

IPHC Catch Limit Comment Form

Comment on Regulatory Area: 2A/2B/2C/3A/3B/4A/4B/4CDE Year: 2009

(Circle all that apply)

Submission Information (Please print or type)

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Signature:

1. What is your recommended catch limit or proposal

Implement harvest control measures to restrain the 2010 and beyond 2C guided sport harvest to the sector's Guideline Harvest Level (GHL) of 0.788 million pounds.

2. What is the supporting information for this recommendation (e.g., catch rates, biomass trends, recruitment, etc.)? Please be specific where possible.

The 2C guided sport industry has exceeded its annual allocation every year starting in 2004 when the GHL was implemented. 73 Fed. Reg. 78276, 78277-78 (Dec. 22, 2008 Proposed Rule). The cumulative **GHL overages** (2004-2009) total 3.6 million pounds. During 2009, guided sport clients were limited to one halibut per day, but the 2009 guided sport **GHL overage** is estimated to have exceed 0.5 million pounds (a 65% GHL overage). A number of guided sport operators challenged the one halibut rule in federal court, claiming their allocation was unfair, but were denied on all counts. The Judge upheld the one halibut rule as an appropriate conservation management regulation, and stated that guided sport overages create a resource conservation risk:

"As conservation of the halibut resource is the overarching goal of the IPHC, the magnitude of charter vessel harvest over the GHL in Area 2C has raised concern that such excessive harvests by the charter sector pose a conservation risk, with the potential to undermine the IPHC's conservation and management goals for the overall halibut stock. Therefore, restraining charter sector harvests to approximately the GHL would contribute to the conservation of the halibut resource. "

(*Van Valin v. Locke*, 2009 W.L. 4068028 (D.D.C. November 23, 2009). at 15-16, *citing* 74 Fed. Reg. at 21194-95),

The Judge also ruled that sectors exceeding their allocation should not be rewarded for overharvest:

"The charter sector exceeded the GHL by 22% in 2004; by 36% in 2005; by 26% in 2006; and by 34% in 2007. 73 Fed. Reg. at 78277-78. And in 2008, the guided sport industry harvested more than double the 2008 Guideline Harvest Level, an

estimated 1.914 million pounds of halibut. See EA at 9. The Charter Operators' argument that the Secretary should have relied on recent participation data is in essence a claim that they are entitled to a greater allocation of the harvest because they have been harvesting a greater amount in recent years, i.e., that they should be rewarded for exceeding the guidelines year after year. The Secretary understandably chose not to encourage such overharvesting."

Id. at 11.

Unless additional management measures are implemented in 2010 to control 2C guided sport harvest to the GHL, the sector can be expected to exceed its GHL for the sixth straight year, compromising area rebuilding goals.

Management measure **options** for the 2C guided sport fishery that have been analyzed by the North Pacific Fishery Management Council (Council) include:

1. An annual limit of 4-6 halibut
2. Time/area restrictions
3. A maximum size limit on the retained halibut

Analysis of each option is available in Council documents at:

(http://www.fakr.noaa.gov/npfmc/current_issues/halibut_issues/Area2CHalibut507.pdf) and (http://www.fakr.noaa.gov/npfmc/current_issues/halibut_issues/Area2C3A_CatchShare408.pdf)

Although the Halibut Coalition will likely support any management measures that will effectively limit guided sport harvest to the GHL, our evaluation of the options suggest annual limits may be the most appropriate choice. According to the 2007 analysis cited above, "an annual limit is unlikely to affect the clientele of most charter operators; in fact, it only affects the heaviest users of guided sport services." (p. 63) Annual limits were recommended by the Council in the past, but were never implemented by NMFS who deemed them unenforceable. However, scanned and electronically submitted logbook pages (developed in 2009 and scheduled for 2010 implementation) now allow in-season monitoring of individual client catch and make annual limits enforceable. Some re-analysis will be necessary to determine the appropriate annual limit, since the average weight of halibut retained in the guided sport fishery has increased significantly since the 2007 analysis and a one halibut daily limit has been implemented. It seems likely that only an annual limit below 4 halibut will restrain charter harvest to the GHL, but even a low annual limit will provide all guided sport clients with a reasonable opportunity to harvest halibut while moderating the harvest of the "heaviest users."

Halibut Coalition members remind conference board members and the Commissioners that despite the ongoing 2C halibut biomass decline and the staff recommendations for additional reductions in the 2C commercial catch limits, the guided sport 2C GHL will not be reduced in 2010. Coalition members note this inequity, but at this time do not challenge it because it is consistent with Council policy. We simply request, as we have since the GHL was implemented, that managing agencies implement the necessary measures to restrict guided sport harvest to the sector's allocation, or GHL. The professional setline sector has not exceeded the 2C catch limits since 1995; effective controls on guided sport harvest are long overdue.