

The effect of removing this regulatory language in this final rule is to establish the GHL as a notification to the Council for consideration of possible subsequent rulemaking, but not to establish specific harvest restriction measures. While this change substantially modifies the regulatory language in the proposed rule, it does not impose new restrictions on the guided recreational fishery. The only regulatory effect of this action is to codify the GHL policy, require the publication of the GHL on an annual basis in Areas 2C and 3A, and to require NMFS to notify the Council if the GHL is exceeded.

Response to Comments

The proposed rule was published in the **Federal Register** on January 28, 2002 (67 FR 3867), and invited public comments until February 27, 2002. NMFS received 241 public comments.

Letters Supporting the Proposed Rule

NMFS received 228 letters that supported, either in whole or in part, the adoption of the proposed rule to implement a GHL and associated management measures for the guided halibut fishery. These comments do not provide specific suggestions or comments on modifying the proposed rule, but urge its Secretarial approval. Therefore, the supportive comments summarized are not individually addressed and responded to in this action.

Many of the public comments supporting the proposed rule are form letters from individual commercial fishermen that urge NMFS to approve the proposed rule. Approximately half of these letters also contain personalized information on the specific nature of the individual's commercial fishing operation and how that individual would be harmed if the proposed rule were not adopted. NMFS received seven letters that support the adoption of the proposed rule from organizations representing fishermen or processors. NMFS also received one petition signed by 69 individuals supporting the GHL proposed rule. The individuals signing the petition indicated they owned or operated vessels primarily homeported in Homer, Alaska. Based on a review of the names on the petition, most of these individuals did not submit separate personal letters.

NMFS received three letters from resident sport anglers who expressed support for the GHL as a means to control effort in the fishery and ensure sport fishing opportunities for local residents. One commercial fisherman and guided recreational lodge owner catering to guided recreational fishery

clients also expressed support for the GHL proposed rule as a means to curtail effort that could adversely affect his lodge operations.

The principal reasons given for supporting the proposed rule in these letters were that it would:

- (1) Establish an equitable allocation between sport and commercial harvests;
- (2) Provide additional security for commercial fishermen who have invested in the IFQ Program and believe that they should be provided a stable percentage of the total halibut resource; and
- (3) Provide a control on guided recreational fishery harvests in nearshore waters that are used by smaller commercial vessels.

Many of the letters noted that commercial fishermen have made substantial investments in the IFQ program and the lack of controls on guided recreational fishery harvests will compromise their investment because no explicit controls exist on the future growth of the guided recreational harvests relative to the commercial fishery. Other letters noted that consumers would benefit from a healthy commercial resource and not all individuals can afford a guided fishing experience if they want to eat Pacific halibut from Alaska. Several letters indicated that the value of commercial fisheries extends to the numerous services (e.g., grocery stores, supply stores) that commercial fisheries support in small rural communities. Other letters noted that localized depletion by guided recreational vessels is a concern and must be controlled. Some letters mention that guided recreational operators are in fact "commercial fishermen" because they derive their income by their ability to find fish for their clients to harvest. Several letters indicate that the Council process that resulted in the recommendation to adopt a GHL for the guided recreational fishery fleet was a long, open process, that allowed ample public participation.

Generally, these letters express support for the Secretary's decision to publish the proposed rule and proceed with the GHL. A number of the comments are no longer pertinent given the restructuring of the final rule to remove the framework harvest restrictions.

Letters Opposing the Proposed Rule

NMFS received 12 letters opposing the establishment of a GHL. The authors of all of these letters identified themselves as guided recreational fishermen. Writers of these 12 letters

made 10 unique comments on the proposed rule.

Most of these comments specifically address the harvest restriction measures that were part of the proposed rule but are not included in this final rule. These comments may no longer be pertinent given the removal of the harvest restriction framework.

Comment 1: The guided recreational fishery harvests comprise a relatively small portion of overall harvest of halibut in Areas 2C and 3A. The percentage of harvest is not increasing, and controls or other limits on the guided fishery are not needed.

Response: This rule does not impose any restrictions on the guided fishery, but serves to notify the public of the GHLs on an annual basis and to notify the Council when the GHL is exceeded. The Council recommended that NMFS allocate resources between the guided recreational and commercial sectors to address longstanding concerns raised by the absence of a specific allocation of the halibut resource to the guided recreational sector. Although this rule does not directly implement harvest restrictions, establishing an upper limit of harvest for the guided recreational fishery is appropriate and necessary if the commercial and guided recreational fleets wish to maintain the existing harvest distributions between these sectors.

The GHL was explicitly designed to allow a limited degree of growth in the guided recreational fishery without reallocating the historic distribution of harvests between the commercial and recreational sectors. The guided fishery has not yet met or exceeded the proposed GHL in either Area 2C or 3A.

Comment 2: Guided recreational fishery operations provide a greater economic benefit to Alaska and rural communities than the commercial fishery and the GHL would impede this economic benefit and the exercise of free-markets.

Response: This analysis is provided in the EA/RIR/IRFA, and indicates that the relative economic impacts of implementing harvest restrictions may vary depending on the measures used, area, and particular aspects of the fishery operation. This analysis did not explicitly indicate that guided recreational fishery operations uniformly provided a greater economic benefit to Alaska and rural communities. This final rule does not impose harvest restrictions on the guided fishery, however, and is not expected to have a direct economic effect on the guided fishery.

NMFS considered the economic effects of this regulation, among other