



March 30, 2010

Mr. Eric A. Olsen, Chairman
North Pacific Fisheries Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501
Deliver via fax to (907) 271-2817

**Re: Item C2 in the April, 2010 NPFMC Meeting Agenda
Public Review Draft – Regulatory Amendment to Revise Permit Endorsements for Charter Halibut
Businesses that are Qualified to Receive Multiple Permits**

Dear Mr Olsen,

The Southeast Alaska Guides Organization, (SEAGO) represents charter operators, lodges, and our angler clients throughout the region. Sport fishing in Southeast contributes \$300M annually to the local economy, creates 3,000 jobs, and supports more than 400 small businesses.

We write to you over concern about changes proposed in the public review draft as follows:

1. Problem Statement not Proven

Nowhere in the document is the problem statement substantiated. This issue was first discussed during the February, 2010 NPFMC meeting where verbal comments asserted that excess angler endorsements of approximately 4% in Area 2C and 11% in Area 3A were discovered as the permit process was rolled out. A difference in interpretation emerged between NMFS staff and council members regarding issuance of permits to a business rather than to a specific vessel. At that time NMFS representatives argued that angler endorsements were calculated in accordance with the final regulation text that was published in the Federal Register in January, 2010. However no analysis has been published documenting the alleged 4% and 11% overages, and more importantly, whether it would have any negative impacts to the halibut fishery and local economies. Stakeholders and the public have no way of knowing if there is a problem or a need for a change to the existing regulation unless the analysis and other justification substantiating the ‘problem’ are offered.

Next, even if a small number of charter operators are granted a higher number of angler endorsements, this document provides no evidence that they will be used. We deem it highly unlikely that a charter operator would immediately change his business model by selling his current vessel and purchasing another, (for \$100k+), and then solicit additional customers just because he received a six person endorsement rather than a four person permit. Further, in the longer term, if charter operators do upgrade, total capacity is unlikely to increase due to an offset that is expected from fall-off in non-transferrable permits.

Finally, there is no discussion in this document about potential material impacts to the sustainability and conservation of halibut fishery resulting from the ‘problem’ in the angler



endorsement calculation as currently published. Without proving a strong basis for taking emergency action to amend the regulation, this whole issue is reduced to speculation and opinion. We strongly believe that all decisions must be based on sound science supported by hard data, and adhere to traditional business principles.

2. Endorsement Calculation Issues

For the various options in Alternative-2 there is no mention of a minimum number of angler endorsements for the 2nd and subsequent permits so presumably we could end up with one or more permits with one, two, or three angler endorsements. At no time was consideration ever proffered about issuing permits with less than a four person angler endorsement.

By the report's estimate, the calculation methodology offered in Alternative-2 will cause a significant reduction in endorsements issued, ie 13-16%. Never in the whole multi-year regulation development process was there warning by the council that businesses that increased average passenger loads between 2004/05 and the year prior to implementation on vessels already engaged in the fishery would be cut back to 2004/05 levels. In fact the council explicitly stated that it was not your intention to restrict charter businesses from growth.

No mention is made of potential issues arising from multiple trips during a single day. In some instances the draft document refers to the "highest number of anglers on a trip" as a means to establish the angler endorsement. In other areas it alludes to the "highest number of anglers a single vessel carried in a day". A trip and a day are two very different things. Some vessels have "qualified" for an angler endorsement based on multiple trips within a day. For example, two trips of 5 anglers each in one day resulting in an angler endorsement of 10.

Finally, the new calculation methodology proposed in Alternative 2 results in a far greater reduction in angler endorsements than the 4-11% overage originally estimated in council testimony at the February meeting. Yet there is no justification/explanation for this increased restriction.

3. Implementation Timing Problem

On page 7 of the document and then again starting on page 34 there are two different scenarios indicated that would result in charter operators not knowing how many endorsements we will have until at least mid-December, 2010 and perhaps later if a subsequent decision to change/modify individual permits is made. This will cause a major disruption to our annual marketing efforts. Typically our customers book well in advance of the season, often before they leave their current year's trip. By not knowing how many endorsements would be issued/rescinded in the following year, we will lose six or more month's marketing and likely lose business as a result. This would have a crippling impact on our businesses.

4. Economic Impact Trigger



The changes proposed in the various Alternative-2 options affect the largest charter operators and therefore will create a significant negative economic impact. Further, if Alternative 2 is adopted, your analysis indicates a further reduction of 13-16% would occur on top of the 40%+ reduction in capacity announced earlier. A very simple financial analysis demonstrates that the annual impact will be in excess of \$100M requiring the council to conduct a more thorough Regulatory Impact Review. Finally, this change will result in significant negative impact not only to charter operators, but also to the communities where we live and work. We believe that such an action is contrary to the Halibut Act.

5. Questionable Management Process

This is not the finest example of timely, open, and considerate disclosure of a potential regulatory change with a significant impact for the following reasons:

- The original regulation was published in April, 2009 with final publication on January 5, 2010. The council had ten months to identify and resolve any 'problems/issues' but after the program has already begun to be rolled out you are proposing to rush through significant changes in a single meeting. While we can support the council's overall intention to implement the moratorium program, we oppose the hurry-up approach on this substantial revision. It always takes longer than anticipated to put something like this through and our industry needs to know well ahead of February 1 what regulations we have to work with for the coming season.
- The public review draft document was published late on Friday afternoon of 3/26/10 on the NPFMC website with no public notification. Calls to NMFS, Juneau earlier on Friday requesting a copy of the document were not returned. This leaves less than two weeks for stakeholders to respond to the issue.
- Due to the publication timeline of this document, we have only two business days to respond in order to meet the deadline for written comments for the April NPFMC meeting.
- There has been no input from stakeholders or the public:
 - in the preparation of this document, nor
 - in the formulation of alternatives, nor
 - in consideration of resulting impacts to the halibut fishery, charter businesses, and the communities where we live and work.
- The council did not publish a revised agenda for the April NPFMC meeting with item C2 included until the middle of March resulting in less than a month to respond to this issue.

Recommendation

We strongly urge that the council take no action on this issue. The regulation has been in development literally for years, was published in the Federal Register in April, 2009 and January, 2010, and the permitting process is currently well underway. We concur with the council's desire to clarify the angler endorsement issue but we cannot support any action that will delay issuance of



the permits or hamper our ability to plan for our 2011 season. This issue does not have to be fixed immediately. The regulation as currently written will achieve the desired result of reducing the charter fleet by 40% and there appears to be no material fishery related reason to push through this emergency action. Any excess capacity created by the original determination would not be realized for several years, giving the council ample time to pursue amendments. This is not the time to make changes to an already complex program.

If however, you choose Alternative 2, we suggest option 3 with the following changes:

- set the minimum number of angler endorsements for 2nd and subsequent permits to be 4, and
- complete notification of expected endorsements to charter operators by June 1, 2010 so we can make advance bookings for the following year.

SEAGO would welcome the opportunity to work with all involved to arrive at decisions that are in the best economic interests of our communities, the sustainability and conservation of our halibut fishery, and the financial health of the guided sport sector.

Sincerely,

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cc: James W. Balsiger, Administrator for Alaska Fisheries, NOAA, via email to: jim.balsiger@noaa.gov