

Draft GOA Halibut Prohibited Species Catch Limit Action Plan

May 25, 2011

Proposed action

Revise the GOA Halibut Prohibited Species Catch Limits through the annual groundfish harvest specifications process for 2012/2013.

Problem statement^{1,2}

The GOA Groundfish ~~FMP and NMFS rule making harvest specifications~~ annually establish a 2,000mt halibut Prohibited Species Catch (PSC) limit for trawl gear and a 300mt halibut PSC limit for hook and line gear. The FMP authorizes the Council to recommend, and NMFS to approve, annual halibut mortality limits as a component of the proposed and final groundfish harvest specifications. Halibut PSC limits are set separately for trawl and fixed gear, which may be further apportioned by season, regulatory area, and/or ~~target fishery~~ PSC fishery category.

Since the existing GOA halibut PSC ~~caps~~ limits were established, the total biomass and abundance of Pacific halibut has varied and in recent years the stock has experienced an ongoing decline in size at age for all ages in all areas. Exploitable biomass has decreased 50% over the past decade. In recent years, the directed halibut catch limits in the GOA regulatory areas 2C, 3A and 3B have declined steadily. From 2002 to 2011 the catch limit for the combined areas 2C, 3A, and 3B declined by almost 50%. While total biomass is high, much of this biomass is made up of smaller fish that are more vulnerable than larger fish to trawl gear.

With the exception of ~~bycatch~~ PSC limit reductions in the IFQ sablefish fishery, and the Rockfish Pilot Program, the current PSC limits ~~bycatch limits~~ have not been revised since 1989 for trawl gear and 1995 for hook and line gear (Amendment 18). Since that time there have been significant changes in groundfish and halibut management programs and fishing patterns, environmental conditions, fishing technology, and our knowledge of halibut and groundfish stocks. Halibut is fully utilized in the directed sport, subsistence and commercial fisheries and is of significant social, cultural and economic importance to communities throughout the geographical range of the resource. Halibut PSC ~~allowances~~ limits are also critical to the prosecution of many groundfish fisheries operating in the GOA.

The GHL for the charter sector in Area 2C has declined from 1,432,000 to 788,000 net pounds in the last 5 years, and progressively restrictive management measures have been implemented to keep this sector within its GHL.

Recognizing the significant decline in exploitable biomass, the uncertainties about current halibut stock dynamics and the effect of current PSC limits ~~bycatch levels~~ on the halibut commercial catch limits and biomass and all user groups, the Council acknowledges a need to evaluate existing halibut PSC limits and consider reductions.

Analysis

EA, RIR³, IRFA

¹ Adopted by the Council in April 2011

² Staff recommends replacing “bycatch” and “incidental catch” with “prohibited species catch” to conform to language in the MSA.

³ Option 3b is now the status quo. Option 3a would amend federal regulations; therefore it requires an RIR/IRFA. The RIR would not be submitted to the Secretary if the Council takes no action.

Applicable laws

MSA, NEPA, EO 12866, Regulatory Flexibility Act

Range of alternatives¹

Alternative 1: Status quo

Alternative 2: GOA Halibut PSC limit reduction

Option 1: Reduce the halibut PSC limit for hook-and-line gear by

- a) 5%.
- b) 10%.
- c) 15%.

Option 2: Reduce the halibut PSC limit for trawl gear by

- a) 5%.
- b) 10%.
- c) 15%.

Suboption: Apply the full trawl PSC limit reduction to the 5th season.

Option 3: AFA/Amendment 80/Rockfish Program sideboard limits will:

- a) Be redefined as specific numbers (in mt) calculated against the status quo GOA halibut PSC limits
- b) Be applied as percentages against the GOA halibut PSC limit⁴

Staff resources

NPFMC	Jane DiCosimo	action plan, document coordination; introduction; background; purpose and needs, biological impacts on resources and fisheries: halibut (commercial halibut setline, guided sport, sport, subsistence); commercial groundfish: (trawl, longline); marine mammals, seabirds, ecosystem, habitat, cumulative effects
contractor	Darrell Brannan	Economic/social impacts on groundfish fisheries and halibut fisheries
contractor	Marcus Hartley	commercial groundfish database/tables
contractor	Mike Downs	communities impact analysis
AKFIN	Michael Fey	data support
NMFS SF	Mary Furuness	in-season management, sideboards
	Obren Davis	in-season management, "rulemaking"
	Tom Pearson	in-season management, "rulemaking"
	Josh Keaton	1) PSC and PSC rates of halibut in directed groundfish fisheries and 2) spatial distribution of target catches/halibut PSC
	Melanie Brown	incorporation into groundfish specifications package
	Ben Muse	incorporation into groundfish specifications IRFA
IPHC	Gregg Williams	halibut information (stock assessment/"bycatch"/wastage)
NMFS AFSC	Jim Ianelli	staff generated proposed 2012/2013 harvest specifications
NOAA GC	Maura Sullivan	applicable laws
Prot Res	Dana Seagars	no coordination issues identified
Habitat		no coordination issues identified
OLE		no coordination issues identified
NMFS HQ		no coordination issues identified

⁴ Staff recommends that Option 3b could be dropped as an "option" in the analysis as it is now "status quo" in the draft proposed rule for implementing the GOA Rockfish Program

Major issue

- The Council identified its intent for proposed changes to GOA halibut PSC limits to be in effect in 2012. To ensure that the final groundfish harvest specifications are a logical outgrowth of proposed specifications, the Council *should select a Preliminary Preferred Alternative (PPA) during its initial review* of the draft analysis scheduled for October 2011.
- The expedited timeline for implementation poses a number of *implementation hurdles* that previously were identified to the Council and will be addressed in the analysis:
 - The existing in-season adjustment authority, established under § 679.25 Inseason adjustments⁵, would not extend to the adjustment of a halibut PSC limit for the start of the next fishing year.
 - NMFS staff identified that “The potential scope of the analysis required to assess the implications of changing the overall GOA halibut PSC could be substantial and could compromise the ability of the agency to complete the analytical and rulemaking processes required to implement the annual harvest specifications in a timely manner. . . . Ideally, this potentially complicated analysis would be undertaken independent of the annual harvest specification process as a separate action.”
 - Final harvest specifications typically publish in the *Federal Register* by mid-March each year. A delay in publication could occur due to inclusion of the proposed action (which may revise both harvest specifications (i.e., PSC limits) AND corresponding federal regulations that implement the halibut PSC sideboard limits which may result in 1) additional review time because of potential controversy of the proposed action, 2) the potential need to respond to additional public comment on this added element, and 3) the potential promulgation of federal regulations associated with Option 3.
 - To speed implementation of harvest specifications for 2012 (but at the cost of additional staffing requirements NMFS may trifurcate the proposed action into 1) prioritized publication of harvest specifications for 2012/2013 (i.e., OFLs, ABCs, TACs); 2) trailing publication of revised halibut PSC limits and seasonal apportionments; and 3) trailing regulatory amendment for revised halibut PSC sideboard limits, as needed.

Minor issue

- Consideration of the effects of the proposed action on seasonal apportionments of halibut PSC limits, as outlined in the GOA Groundfish FMP (see Appendix 1 below) will *not* be addressed in this analysis because they are interpreted to be outside the bounds of this proposed action and will occur during the harvest specifications agenda item.
- Council recommendations for seasonal apportionments of TACs and halibut PSC limits are based on in-meeting recommendations from its Advisory Panel and public testimony, which are based on in-meeting SSC recommendations for OFLs and ABCs. Because the different drafts of the analyses will be prepared before these panels adopt their recommendations, those recommendations can be incorporated into the analysis only after each Council meeting in which they occur. The Council’s timeline results in each draft of the analysis being out of synchrony with the best available information that will be presented during the meetings when actions are taken.

⁵“The adjustment of a TAC or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Administrator that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.”

The Council's timeline does not allow the inclusion into the public review draft analysis of the best available scientific information on the status of stocks (i.e., biennial Summer 2011 GOA Groundfish Survey), which will be adopted in the GOA Groundfish SAFE Report at the same meeting as the PA for this proposed final action. Therefore the Council will adopt its PPA in October and its PA in December, without the benefit of having the proposed and final, respectively, harvest specifications incorporated into the analysis because those decisions do not happen until the meeting in which the analysis is reviewed and action taken. The document submitted to the Secretary will contain all the new scientific data collected by the 2011 trawl survey, along with SSC and Council recommendations on OFLs, ABCs, and TACs. The public will have an opportunity to comment on 1) proposed specifications during the comment period on the proposed harvest specifications and 2) the proposed rule for amending the federal regulations (to convert percentage sideboards into fixed (mt) sideboards), if adopted by the Council. Delays associated with the need to reanalyze the impacts could be mitigated if the Council clearly identifies its intention *as early as possible* that its preferred alternative on this action may be bifurcated (or trifurcated if an action option is selected in the PA. Scheduling the proposed action during an off-year for the GOA trawl survey would allow the most recent conditions in effect to be incorporated in the public review draft analysis provided to the Council, but would delay implementation.

Requests for clarification (TBD by the Council under the June 2011 B-1 agenda item)

- Staff requests that the Council state whether it adopts the proposed minor edits in the problem statement.
- In April 2011 NMFS staff raised management concerns related to potential effects of the proposed action on halibut PSC sideboard limits in three other rationalization programs. Staff identified that the Council selected its PAs for the AFA, Amendment 80, and Rockfish Program GOA halibut PSC sideboard limits in the context of the 2,000 mt trawl PSC limit. The AFA GOA halibut PSC sideboard limits are based on a percentage of the seasonal allowances. Rockfish Program and Amendment 80 halibut PSC sideboard limits are based on a percentage of the total trawl allowance (2,000mt).

In response the Council adopted Options 3a and 3b under Alternative 2 to include a decision point whether PSC sideboard limits should be subject to (in percent (i.e., floating)) or exempt (in metric tons (i.e., fixed)) from proposed reductions. Since the April 2011 meeting, NMFS staff plans to propose regulatory language that would implement the Rockfish Program halibut PSC sideboard limits in percentages based on the 2,000 mt limit. *Alternative 2 Option 3b is now the No Action Alternative in the RIR.*

- To streamline the proposed action in order to meet the proposed implementation timeline for 2012, staff requests that the Council state whether all halibut PSC sideboard limits would be subject to proposed reductions is acceptable, *at least for 2012*, or whether this is a decision point to be addressed in the RIR. Under the status quo, the analysis will need to assess the effects of reduced PSC limits on fishery dynamics within these three fisheries with halibut PSC sideboard limits.
 - The analytical burden is increased if the Council makes this a decision point that requires an RIR (i.e., Option 3b to convert current percentages (based on 2,000 mt) to fixed metric tons). Staff cannot predict the tipping point for when or whether an analysis becomes too unwieldy to stay within the Council's proposed timeline, however, Option 3 is the sole proposed element that is subject to E. O. 12866 and would require the preparation of an RIR, proposed rulemaking, public comment, and final rulemaking. It may be implemented on a separate (i.e., later) timeline than the main proposed action, as described above. This could result in three separate implementation schedules for components of the proposed action under the harvest specifications process. Alternatively, the Council may choose to defer the decision point to a subsequent analysis.

- The Council may be prepared to resolve whether the Rockfish Program halibut PSC sideboard limits should be implemented as fixed or floating with the trawl halibut PSC allowance in June. There is still time for NMFS staff to implement the Council's preferred approach in the Rockfish Program proposed rule (scheduled for Summer 2011) and final rule (scheduled for November 2011) so that the program is in effect in January 2012. Note it was NMFS staff's original intent to implement them in metric tons, but the proposed rule was revised to convert them to percentages in response to Council discussion in April 2011. This analysis would then use that clarification for the Rockfish Program proposed rule as the status quo.

To streamline the analysis in order to meet the Council's preferred implementation timeline, staff recommends that the Council consider all potentialities for streamlining the proposed analysis to meet its preferred timeline for implementation for the 2012 fishing year. This could result in the following range of alternatives.

Alternative 1 No Action.

Alternative 2. PSC limit reduction

Option 1. Reduce the halibut PSC limit for fixed gear by

a) 5% b) 10% c) 15%.

Option 2. Reduce the halibut PSC limit for trawl gear by

a) 5% b) 10% c) 15%.

Suboption a: Apply the full trawl PSC limit reduction to the 5th season.

Suboption b: Sideboards.

1. No Action. Set GOA halibut PSC sideboard limits for the Non-Exempt AFA CVs, Amendment 80, and Rockfish Program as percentages against the GOA halibut PSC limit

Deferred to trailing amendment??? *2. Set GOA halibut PSC sideboard limits for the Non-Exempt AFA CVs, Amendment 80, and Rockfish Program as metric tons based on the current apportionments under the 2,000 mt allowance, to exempt them from halibut PSC reductions.*

Timeline to implementation

February 2010	NMFS discussion paper
June 2010	NPFMC discussion paper on FMP criteria
October 2010	NPFMC supplemental discussion paper/Northern Economics tables
December 2010	NPFMC supplemental discussion paper
April 2011	IPHC discussion paper/NMFS AKRO SF discussion paper Council adopts purpose statement and alternatives
May 2011	Interagency Staff Conference Call to Review Draft Action Plan; data requests
June 2011	Council adopts draft Action Plan/Analytical Outline under Executive Director's Report (B-1); AFSC provides draft proposed GOA groundfish OFLs and ABCs
August 2011	GOA Groundfish Plan Team reviews preliminary analysis of proposed action Initial review draft, possibly with supplemental analysis, is released
September 2011	Council approves initial review draft analysis and selects PPA
November 2011	NMFS publishes PPA as part of proposed 2012/2013 harvest specifications
December 2011	Final action/selection of PA/guidance on bifurcation of 2012/2013 harvest/halibut PSC limit specifications

March 2012 NMFS publishes PA as part of final 2012/2013 harvest specifications or bifurcates (or trifurcates) specification of 2012/2013 halibut PSC limits (and halibut PSC sideboard limits) (TBD)

(Future) Alternative Approaches (Cumulative Effects)

- All of the above could be incorporated into next (2013/2014) groundfish harvest specification process
- Analysis of GOA halibut PSC sideboard limits could be deferred to a separate analysis or combined with the intermediate step.
- Intermediate step: GOA Groundfish FMP amendment and regulatory amendment to remove halibut PSC limits from the harvest specifications process under the FMP and implement halibut PSC limits in regulation, as occurs under BSAI Groundfish FMP (timeline TBD)
- Long term step: “comprehensive” rationalization plan to allocate halibut PSC limits: exploratory discussion paper of all other “bycatch” allocations programs and previous NPFMC initiatives (October 2011)

DRAFT TABLE OF CONTENTS⁶

1	INTRODUCTION AND PURPOSE.....	<i>JANE⁷</i>
1.1	Purpose and Need	
1.2	Problem Statement	
1.3	History of this Action	
1.4	Relationship to Other GOA PSC Limit Reduction Actions	
1.5	FMP Requirements	
2	DESCRIPTION OF ALTERNATIVES.....	<i>JANE</i>
2.1	No Action	
2.2	Revise GOA Halibut PSC Limits	
2.3	Alternatives Considered But Not Carried Forward	
3	ENVIRONMENTAL ASSESSMENT	
3.1	Biological Impacts Analysis	<i>JANE & JOSH</i>
3.1.1	Pacific Halibut	
3.1.1.1	Resource	
	(a.) ⁸ estimated change in biomass and stock condition of halibut	
	(b.) potential impact on halibut stocks	
3.1.1.2	Halibut IFQ Setline Fishery	
	(c.) potential impacts on the halibut fisheries	
	(d.) estimated bycatch ⁹ in years prior to that for which the halibut PSC mortality limit is being established	
3.1.1.3	Other Halibut Fisheries (Guided Sport, Sport, Subsistence)	
	(c) potential impacts on the halibut fisheries	
3.1.2	Groundfish Longline Fisheries	
3.1.2.1	Groundfish	
	(e.) expected change in target groundfish catch	
	(f.) estimated change in target groundfish biomass	
3.1.3	Other Commercial Groundfish, Ecosystem Component Species	
3.1.4	Marine Mammals	
3.1.5	Seabirds	
3.1.6	Habitat	
3.1.7	Ecosystem	
3.1.8	Impacts of the Alternatives	
	3.1.8.1 Alternative 1: Status quo	
	3.1.8.2 Alternative 2: PSC limit reduction	
3.2	Social and Economic impacts Analysis.....	<i>DARRELL/NEI data summaries</i>
3.2.1	Groundfish Fisheries ¹⁰	
	(g.) methods available to reduce halibut bycatch	
	(h.) the cost of reducing halibut bycatch	

⁶ First draft will have all tables and figures at the end of the document; some may be put in appendices

⁷ Grayed text indicates draft completed

⁸ These annotations refer to GOA Groundfish FMP criteria for adjusting halibut PSC limits (see Appendix 1)

⁹ FMP language refers to “bycatch”

¹⁰ Includes summary of effects on sideboards from RIR

	(i) other biological and socioeconomic factors that affect the appropriateness of specific bycatch measures in terms of objectives	
3.2.2.1	Longline	
3.2.2.1.1	Demersal Shelf Rockfishes	
3.2.2.1.2	Other than Demersal Shelf Rockfishes	
3.2.2.2	Trawl	
3.2.2.2.1	Deep-water species category	
3.2.2.2.2	Shallow-water species category	
3.1.2.3	Exempted Fisheries	
3.1.2.3.1	Pacific Halibut	
3.1.2.3.1	Resource	
3.1.2.3.2	Halibut IFQ Fishery	
(g.)	methods available to reduce halibut bycatch	
(h.)	the cost of reducing halibut bycatch	
(i.)	other biological and socioeconomic factors that affect the appropriateness of specific bycatch measures in terms of objectives	
3.1.2.3.3	Other Fisheries (Guided Sport, Sport, Subsistence)	
3.1.2.3.2	Pot	
3.1.2.3.3	Jig	
3.1.2.3.4	State water	
3.2.3	Communities	<i>MIKE DOWNS</i>
3.2.4	Impacts of the Alternatives	
3.2.4.1	Alternative 1: Status quo	
3.2.4.2	Alternative 2: PSC limit reduction	
3.3	Cumulative Effects	<i>JANE</i>
4	MANAGEMENT AND ENFORCEMENT CONSIDERATIONS	<i>NMFS</i>
5	REGULATORY IMPACT REVIEW [OF ALTERNATIVE 2, OPTION 3(A)]	<i>DARRELL</i>
5.1	Introduction	
5.2	What is a Regulatory Impact Review?	
5.3	Problem Statement	
5.4	Description of the Alternatives	
5.6	Description of the fisheries	
5.7	Analysis of Alternatives	
5.8	Summary	
6	INITIAL REGULATORY FLEXIBILITY ANALYSIS	<i>DARRELL</i>
6.1	Introduction	
6.2	The Purpose of an IRFA	
6.3	What is Required in an IRFA?	
6.4	What is a Small Entity?	
6.5	What is this Action?	
6.7	Objectives and Reasons for Considering the Proposed Action	
6.8	Legal Basis for the Proposed Action	
6.9	Number and Description of Small Entities Directly Regulated by the Proposed Action	
6.10	Recordkeeping and Reporting Requirements	
6.11	Federal Rules that may Duplicate, Overlap, or Conflict with Proposed Action	
6.12	Description of Significant Alternatives	

7 FMP AND MAGNUSON-STEVENSON ACT CONSIDERATIONS.....JANE & DARRELL
7.1 Magnuson-Stevens Act National Standards
7.2 GOA FMP — Groundfish Management Policy Priorities

8 NEPA SUMMARYJANE

9 REFERENCESJANE & DARRELL

10 PREPARERSJANE

11 AGENCIES AND PERSONS CONSULTEDJANE & DARRELL

APPENDIX 1. GOA GROUND FISH FMP CRITERIA FOR SETTING HALIBUT PSC LIMITS

APPENDIX 2. FINAL 2011 AND 2012 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS

**Appendix 1. GOA FMP policy regarding halibut PSC limits
(Section 3.6.2.1.1 Apportionment and Seasonal Allocation of Pacific Halibut)**

Apportionments of PSC limits, and seasonal allocations thereof, will be determined annually by the Secretary of Commerce in consultation with the Council. Separate PSC limits may be established for specific gear. PSC limits, apportionments, and seasonal allocations will be determined using the following procedure:

1. Prior to the October Council meeting. The GOA Groundfish Plan Team will provide the Council the best available information on estimated halibut bycatch and mortality rates in the target groundfish fisheries.
2. October Council meeting. While developing proposed groundfish harvest levels under Section 3.2.3, the Council will also review the need to control the bycatch of halibut and, if necessary, recommend proposed halibut PSC mortality limits and apportionments thereof. The Council will also review the need for seasonal allocations of the halibut PSC. The Council will make proposed recommendations to the Secretary about some or all of the following:
 - a. the regulatory areas and districts for which PSC mortality limits might be established;
 - b. PSC for particular target fisheries and gear types;
 - c. seasonal allocations by target fisheries, gear types, and/or regulatory areas and district;
 - d. PSC allocations to individual operations; and
 - e. types of gear or modes of fishing operations that might be prohibited once a PSC is reached.

The Council will consider the best available information in doing so. Types of information that the Council will consider relevant to recommending proposed PSCs include:

- a. estimated change in biomass and stock condition of halibut;
- b. potential impact on halibut stocks;
- c. potential impacts on the halibut fisheries;
- d. estimated bycatch in years prior to that for which the halibut PSC mortality limit is being established;
- e. expected change in target groundfish catch;
- f. estimated change in target groundfish biomass;
- g. methods available to reduce halibut bycatch;
- h. the cost of reducing halibut bycatch; and
- i. other biological and socioeconomic factors that affect the appropriateness of specific bycatch measures in terms of objectives.

Types of information that the Council will consider in recommending seasonal allocations of halibut include:

- a. seasonal distribution of halibut;
- b. seasonal distribution of target groundfish species relative to halibut distribution;
- c. expected halibut bycatch needs on a seasonal basis relevant to changes in halibut biomass and expected catches of target groundfish species;
- d. expected bycatch rates on a seasonal basis;
- e. expected changes in directed groundfish fishing seasons;
- f. expected start of fishing effort; and
- g. economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

3. As soon as practicable after the Council's October meeting, the Secretary will publish the Council's recommendations as a notice in the Federal Register. Information on which the recommendations are

based will also be published in the Federal Register or otherwise made available by the Council. Public comments will be invited by means specified in regulations implementing the FMP for a minimum of 15 days.

4. Prior to the December Council meeting. The Plan Team will prepare for the Council a final Stock Assessment and Fishery Evaluation (SAFE) report under Section 3.2.3 which provides the best available information on estimated halibut bycatch rates in the target groundfish fisheries and recommendations for halibut PSCs. If the Council requests, the Plan Team also may provide PSC apportionments and allocations thereof among target fisheries and gear types, and an economic analysis of the effects of the apportionments.

5. December Council meeting. While recommending final groundfish harvest levels, the Council reviews public comments, takes public testimony, and makes final decisions on annual halibut PSC limits and seasonal apportionments, using the factors set forth under (2) above relevant to proposed PSC limits, and concerning seasonal allocations of PSC limits. The Council will provide recommendations, including no change for the new fishing year, to the Secretary of Commerce for review and implementation.

6. As soon as practicable after the Council's December meeting, the Secretary will publish the Council's final recommendations as a notice of final harvest specifications in the Federal Register. Information on which the final harvest specifications are based will also be published in the Federal Register or otherwise made available by the Council.