

REGULATORY PROPOSAL 2018
Allowing Retention of Halibut in Pot Gear in the Bering Sea

SUBMITTED BY:
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UNITED STATES OF AMERICA
27 OCTOBER 2017

EXPLANATORY MEMORANDUM

For IPHC Regulatory Area(s): 4A 4B 4C 4D 4E

Key changes to an existing IPHC Regulation:

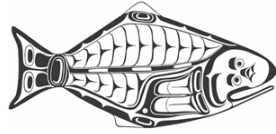
The purpose of this proposal is to mitigate the longstanding and detrimental losses resulting from whale depredation on longline gear in the directed halibut fishery in Areas 4A, 4B, 4C, 4D and 4E.

This proposal suggests two changes to IPHC Regulations, Section 19, on allowable fishing gear for halibut.

Currently, this regulation allows fishing for halibut, in (1), and possession of halibut, in (2), only with the use of hook and line gear, with a couple of exceptions. One exception, described in (1)(b) and (2)(b), allows the retention of halibut taken with longline pot gear in the sablefish IFQ fishery, as authorized by NMFS regulations. This action was taken to reduce wastage of halibut caught incidentally in sablefish pots, discarded and potentially lost to killer whale predation. NMFS regulations cited currently allow this retention of halibut only in the Gulf of Alaska.

The North Pacific Fishery Management Council (NPFMC) in October 2017 initiated an analysis of an action to extend this halibut retention allowance to the Bering Sea, and to apply it to single as well as longline pots. (Summary attached.) The preliminary analysis is coming back to the Council in April 2018 and the action is likely to be finalized by the end of 2018, for implementation in 2019.

Change A: The proposed change to (1)(b) and (2)(b) would allow halibut retention in single as well as longline pots, if authorized by NMFS regulations that spring from the Council action now underway. For some smaller vessels that might fish for sablefish and retain halibut, longline pot gear is too large and heavy, while single pot gear is more usable.



Change B: Harvesters of halibut with hook and line gear in both the Gulf of Alaska and the Bering Sea have severe problems with whale predation on their gear, reducing efficiency and increasing wastage. Use of pot gear would prevent whale predation.

The current analysis underway at the NPFMC, mentioned above, is for an action to allow retention of halibut in pots used in the IFQ sablefish fishery, but does not directly address retention of halibut in pots NOT being used in the IFQ sablefish fishery, more specifically, to allow the use of pots in the directed halibut fishery. The action – or a separate action – could potentially address, and result in, the direct retention of halibut in single and longline pots in the Bering Sea, as requested by stakeholders to combat whale predation. See the attached summary of the action from the Council Newsletter.

The proposed change to the first sentence of (1) and (2) would allow for direct use of pot gear for halibut fishing in the Bering Sea, when it is authorized by NMFS regulations.

Sectors affected:

The commercial halibut harvesting sector would be positively affected by the proposed changes in regulation, made to prevent whale predation, reduce wastage and increase fishing efficiency.

Concerns from the commercial sector include potential gear conflict between hook and line gear and pot gear.

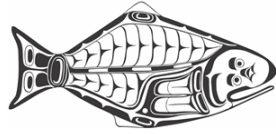
There are no known negative effects on other sectors.

SUGGESTED REGULATORY LANGUAGE

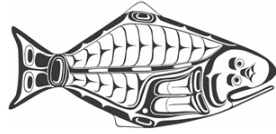
The IPHC Regulations published in the Federal Register, Section 19, Fishing Gear, is amended as indicated, with the addition in (1) and (2) of the language underlined and in bold. The language change for gear marking requirements in (4) is indicated by strikethrough of the language to be removed, and bold and underlined language to be added.

(1) No person shall fish for halibut using any gear other than hook and line gear, **and longline and single pot gear, as authorized for Areas 4A, 4B, 4C, 4D and 4E, by NMFS regulations published at 50 CFR part 679.**

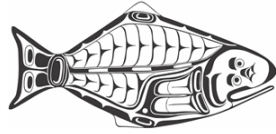
(a) except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined in the Condition of License can retain halibut caught as bycatch under regulations promulgated by DFO; or



- (b) except that a person may retain halibut taken with longline **and single** pot gear in the sablefish IFQ fishery if such retention is authorized by NMFS regulations published at 50 CFR part 679.
- (2) No person shall possess halibut taken with any gear other than hook and line gear, **and longline and single pot gear, as authorized for Areas 4A, 4B, 4C, 4D and 4E, by NMFS regulations published at 50 CFR part 679.**
- (a) except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined by the Condition of License can retain halibut caught as bycatch under regulations promulgated by DFO; or
- (b) except that a person may possess halibut taken with longline **and single pot** gear in the sablefish IFQ fishery if such possession is authorized by NMFS regulations published at 50 CFR part 679.
- (3) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut,
- (a) except that in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E, halibut heads, skin, entrails, bones or fins for use as bait may be possessed on board a vessel carrying pots capable of catching halibut, provided that a receipt documenting purchase or transfer of these halibut parts is on board the vessel; or
- (b) except that in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E, halibut may be possessed on board a vessel carrying pots capable of catching halibut, provided such possession is authorized by NMFS regulations published at 50 CFE part 679 as referenced in paragraphs (1) and (2) of this section; or (c) except that in Area 2B, halibut may be possessed on board a vessel carrying sablefish trap gear, provided such possession is authorized by the Condition of License regulations promulgated by DFO as referenced in paragraphs (1) and (2) of this section.
- (4) All ~~setline or skate~~ **gear** marker buoys carried on board or used by any United States vessel used for halibut fishing shall be marked with one of the following:
- (a) The vessel's State license number; or
- (b) the vessel's registration number.
- (5) The markings specified in paragraph (4) shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.
- (6) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be:



- (a) Floating and visible on the surface of the water; and
 - (b) legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.
- (7) No person on board a vessel used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the fishing period for the directed commercial fishery shall catch or possess halibut anywhere in those waters during that halibut fishing period unless, prior to the start of the halibut fishing period, the vessel has removed its gear from the water and has either:
- (a) Made a landing and completely offloaded its catch of other fish; or
 - (b) submitted to a hold inspection by an authorized officer.
- (8) No vessel used to fish for any species of fish anywhere in Area 2A during the 72-hour period immediately before the fishing period for the directed commercial fishery may be used to catch or possess halibut anywhere in those waters during that halibut fishing period unless, prior to the start of the halibut fishing period, the vessel has removed its gear from the water and has either:
- (a) Made a landing and completely offloaded its catch of other fish; or
 - (b) submitted to a hold inspection by an authorized officer.
- (9) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season shall catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:
- (a) Made a landing and completely offloaded its entire catch of other fish; or
 - (b) submitted to a hold inspection by an authorized officer.
- (10) No vessel from which setline gear was used to fish for any species of fish anywhere in Areas 2B, 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E during the 72-hour period immediately before the opening of the halibut fishing season may be used to catch or possess halibut anywhere in those areas until the vessel has removed all of its setline gear from the water and has either:
- (a) Made a landing and completely offloaded its entire catch of other fish; or
 - (b) submitted to a hold inspection by an authorized officer.



(11) Notwithstanding any other provision in these Regulations, a person may retain, possess and dispose of halibut taken with trawl gear only as authorized by Prohibited Species Donation regulations of NMFS.

Attachment

From the NPFMC October Newsletter

Halibut Retention in Pot Gear

October 17, 2017

After reviewing a staff discussion paper, the Council initiated an analysis to allow vessels using pot gear in the BSAI to retain legal-size halibut if they possess the appropriate IFQ. The Council established a purpose and need statement that recognizes the challenge of whale depredation on longline gear and on halibut that must be discarded in the presence of whales because regulations do not allow them to be retained. Whale depredation causes unaccounted mortality on the sablefish and halibut resource, and hinders the ability of IFQ holders to prosecute the fishery in an effective manner. Noting that the IPHC recently revised its regulations to allow halibut retention in pot gear and that retention is currently allowed in the GOA, the Council seeks to align Federal retention regulations with the IPHC and apply them consistently throughout Alaska waters.

The Council will review analysis of a 'no action' alternative and one action alternative. The action alternative contains an element that would allow fishermen to deploy pots with a wider opening, which could lead to more effective harvest of legal-size halibut. The action alternative does not frame the catching of halibut with pot gear as "targeted/directed" or "incidental." Rather, the Council will analyze a measure that provides the fishery latitude to fish for IFQ in the manner that is most effective in the presence of depredating whales, and would review the effects of allowing halibut retention three years after implementation in accordance with the NPFMC and IPHC commitment to review retention in GOA longline pot gear subsequent to implementation of GOA Amendment 101. The Council will consider whether regulations that make pots a more effective gear for the harvest of halibut would introduce pots to new areas and increase the chance of gear conflict. To that effect, the action alternative includes an option that would require vessels that are participating in the fishery to tend their gear at least every five to ten days, and requires vessels fishing pot gear to complete logbooks and utilize VMS.

Staff contact is Sam Cunningham