Plan adopted by the North Pacific Fishery Management Council in 2008 would not be in place by the summer of 2011 [[IPHC Press Release](#)]. Accordingly, the IPHC reduced the Area 2C commercial quota 47% from 2010 and established a halibut charter 37 inch maximum size limit in order to reduce the projected Area 2C 2011 charter catch to within the 788,000 pound GHL. While the commercial sector is taking a 47% cut from 2010, the charter GHL remains the same. The IPHC was concerned that without the 37 inch rule the charter industry would exceed its GHL by 62%. Given the low abundance of stocks, doing nothing is not a viable alternative.

Allegation 4: The recommended 37" halibut size limit for Southeast Alaska would result in a harvest 171,000 pounds under the GHL.

The IPHC did not pick the 37" limit out of thin air. In 2009, the NPFMC's Scientific and Statistical Committee (SSC) reviewed several papers on how to estimate the effect of a maximum size limit on guided sport catches. These papers noted that when past estimates did not account for angler high grading, the estimation procedure significantly underestimated actual catch. Recent examples of this occurred in [2007](#) and again in 2010. This flawed methodology is what was used to predict a harvest 171,000 pounds below the GHL. In February 2009, the NPFMC's SSC noted that using this flawed method to predict harvests "*would be expected to produce the largest overage in harvest ... [and]t the most impact on the resource*"

An alternative methodology that incorporates angler high grading results in a maximum size limit to achieve the GHL allocation of 35" to 38". The 37" size the IPHC commissioners picked is near the upper end of this range. It is consistent with the SSC recommendation to "*choose an intermediate value.*"

Allegation 5: The IPHC harvest policy has allowed commercial catch to exceeded target harvest levels.

The current halibut model generates a recommended state-wide catch limit. The commercial halibut fishery has not exceeded the Area specific catch limit recommended by IPHC Commissioners in any year since the IFQ plan was implemented in 1995. The facts are that the commercial quota has been cut 78% while the charter industry has been overfishing its quota by 22%-115%.

Allegation 6: The overages by the guided sport sector are not significant.

Bruce Leaman of the IPHC has stated "*The assertion ... that overages of the GHL by the charter sector do not represent a conservation concern ... is incorrect.*" The IPHC has also stated that charter overfishing "*will exacerbate the present conservation problem*" and that it "*frustrates the ability of the IPHC to meet its management targets.*" Cumulative charter industry overages total over 3 million pounds since 2003. Without the 37" size limit, guided sport catch in 2011 is expected to exceed the conservation quota by 62%. These overages are significant. Imagine if the commercial fishermen who do not like their quotas in halibut just chose to ignore them saying it is not significant in the long run. It is time for guided sport operators to accept their responsibility for conservation.