

**§ 300.46**

**50 CFR Ch. III (10–1–22 Edition)**

as possible after the vessel's departure from the shipyard.

(h) *VMS unit repair and replacement.* After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must have the VMS unit repaired or replaced prior to the vessel's next trip. If the VMS unit is replaced, the new VMS unit must be installed by an Administrator-authorized VMS unit installer, as specified in paragraph (c) of this section. In making such repairs or replacements, conformity with the current requirements must be met before the vessel may lawfully operate under the Treaty.

(i) *Access to data.* As a condition to obtaining a license, holders of vessel licenses issued under §300.32 must allow the Regional Administrator, an authorized officer, the Administrator or an authorized party officer or designees access to the vessel's position data obtained from the VMS unit at the time of, or after, its transmission to the vendor or receiver.

[72 FR 6154, Feb. 9, 2007, as amended at 75 FR 74648, Dec. 1, 2010]

**§ 300.46 Transshipping requirements.**

(a) *Applicability.* This section applies to vessels licensed under §300.32.

(b) Transshipping may only be done at the time and place authorized for transshipment by the Pacific Island Parties, following the notification and request requirements of §300.34(c)(5).

(c) The operator and each member of the crew of a vessel from which any fish taken in the Licensing Area is transshipped must:

(1) Allow and assist any person identified as an officer of the Pacific Island Party to:

(i) Have full access to the vessel and any place where such fish is being transshipped and the use of facilities and equipment that the officer may determine is necessary to carry out his or her duties;

(ii) Have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish;

(iii) Remove samples;

(iv) Have full access to the vessel's records, including its log and docu-

mentation, for the purpose of inspection and copying; and

(v) Gather any other information required to fully monitor the activity without interfering unduly with the lawful operation of the vessel; and

(2) Not assault, obstruct, resist, delay, refuse boarding to, intimidate, or interfere with any person identified as an officer of the Pacific Island Party in the performance of his or her duties.

(d) Transshipping at sea may only be done:

(1) In a designated area in accordance with such terms and conditions as may be agreed between the operator of the vessel and the Pacific Island Party in whose jurisdiction the transshipment is to take place;

(2) In accordance with the requirements of §300.34; and

(3) If the catch is transshipped to a carrier vessel duly authorized in accordance with national laws.

[72 FR 6155, Feb. 9, 2007]

**Subpart E—Pacific Halibut Fisheries**

AUTHORITY: 16 U.S.C. 773–773k.

**§ 300.60 Purpose and scope.**

This subpart implements the North Pacific Halibut Act of 1982 (Act) and is intended to supplement, not conflict with, the annual fishery management measures adopted by the International Pacific Halibut Commission (Commission) under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention).

**§ 300.61 Definitions.**

In addition to the terms defined in §300.2 and those in the Act and the Convention, the terms used in this subpart have the following meanings. If a term is defined differently in §300.2, the Act, or the Convention, the definition in this section shall apply.

## Int'l. Fishing and Related Activities

## § 300.61

*Alaska Native tribe* means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a Federally recognized Alaska Native tribe that has customary and traditional use of halibut and that is listed in §300.65(g)(2) of this part.

*Annual combined catch limit*, for purposes of commercial and sport fishing in Commission regulatory areas 2C and 3A, means the annual total allowable halibut removals (halibut harvest plus wastage) by persons fishing IFQ and by charter vessel anglers.

*Annual commercial catch limit*, for purposes of commercial fishing in:

(1) Commission regulatory areas 2C and 3A, means the annual commercial allocation minus an area-specific estimate of commercial halibut wastage.

(2) Commission regulatory areas 3B and 4A, means the annual total allowable halibut removals by persons fishing IFQ.

(3) Commission regulatory areas 4B, 4C, 4D, and 4E, means the annual total allowable halibut removals by persons fishing IFQ and CDQ.

*Annual guided sport catch limit*, for purposes of sport fishing in Commission regulatory areas 2C and 3A, means the annual guided sport allocation minus an area-specific estimate of guided sport halibut wastage.

*Area 2A* includes all waters off the States of California, Oregon, and Washington.

*Area 2C* includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58° 11' 54" N. lat., 136° 38' 24" W. long.) and south and east of a line running 205° true from said light.

*Area 3A* means all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41'15" N. latitude, 155°35'00" W. longitude) to Cape Ikolik (57°17'17" N. latitude, 154°47'18" W. longitude), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. latitude, 154°08'44" W. longitude), then 140° true.

*Charter halibut permit* means a permit issued by the National Marine Fisheries Service pursuant to §300.67.

*Charter vessel*, for purposes of §§ 300.65, 300.66, and 300.67, means a vessel used while providing or receiving sport fishing guide services for halibut.

*Charter vessel angler*, for purposes of §§ 300.65, 300.66, and 300.67, means a person, paying or non-paying, receiving sport fishing guide services for halibut.

*Charter vessel fishing trip*, for purposes of §§ 300.65, 300.66, and 300.67, means the time period between the first deployment of fishing gear into the water from a charter vessel by a charter vessel angler and the offloading of one or more charter vessel anglers or any halibut from that vessel.

*Charter vessel guide*, for purposes of §§ 300.65, 300.66 and 300.67, means a person who holds an annual sport fishing guide license or registration issued by the Alaska Department of Fish and Game, or a person who provides sport fishing guide services.

*Charter vessel operator*, for purposes of §300.65, means the person in control of the charter vessel during a charter vessel fishing trip.

*Chiniak Bay* means all waters bounded by the shoreline and straight lines connecting the coordinates in the order listed:

(1) North from Cape Chiniak (57°37.22' N. lat., 152°9.36' W. long.);

(2) To Buoy #1 at Williams Reef (57°50.36' N. lat., 152°8.82' W. long.);

(3) To East Cape on Spruce Island (57°54.89' N. lat., 152°19.45' W. long.);

(4) To Termination Point on Kodiak Island (57°51.31' N. lat., 152°24.01' W. long.); and

(5) Connecting to a line running counterclockwise along the shoreline of Kodiak Island to Cape Chiniak (57°37.22' N. lat., 152°9.36' W. long.).

*Commercial fishing* means fishing, the resulting catch of which either is, or is intended to be, sold or bartered but does not include subsistence fishing.

*Commission* means the International Pacific Halibut Commission.

*Commission regulatory area* means an area defined by the Commission for purposes of the Convention identified in 50 CFR 300.60 and prescribed in the annual management measures published pursuant to 50 CFR 300.62.

*Community charter halibut permit* means a permit issued by NMFS to a Community Quota Entity pursuant to §300.67.

*Compensation*, for purposes of sport fishing for Pacific halibut in Commission regulatory areas 2C and 3A, means

## § 300.61

direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; for this definition, “benefits” includes wages or other employment benefits given directly or indirectly to an individual or organization, and any dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides sport fishing guide services; and does not include reimbursement for the actual daily expenses for fuel, food, or bait.

*Crew member*, for purposes of §§ 300.65 and 300.67, means an assistant, deckhand, or similar person who works directly under the supervision of, and on the same vessel as, a charter vessel guide or operator of a vessel with one or more charter vessel anglers on board.

*Customary trade* means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, the non-commercial exchange of subsistence halibut for anything other than items of significant value.

*Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including:

(1) The deployment of any amount or component part of setline gear anywhere in the maritime area;

(2) The deployment of longline pot gear as defined in § 679.2 of this title, or component part of that gear in Commission regulatory areas 2C, 3A, 3B, and that portion of Area 4A in the Gulf of Alaska west of Area 3B and east of 170°00' W. long; or

(3) The deployment of pot gear as defined in § 679.2 of this title in Commission regulatory areas 4B, 4C, 4D, and 4E and the portion of Area 4A in the Bering Sea Aleutian Islands west of 170°00' W long.

*Fishing week*, for purposes of § 300.65(d), means a time period that begins at 0001 hours, A.l.t., Monday morning and ends at 2400 hours, A.l.t., the following Sunday night.

*Guided Angler Fish (GAF)* means halibut transferred within a year from a Commission regulatory area 2C or 3A IFQ permit holder to a GAF permit that is issued to a person holding a

## 50 CFR Ch. III (10–1–22 Edition)

charter halibut permit, community charter halibut permit, or military charter halibut permit for the corresponding area.

*Guided Angler Fish (GAF) permit* means an annual permit issued by the National Marine Fisheries Service pursuant to § 300.65(c)(5)(iii).

*Guided Angler Fish (GAF) permit holder* means the person identified on a GAF permit.

*Halibut harvest* means the catching and retaining of any halibut.

*Head-on length* means a straight line measurement passing over the pectoral fin from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail.

*Individual Fishing Quota (IFQ)*, for purposes of this subpart, means the annual catch limit of halibut that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the annual commercial catch limit of halibut.

*IFQ fishing trip*, for purposes of the subpart, means the period beginning when a vessel operator commences harvesting IFQ halibut and ending when the vessel operator lands any species.

*IFQ halibut* means any halibut that is harvested with setline gear as defined in this section or fixed gear as defined in § 679.2 of this title while commercial fishing in any IFQ regulatory area defined in § 679.2 of this title.

*Military charter halibut permit* means a permit issued by NMFS to a United States Military Morale, Welfare and Recreation Program pursuant to § 300.67.

*Overall length* of a vessel means the horizontal distance, rounded to the nearest ft/meter, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments).

*Person* includes an individual, corporation, firm, or association.

*Power hauling* means using electrically, hydraulically, or mechanically powered devices or attachments or other assisting devices or attachments to deploy and retrieve fishing gear. Power hauling does not include the use of hand power, a hand powered crank, a fishing rod, a downrigger, or a hand troll gurdy.

## Int'l. Fishing and Related Activities

## § 300.62

*Rural* means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a community of Alaska listed at §300.65(g)(1) or an area of Alaska described at §300.65(g)(3) in which the non-commercial, customary, and traditional use of fish and game for personal or family consumption is a principal characteristic of the economy or area and in which there is a long-term, customary, and traditional use of halibut.

*Rural resident* means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska:

(1) An individual domiciled in a rural community listed in the table at §300.65(g)(1) and who has maintained a domicile in rural communities listed in the table at §300.65(g)(1), or in rural areas described at §300.65(g)(3), for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country; or

(2) An individual domiciled in a rural area described at §300.65(g)(3) and who has maintained a domicile in rural areas described at §300.65(g)(3), or in rural communities listed in the table at §300.65(g)(1), for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country.

*Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached.

*Sport fishing* means:

(1) In regulatory area 2A, all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing; and

(2) In waters in and off Alaska, all fishing other than commercial fishing and subsistence fishing.

*Sport fishing guide services*, for purposes of §§300.65(d) and 300.67, means assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. Sport fishing guide serv-

ices do not include services provided by a crew member, as defined at §300.61.

*Subarea 2A-1* includes the usual and accustomed fishing areas for Pacific Coast treaty tribes off the coast of Washington and all inland marine waters of Washington north of Point Chehalis (46°53.30' N lat.), including Puget Sound. Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

*Subsistence* means, with respect to waters in and off Alaska, the non-commercial, long-term, customary and traditional use of halibut.

*Subsistence halibut* means halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or customary trade.

*Subsistence halibut registration certificate* (SHARC) means documentation, issued by NMFS, of the registration required at §300.65(i).

*Treaty Indian tribes* means the Hoh, Jamestown S'Klallam, Lower Elwha S'Klallam, Lummi, Makah, Port Gamble S'Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, Tulalip, and Nooksack tribes.

*Valid*, with respect to a charter halibut permit for purposes of §§300.66 and 300.67, means the charter halibut permit that is currently in effect.

[61 FR 35550, July 5, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §300.61, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### § 300.62 Annual management measures.

Annual management measures may be added and modified through adoption by the Commission and publication in the FEDERAL REGISTER by the Assistant Administrator, with immediate regulatory effect. Such measures may include, *inter alia*, provisions governing: Licensing of vessels, inseason actions, regulatory areas, fishing periods, closed periods, closed areas, catch limits (quotas), fishing period limits, size limits, careful release of halibut,

vessel clearances, logs, receipt and possession of halibut, fishing gear, retention of tagged halibut, supervision of unloading and weighing, and sport fishing for halibut. The Assistant Administrator will publish the Commission's regulations setting forth annual management measures in the FEDERAL REGISTER by March 15 each year. Annual management measures may be adjusted inseason by the Commission.

**§ 300.63 Catch sharing plan and domestic management measures in Area 2A.**

(a) A catch sharing plan (CSP) may be developed by the Pacific Fishery Management Council and approved by NMFS for portions of the fishery. Any approved CSP may be obtained from the Administrator, West Coast Region, NMFS.

(b)(1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the FEDERAL REGISTER the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.

(2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A. Each year the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the FEDERAL REGISTER along with the annual salmon management measures.

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the sablefish primary fishery north of 46°53.30' N lat. (Pt. Chehalis, Washington), which is regulated under 50 CFR 660.231. This fishing opportunity is only available in years in which the Washington recreational TAC is 214, 110 lb (97.1 mt) or

greater, provided that a minimum of 10,000 lb (4.5 mt) is available to the sablefish fishery. Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the FEDERAL REGISTER. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

(i) In years when this incidental harvest of halibut in the sablefish primary fishery north of 46°53.30' N. lat. is allowed, it is allowed only for vessels using longline gear that are registered to groundfish limited entry permits with sablefish endorsements and that possess the appropriate incidental halibut harvest license issued by the Commission.

(ii) It is unlawful for any person to possess, land or purchase halibut south of 46°53.30' N. lat. that were taken and retained as incidental catch authorized by this section in the sablefish primary fishery.

(4) The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§ 300.62 and 300.63.

(5) The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under § 300.62

(c) *Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A.* (1) The Regional Administrator, NMFS West Coast Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), or their designees, is authorized to modify regulations during the season after making the following determinations:

(i) The action is necessary to allow allocation objectives to be met.

## Int'l. Fishing and Related Activities

## § 300.63

(ii) The action will not result in exceeding the catch limit for the area.

(iii) If any of the recreational fishery subareas north of Cape Falcon, Oregon are not projected to utilize their respective quotas, NMFS may take inseason action to transfer any projected unused quota to another Washington recreational subarea.

(iv) If any of the sport fishery subareas south of Leadbetter Point, Washington, are not projected to utilize their respective quotas by their season ending dates, NMFS may take inseason action to transfer any projected unused quota to another Oregon sport subarea.

(v) Notwithstanding regulations at (c)(1)(i) of this section, if the total estimated yelloweye rockfish bycatch mortality from recreational halibut trips in all Oregon subareas is projected to exceed 22 percent of the annual Oregon recreational yelloweye rockfish harvest guideline, NMFS may take inseason action to reduce yelloweye rockfish bycatch mortality in the halibut fishery while allowing allocation objectives to be met to the extent possible.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(i) Modification of sport fishing periods;

(ii) Modification of sport fishing bag limits;

(iii) Modification of sport fishing size limits;

(iv) Modification of sport fishing days per calendar week;

(v) Modification of subarea quotas; and

(vi) Modification of the Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) restrictions off Oregon using YRCA expansions as defined in groundfish regulations at 50 CFR 660.70(g) or (h).

(3) *Notice procedures.* (i) Actions taken under this section will be published in the FEDERAL REGISTER.

(ii) Actual notice of inseason management actions will be provided by a telephone hotline administered by the West Coast Region, NMFS, at 206-526-6667 or 800-662-9825. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor the telephone hotline for cur-

rent information for the area in which they are fishing.

(4) *Effective dates.* (i) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.

(ii) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the FEDERAL REGISTER. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after publication of the action in the FEDERAL REGISTER.

(iii) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) *Availability of data.* The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the West Coast Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE., Seattle, Washington.

(d) *Fishery Election in Area 2A.* (1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(i) The sport fishery established in the annual domestic management measures and International Pacific Halibut Commission (IPHC) regulations and defined at §300.61;

(ii) The commercial directed fishery for halibut during the fishing period(s) established in the annual domestic management measures and IPHC regulations and/or the incidental retention of halibut during the sablefish primary fishery described at 50 CFR 660.231; or

(iii) The incidental catch fishery during the salmon troll fishery as authorized in the annual domestic management measures and IPHC regulations.

(2) No person shall fish for halibut in the sport fishery in Area 2A under the

annual domestic management measures and IPHC regulations, from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A, or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed commercial halibut fishery during the fishing periods established in the annual domestic management measures and IPHC regulations, and/or retain halibut incidentally taken in the sablefish primary fishery in Area 2A from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery, as authorized in the annual domestic management measures and IPHC regulations.

(4) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the sablefish primary fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under the annual domestic management measures and IPHC regulations, taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under the annual domestic management measures and IPHC regulations, taken on a vessel that, during the same calendar year, has been used in the directed commercial halibut fishery during the fishing periods established in the annual domestic management measures and IPHC regulations, and/or retained halibut incidentally taken in the sablefish primary fishery for Area 2A or that is licensed to participate in these commercial fisheries during the fishing periods established in the annual domestic management measures and IPHC regulations in Area 2A.

(e) *Area 2A Non-Treaty Commercial Fishery Closed Areas.* (1) Non-treaty

commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N. lat. Between the U.S./Canada border and 46°16' N. lat., the eastern boundary of the RCA, is the shoreline. Between 46°16' N. lat. and 40°10' N. lat., the RCA is defined along an eastern boundary by a line approximating the 30-fm (55-m) depth contour. Coordinates for the 30-fm (55-m) boundary are listed at 50 CFR 660.71(e). Between the U.S./Canada border and 40°10' N. lat., the RCA is defined along a western boundary approximating the 100-fm (183-m) depth contour. Coordinates for the 100-fm (183-m) boundary are listed at 50 CFR 660.73(a).

(2) Non-treaty commercial vessels operating in the incidental catch fishery during the sablefish primary fishery north of Pt. Chehalis, Washington, in Area 2A are required to fish outside of a closed area. Under Pacific Coast groundfish regulations at 50 CFR 660.230, fishing with limited entry fixed gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land halibut taken with limited entry fixed gear within the North Coast Commercial YRCA. The North Coast Commercial YRCA is an area off the northern Washington coast, overlapping the northern part of the North Coast Recreational YRCA, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.70(b).

(3) Non-treaty commercial vessels operating in the incidental catch fishery during the salmon troll fishery in Area 2A are required to fish outside of a closed area. Under the Pacific Coast groundfish regulations at 50 CFR 660.330(10), fishing with salmon troll gear is prohibited within the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess or land fish within the Salmon Troll YRCA. The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight

**Int'l. Fishing and Related Activities**

**§ 300.64**

lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in ground-fish regulations at 50 CFR 660.70(c), and in salmon regulations at 50 CFR 660.405.

[61 FR 35550, July 5, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 300.63, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

**§ 300.64 Fishing by U.S. treaty Indian tribes.**

(a) Halibut fishing in subarea 2A-1 by members of U.S. treaty Indian tribes located in the State of Washington is governed by this section.

(b) Commercial fishing for halibut by treaty Indians is permitted only in subarea 2A-1 with hook-and-line gear in conformance with the season and quota established annually by the Commission.

(c) Commercial fishing periods and management measures to implement paragraph (b) of this section will be established by treaty Indian tribal regulations.

(d) Commercial fishing for halibut by treaty Indians shall comply with the Commission's management measures governing size limits, careful release of halibut, logs, receipt and possession, and fishing gear (published pursuant to § 300.62), except that the 72-hour fishing restriction preceding the opening of a

halibut fishing period shall not apply to treaty Indian fishing.

(e) Ceremonial and subsistence fishing for halibut by treaty Indians in subarea 2A-1 is permitted with hook-and-line gear from January 1 to December 31.

(f) No size or bag limits shall apply to the ceremonial and subsistence fishery, except that when commercial halibut fishing is prohibited pursuant to paragraph (b) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(g) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale or sold.

(h) Any member of a U.S. treaty Indian tribe who is engaged in commercial or ceremonial and subsistence fishing under this section must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States v. Washington* 384 F. Supp. 312 (W.D. Wash., 1974).

(i) Table 1 to this paragraph (i) sets forth the fishing areas of each of the 13 treaty Indian tribes fishing pursuant to this section. Within subarea 2A-1, boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

TABLE 1 TO PARAGRAPH (i)

Tribe	Boundaries
HOH .....	The area between 47°54.30' N lat. (Quillayute River) and 47°21.00' N lat. (Quinault River) and east of 125°44.00' W long.
JAMESTOWN S'KLALLAM .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown S'Klallam Tribe may fish under rights secured by treaties with the United States.
LOWER ELWHA S'KLALLAM .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha S'Klallam Tribe may fish under rights secured by treaties with the United States.
LUMMI .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89-08 (W.D. Wash., February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.
MAKAH .....	The area north of 48°02.25' N lat. (Norwegian Memorial) and east of 125°44.00' W long.

TABLE 1 TO PARAGRAPH (i)—Continued

Tribe	Boundaries
NOOKSACK .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Nooksack Tribe may fish under rights secured by treaties with the United States.
PORT GAMBLE S'KLALLAM .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble S'Klallam Tribe may fish under rights secured by treaties with the United States.
QUILEUTE .....	The area commencing at Cape Alava, located at 48°10'00" N lat., 124°43'56.9" W long.; then proceeding west approximately 40 nautical miles at that latitude to a northwestern point located at 48°10'00" N lat., 125°44'00" W long.; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 40 nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at 47°31'42" N lat., 125°20'26" W long.; then proceeding east along that line of latitude to the Pacific coast shoreline at 47°31'42" N lat., 124°21'9.0" W long.
QUINAULT .....	The area commencing at the Pacific coast shoreline near Destruction Island, located at 47°40'06" N lat., 124°23'51.362" W long.; then proceeding west approximately 30 nautical miles at that latitude to a northwestern point located at 47°40'06" N lat., 125°08'30" W long.; then proceeding in a southeasterly direction mirroring the coastline no farther than 30 nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at 46°53'18" N lat., 124°53'53" W long.; then proceeding east along that line of latitude to the Pacific coast shoreline at 46°53'18" N lat., 124°7'36.6" W long.
SKOKOMISH .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.
SUQUAMISH .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Squamish Tribe may fish under rights secured by treaties with the United States.
SWINOMISH .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.
TULALIP .....	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1531–1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

[61 FR 35550, July 5, 1996, as amended at 74 FR 11697, Mar. 19, 2009; 76 FR 14319, Mar. 16, 2011; 81 FR 18795, Apr. 1, 2016; 85 FR 25324, May 1, 2020]

**§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.**

(a) A catch sharing plan (CSP) may be developed by the North Pacific Fishery Management Council and approved by NMFS for portions of the fishery. Any approved CSP may be obtained from the Administrator, Alaska Region, NMFS.

(b) The catch sharing plan for Commission regulatory area 4 allocates the annual commercial catch limit among Areas 4C, 4D, and 4E and will be adopted by the Commission as annual man-

agement measures and published in the FEDERAL REGISTER as required in § 300.62.

(c) *Catch sharing plan (CSP) for Commission Regulatory Areas 2C and 3A—(1) General.* The catch sharing plan for Commission regulatory areas 2C and 3A:

(i) Allocates the annual combined catch limit for Commission regulatory areas 2C and 3A in order to establish the annual commercial catch limit and the annual guided sport catch limit for the halibut commercial fishing and

## Int'l. Fishing and Related Activities

## § 300.65

sport fishing seasons, pursuant to paragraphs (c)(3) and (4) of this section; and

(i) Authorizes the use of Commission regulatory areas 2C and 3A halibut IFQ as guided angler fish (GAF) for harvest by charter vessel anglers in the corresponding area, pursuant to paragraph (c)(5) of this section.

(iii) Authorizes the use of Commission regulatory areas 2C and 3A RFQ resulting from halibut QS held by the RQE as authorized in part 679 to this title to supplement the annual guided sport catch limit in the corresponding area, pursuant to paragraph (c)(4) of this section.

(2) *Implementation.* The Commission regulatory areas 2C and 3A CSP annual combined catch limits, annual commercial catch limits, and annual guided sport catch limits are adopted by the Commission as annual management measures and published by NMFS in the FEDERAL REGISTER as required in §300.62.

(3) *Annual commercial catch limits.* (i) The Commission regulatory areas 2C and 3A annual commercial catch limits are determined by subtracting wastage from the allocations in Tables 1 and 2 of this subpart E, adopted by the Commission as annual management measures, and published in the FEDERAL REGISTER as required in §300.62.

(ii) Commercial fishing in Commission regulatory areas 2C and 3A is governed by the Commission's annual management measures and by regulations at 50 CFR part 679, subparts A, B, D, and E.

(4) *Annual guided sport catch limits.* (i) The Commission regulatory areas 2C and 3A annual guided sport catch limits are determined by subtracting wastage from, and adding any pounds of RFQ held by an RQE for that area to, the allocations in Tables 3 and 4 of this subpart, adopted by the Commission as annual management measures, and published in the FEDERAL REGISTER as required in §300.62.

(ii) Sport fishing by charter vessel anglers in Commission regulatory areas 2C and 3A is governed by the Commission's annual management measures and by regulations at 50 CFR part 300, subparts A and E.

(iii) The amount of QS held by the RQE for Commission regulatory area

2C and 3A as of October 1 each year will be the basis for determining the amount of RFQ pounds that will be added to the annual guided sport catch limit for the corresponding area in the upcoming year.

(5) *Guided Angler Fish (GAF).* This paragraph (§300.65(c)(5)) governs the transfer of Commission regulatory areas 2C and 3A halibut between individual fishing quota (IFQ) and guided angler fish (GAF), the issuance of GAF permits, and GAF use.

(i) *General.* (A) GAF is derived from halibut IFQ that is transferred from a Commission regulatory area 2C or 3A IFQ permit holder's account held by a person who also holds quota share (QS), as defined in §679.2 of this title, to a GAF permit holder's account for the same regulatory area.

(B) A GAF permit authorizes a charter vessel angler to retain GAF that are caught in the Commission regulatory area specified on a GAF permit:

(1) During the sport halibut fishing season adopted by the Commission as annual management measures and published in the FEDERAL REGISTER as required in §300.62, and

(2) Subject to the GAF use restrictions at paragraphs (c)(5)(iv)(A) through (K) of this section.

(C) NMFS will return unharvested GAF to the IFQ permit holder's account from which the GAF were derived on or after fifteen calendar days prior to the closing of the commercial halibut fishing season each year, subject to paragraph (c)(5)(ii) of this section and underage provisions at §679.40(e) of this title.

(ii) *Transfer Between IFQ and GAF—* (A) *General.* A transfer between IFQ and GAF means any transaction in which halibut IFQ passes between an IFQ permit holder and a GAF permit holder as:

(1) A transfer of IFQ to GAF, in which halibut IFQ equivalent pounds, as defined in §679.2 of this title, are transferred from a Commission regulatory area 2C or 3A IFQ permit account, converted to number(s) of GAF as specified in paragraph (c)(5)(ii)(E) of this section, and assigned to a GAF permit holder's account in the same management area;

(2) A transfer of GAF to IFQ, in which GAF in number(s) of fish are transferred from a GAF permit holder's account in Commission regulatory area 2C or 3A, converted to IFQ equivalent pounds as specified in paragraph (c)(5)(ii)(E) of this section, and assigned to the same IFQ permit holder's account from which the GAF were derived; or

(3) The return of unharvested GAF by NMFS to the IFQ permit holder's account from which it was derived, on or after 15 calendar days prior to the closing of the commercial halibut fishing season.

(B) *Transfer procedure*—(1) *Application for Transfer Between IFQ and GAF.* A transfer between IFQ and GAF requires Regional Administrator review and approval of a complete Application for Transfer Between IFQ and GAF. Both the transferor and the transferee are required to complete and sign the application. Transfers will be conducted via methods approved by NMFS. The Regional Administrator shall provide an Application for Transfer Between IFQ and GAF on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov/ram/default.htm>. An Application for Transfer Between IFQ and GAF is not required for the return of unharvested GAF by NMFS to the IFQ permit holder's account from which it was derived, 15 calendar days prior to the closing of the commercial halibut fishing season for that year.

(2) *Application timing.* The Regional Administrator will not approve any Application for Transfer Between IFQ and GAF before annual IFQ is issued for each year or after one month prior to the closing of the commercial fishing season for that year. Applications to transfer GAF to IFQ will be accepted from August 1 through August 31 only.

(3) *Transfer due to court order, operation of law, or as part of a security agreement.* NMFS may approve an Application for Transfer Between IFQ and GAF to return GAF to the IFQ permit holder's account from which it derived pursuant to a court order, operation of law, or a security agreement.

(4) *Notification of decision on application.* (i) Persons who submit an Application for Transfer Between IFQ and

GAF to the Regional Administrator will receive notification of the Regional Administrator's decision to approve or disapprove the application for transfer.

(ii) If an Application for Transfer Between IFQ and GAF is disapproved, NMFS will provide the reason(s) in writing by mail, posted on the date of that decision.

(iii) Disapproval of an Application for Transfer Between IFQ and GAF may be appealed pursuant to §679.43 of this title.

(iv) The Regional Administrator will not approve a transfer between IFQ and GAF on an interim basis if an applicant appeals a disapproval of an Application for Transfer Between IFQ and GAF pursuant to §679.43 of this title.

(5) *IFQ and GAF accounts.* (i) Accounts affected by either a Regional Administrator-approved Application for Transfer Between IFQ and GAF or the return of unharvested GAF to IFQ on or after 15 calendar days prior to the closing of the commercial halibut fishing season for that year will be adjusted on the date of approval or return. Applications for Transfer Between IFQ and GAF that are transfers of GAF to IFQ that have been approved by the Regional Administrator will be completed not earlier than September 1. Any necessary permits will be sent with the notification of the Regional Administrator's decision on the Application for Transfer Between IFQ and GAF.

(ii) Upon approval of an Application for Transfer Between IFQ and GAF for an initial transfer from IFQ to GAF, NMFS will establish a new GAF account for the GAF applicant's account and issue the resulting new GAF and IFQ permits. If a GAF account already exists from a previous transfer from the same IFQ account in the corresponding management area in that year, NMFS will modify the GAF recipient's GAF account and the IFQ transferor's permit account and issue modified GAF and IFQ permits upon approval of an Application for Transfer Between IFQ and GAF.

(iii) On or after 15 calendar days prior to the closing of the commercial halibut fishing season, NMFS will convert unharvested GAF from a GAF permit

## Int'l. Fishing and Related Activities

## § 300.65

holder's account back into IFQ equivalent pounds as specified in paragraph (c)(5)(ii)(E)(2) of this section, and return the resulting IFQ equivalent pounds to the IFQ permit holder's account from which the GAF were derived, unless prevented by regulations at 15 CFR part 904.

(C) *Complete application.* Applicants must submit a completed Application for Transfer Between IFQ and GAF to the Regional Administrator as instructed on the application. NMFS will notify applicants with incomplete applications of the specific information necessary to complete the application.

(D) *Application for Transfer Between IFQ and GAF approval criteria.* An Application for Transfer Between IFQ and GAF will not be approved until the Regional Administrator has determined that:

(1) The person applying to transfer IFQ to GAF or receive IFQ from a transfer of GAF to IFQ:

(i) Possesses at least one unit of halibut quota share (QS), as defined in §679.2 of this title, in the applicable Commission regulatory area, either Area 2C or Area 3A, for which the transfer of IFQ to GAF is requested;

(ii) Has been issued an annual IFQ Permit, as defined in §679.4(d)(1) of this title, for the Commission regulatory area corresponding to the person's QS holding, either Area 2C or Area 3A, resulting from that halibut QS; and

(iii) Has an IFQ permit holder's account with an IFQ amount equal to or greater than amount of IFQ to be transferred in the Commission regulatory area, either Area 2C or Area 3A, for which the transfer of IFQ to GAF is requested.

(iv) In the applicable Commission regulatory area, either Area 2C or Area 3A, the sum of IFQ halibut equivalent pounds, as defined in §679.2 of this title, from the transfer of IFQ to GAF and the pounds of RFQ issued to the RQE during a calendar year does not exceed an amount that is greater than the amount derived from: 5,947,740 units of Area 2C QS, or 22,187,161 units of Area 3A QS.

(2) The person applying to receive or transfer GAF possesses a valid charter halibut permit, community charter halibut permit, or military charter hal-

ibut permit in the Commission regulatory area (Area 2C or Area 3A) that corresponds to the IFQ permit area from or to which the IFQ will be transferred.

(3) For a transfer of IFQ to GAF:

(i) The transfer between IFQ and GAF must not cause the GAF permit issued to exceed the GAF use limits in paragraphs (c)(5)(iv)(H)(1) and (2) of this section;

(ii) The transfer must not cause the person applying to transfer IFQ to exceed the GAF use limit in paragraph (c)(5)(iv)(H)(3) of this section; and

(iii) There must be no fines, civil penalties, sanctions, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations involving either person or permit.

(4) If a Community Quota Entity (CQE), as defined in §679.2 of this title, submits a "Community Quota Entity Application for Transfer Between Individual Fishing Quota (IFQ) and Guided Angler Fish (GAF)," the application will not be approved until the Regional Administrator has determined that:

(i) The CQE applying to transfer IFQ to GAF is eligible to hold IFQ on behalf of the eligible community in Commission regulatory area 2C or 3A designated in Table 21 to 50 CFR part 679;

(ii) The CQE applying to transfer IFQ to GAF has received notification of approval of eligibility to receive IFQ for that community as described in §679.41(d)(1) of this title;

(iii) The CQE applying to receive GAF from a Commission regulatory area 2C or 3A IFQ permit holder holds one or more charter halibut permits or community charter halibut permits for the corresponding area; and

(iv) The CQE applying to transfer between IFQ and GAF has submitted a complete annual report(s) as required by §679.5(t) of this title.

(E) *Conversion between IFQ and GAF—*  
(1) *General.* An annual conversion factor will be calculated to convert between net pounds (whole number, no decimal points) of halibut IFQ and number(s) of GAF (whole number, no decimal points) for Area 2C and Area 3A. This conversion factor will be posted on the NMFS Alaska Region Web

§ 300.65

50 CFR Ch. III (10–1–22 Edition)

site before the beginning of each commercial halibut fishing season.

(2) *Conversion calculation.* The net pounds of IFQ transferred to or from an IFQ permit holder in Commission regulatory area 2C or 3A will be equal to the number(s) of GAF transferred to or from the GAF account of a GAF permit holder in the corresponding area, multiplied by the estimated average net weight determined as follows. For the first calendar year after the effective date of this rule, the average net weight will be estimated for all halibut harvested by charter vessel anglers during the most recent year without a size limit in effect. After the first calendar year after the effective date of this rule, the average net weight will be estimated from the average length of GAF retained in that area during the previous year as reported to RAM via the GAF electronic reporting system. If no GAF were harvested in a year, the conversion factor will be calculated using the same method as for the first calendar year after the effective date of this rule. NMFS will round up to the nearest whole number (no decimals) when transferring IFQ to GAF and when transferring GAF to IFQ. Expressed algebraically, the conversion formula is:

IFQ net pounds = (number of GAF × average net weight).

(3) The total number of net pounds converted from unharvested GAF and transferred to the IFQ permit holder's account from which it derived cannot exceed the total number of net pounds NMFS transferred from the IFQ permit holder's account to the GAF permit holder's account for that area in the current year.

(iii) *Guided Angler Fish (GAF) permit—*  
(A) *General.* (1) A GAF permit authorizes a charter vessel angler to catch and retain GAF in the specified Commission regulatory area, subject to the limits in paragraphs (c)(5)(iv)(A) through (K) of this section, during a charter vessel fishing trip authorized by the charter halibut permit, community charter halibut permit, or military charter halibut permit that is designated on the GAF permit.

(2) A GAF permit authorizes a charter vessel angler to catch and retain GAF in the specified Commission regu-

latory area from the time of permit issuance until any of the following occurs:

(i) The amount of GAF in the GAF permit holder's account is zero;

(ii) The permit expires at 11:59 p.m. (Alaska local time) on the day prior to 15 days prior to the end of the commercial halibut fishing season for that year;

(iii) NMFS replaces the GAF permit with a modified GAF permit following NMFS approval of an Application for Transfer Between IFQ and GAF; or

(iv) The GAF permit is revoked or suspended under 15 CFR part 904.

(3) A GAF permit is issued for use in a Commission regulatory area (2C or 3A) to the person who holds a valid charter halibut permit, community charter halibut permit, or military charter halibut permit in the corresponding Commission regulatory area. Regulations governing issuance, transfer, and use of charter halibut permits are located in § 300.67.

(4) A GAF permit is assigned to only one charter halibut permit, community charter halibut permit, or military charter halibut permit held by the GAF permit holder in the corresponding Commission regulatory area (2C or 3A).

(5) If a charter vessel angler harvests GAF from a charter vessel with a charter vessel guide on board, a legible copy of a valid GAF permit and the assigned charter halibut permit, community charter halibut permit, or military charter halibut permit appropriate for the Commission regulatory area (2C or 3A) must be carried by the charter vessel operator on board the charter vessel used to harvest GAF at all times that such fish are retained on board and must be presented for inspection on request of any authorized officer. If a charter vessel angler harvests GAF from a charter vessel without a charter vessel guide on board, the charter vessel guide must retain the legible copy of the GAF permit and the assigned charter halibut permit, community charter halibut permit, or military charter halibut permit must be on the charter vessel with the charter vessel angler.

## Int'l. Fishing and Related Activities

## § 300.65

(6) No person may alter, erase, mutilate, or forge a GAF permit or document issued under this section (§300.65(c)(5)(iii)). Any such permit or document that has been intentionally altered, erased, mutilated, or forged is invalid.

(7) GAF permit holders must retain GAF permit(s) and associated GAF permit logs for two years after the end of the fishing year for which the GAF permit(s) was issued and make the GAF permit available for inspection upon the request of an authorized officer (as defined in Commission regulations).

(B) *Issuance.* The Regional Administrator will issue a GAF permit upon approval of an Application to Transfer Between IFQ and GAF.

(C) *Transfer.* GAF authorized by a GAF permit under this paragraph (§300.65(c)(5)(iii)) are not transferable to another GAF permit, except as provided under paragraph (c)(5)(ii) of this section.

(iv) *GAF use restrictions.* (A) If a charter vessel angler harvests GAF from a charter vessel with a charter vessel guide on board, the charter vessel guide must have on board a legible copy of a valid GAF permit and the valid charter halibut permit, community charter halibut permit, or military charter halibut permit assigned to the GAF permit for the area of harvest. If a charter vessel angler harvests GAF from a charter vessel without a charter vessel guide on board, the legible copy of the valid GAF permit must be on board the same vessel as the charter vessel guide, and the original charter halibut permit, community charter halibut permit, or military charter halibut permit assigned to the GAF permit for the area of harvest must be on the charter vessel with the charter vessel angler.

(B) The total number of GAF on board a vessel cannot exceed the number of unharvested GAF in the GAF permit holder's GAF account at the time of harvest.

(C) The total number of halibut retained by a charter vessel angler harvesting GAF cannot exceed the sport fishing daily bag limit in effect for unguided sport anglers at the time of harvest adopted by the Commission as annual management measures and pub-

lished in the FEDERAL REGISTER as required in §300.62.

(D) Retained GAF are not subject to any length limit implemented by the Commission's annual management measures and published in the FEDERAL REGISTER as required in §300.62, if applicable.

(E) Each charter vessel angler retaining GAF must comply with the halibut possession requirements adopted by the Commission as annual management measures and published in the FEDERAL REGISTER as required in §300.62.

(F) The charter vessel guide must ensure that each charter vessel angler complies with paragraphs (c)(5)(iv)(A) through (E) of this section.

(G) The charter vessel guide must be physically present when the GAF halibut is harvested and must immediately remove the tips of the upper and lower lobes of the caudal (tail) fin to mark all halibut caught and retained as GAF. If the GAF halibut is filleted, the entire carcass, with head and tail connected as a single piece, must be retained on board the charter vessel on which the halibut was caught until all fillets are offloaded.

(H) Except as provided in paragraph (c)(5)(iv)(I) of this section, during the halibut sport fishing season adopted by the Commission as annual management measures and published in the FEDERAL REGISTER as required in §300.62, the following GAF use and IFQ transfer limits shall apply. GAF use limits do not apply to military charter halibut permits.

(1) No more than 400 GAF may be assigned to a GAF permit that is assigned to a charter halibut permit or community charter halibut permit endorsed for six (6) or fewer charter vessel anglers in a year,

(2) No more than 600 GAF may be assigned to a GAF permit that is assigned to a charter halibut permit endorsed for more than six (6) charter vessel anglers in a year; and

(3) In Commission regulatory area 2C, a maximum of 1,500 pounds or ten (10) percent, whichever is greater, of the start year fishable IFQ pounds for an IFQ permit, may be transferred from IFQ to GAF. In Commission regulatory area 3A, a maximum of 1,500 pounds or

fifteen (15) percent, whichever is greater, of the start year fishable IFQ pounds for an IFQ permit, may be transferred from IFQ to GAF. Start year fishable pounds is the sum of IFQ equivalent pounds, as defined in §679.2 of this title, for an area, derived from QS held, plus or minus adjustments made to that amount pursuant to §679.40(d) and (e) of this title.

(I) The halibut QS equivalent of net pounds of halibut IFQ that is transferred to GAF is included in the computation of halibut QS use caps in §679.42(f)(1)(i) and (ii) of this title.

(J) A CHP holder receiving GAF from a CQE is subject to §679.42(f)(6) of this title. For a CHP holder who receives GAF from a CQE, the net poundage equivalent of all halibut IFQ received as GAF is included in the computation of that person's IFQ halibut holdings in §679.42(f)(6) of this title.

(K) Applicability of GAF use restrictions to CQEs. The GAF use restrictions in paragraph (c)(5)(iv)(H) of this section do not apply if:

(1) A CQE transfers IFQ as GAF to a GAF permit that is assigned to one or more charter halibut permits held by that CQE or community charter halibut permits held by that CQE;

(2) A CQE transfers IFQ as GAF to another CQE holding one or more charter halibut permits or community charter halibut permits; or

(3) A CQE transfers IFQ as GAF to a GAF permit that is assigned to a charter halibut permit held by an eligible community resident (as defined at §679.2) of that CQE community, as defined for purposes of the Catch Sharing Plan for Commission regulatory areas 2C and 3A in §679.2 of this title, holding one or more charter halibut permits.

(d) *Charter vessels in Commission regulatory area 2C and 3A—(1) General requirements—(i) Logbook submission.* For a charter vessel fishing trip during which halibut were caught and retained on or after the first Monday in April and on or before December 31, Alaska Department of Fish and Game (ADF&G) Saltwater Sport Fishing Charter Trip Logbook data sheets must be submitted to the ADF&G and postmarked or received no later than 14 calendar days after the Monday of the fishing week (as defined in 50 CFR

300.61) in which the halibut were caught and retained. Logbook sheets for a charter vessel fishing trip during which halibut were caught and retained on January 1 through the first Sunday in April, must be submitted to the ADF&G and postmarked or received no later than the second Monday in April.

(ii) The charter vessel guide is responsible for complying with the reporting requirements of this paragraph (d). The person whose business was assigned an Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook is responsible for ensuring that the charter vessel guide complies with the reporting requirements of this paragraph (d).

(2) *Retention and inspection of logbook.* A person who is required to provide information pursuant to paragraph (d)(4) of this section, or whose business was assigned an Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook and whose charter vessel anglers retain halibut is required to:

(i) Retain all logbook data pages showing halibut harvest for 2 years after the end of the fishing year for which the logbook was issued, and

(ii) Make the logbook available for inspection upon the request of an authorized officer (as defined in Commission regulations).

(3) *Charter vessel guide and crew restriction in Commission regulatory areas 2C and 3A.* A charter vessel guide, charter vessel operator, or crew member may not catch and retain halibut during a charter vessel fishing trip in Commission regulatory area 2C or 3A, except that charter vessel operators who are charter vessel anglers may catch and retain halibut during a charter vessel fishing trip if the charter vessel guide is on a separate charter vessel.

(4) *Recordkeeping and reporting requirements in Commission regulatory area 2C and 3A—(i) General requirements.* Each charter vessel angler and charter vessel guide in Commission regulatory area 2C or 3A must comply with the following recordkeeping and reporting requirements, except as specified in paragraph (d)(4)(iii)(C) of this section, by the end of the calendar day or by

## Int'l. Fishing and Related Activities

## § 300.65

the end of the charter vessel fishing trip, whichever comes first, unless otherwise specified.

(ii) *Logbook reporting requirements—*  
(A) *Charter vessel angler signature requirement.* Each charter vessel angler who retains halibut caught in Commission regulatory area 2C or 3A must acknowledge that his or her name, license number (if required), and number of halibut retained (kept) are recorded correctly by signing the Alaska Department of Fish and Game Saltwater Charter Logbook data sheet on the line that corresponds to the angler's information.

(B) *Charter vessel guide requirements.* If halibut were caught and retained in Commission regulatory area 2C or 3A, the charter vessel guide must record the following information (see paragraphs (d)(4)(ii)(B)(1) through (10) of this section) in the Alaska Department of Fish and Game Saltwater Charter Logbook:

(1) *Guide license number.* The Alaska Department of Fish and Game sport fishing guide license or registration number held by the charter vessel guide who certified the logbook data sheet.

(2) *Date.* Month and day for each charter vessel fishing trip taken. A separate logbook data sheet is required for each charter vessel fishing trip if two or more trips are taken on the same day. A separate logbook data sheet is required for each calendar day that halibut are caught and retained during a multi-day trip. A separate logbook sheet is required if more than one charter halibut permit is used on a trip.

(3) *Charter halibut permit (CHP) number.* The NMFS CHP number(s) authorizing charter vessel anglers on that charter vessel fishing trip to catch and retain halibut.

(4) *Guided Angler Fish (GAF) permit number.* The NMFS GAF permit number(s) authorizing charter vessel anglers on that charter vessel fishing trip to harvest GAF.

(5) *Statistical area.* The primary Alaska Department of Fish and Game statistical area code in which halibut were caught and retained.

(6) *Angler sport fishing license number and printed name.* Before a charter vessel fishing trip begins, record the first

and last name of each paying or non-paying charter vessel angler on board that will fish for halibut. For each angler required to be licensed, record the Alaska Sport Fishing License number for the current year, resident permanent license number, or disabled veteran license number. For youth anglers not required to be licensed, record the word "youth" in place of the license number.

(7) *Number of halibut retained.* For each charter vessel angler, record the total number of non-GAF halibut caught and kept.

(8) *Number of GAF retained.* For each charter vessel angler, record the total number of GAF kept.

(9) *Guide signature.* The charter vessel guide acknowledges that the recorded information is correct by signing the logbook data sheet.

(10) *Angler signature.* The charter vessel guide is responsible for ensuring that charter vessel anglers that retain halibut comply with the signature requirements at paragraph (d)(4)(ii)(A) of this section.

(iii) *GAF reporting requirements—*(A) *General.* (1) Upon retention of a GAF halibut, the charter vessel guide must immediately record on the GAF permit log (on the back of the GAF permit) the date that the fish was caught and retained and the total length of that fish as described in paragraphs (d)(4)(iii)(D)(5) and (7) of this section. If GAF halibut are retained on a charter vessel without a charter vessel guide on board, the charter vessel guide must also comply with the reporting requirements in paragraph (d)(4)(iii)(A)(5) of this section.

(2) In addition to the recordkeeping and reporting requirements in paragraphs (d)(4)(i) and (ii) of this section, a GAF permit holder must use the NMFS-approved electronic reporting system on the Alaska Region Web site at <http://alaskafisheries.noaa.gov/> to submit a GAF landings report.

(3) A GAF permit holder must submit a GAF landings report by 11:59 p.m. (Alaska local time) on the last calendar day of a fishing trip for each day on which a charter vessel angler retained GAF authorized by the GAF permit held by that permit holder.

§ 300.65

50 CFR Ch. III (10–1–22 Edition)

(4) If a GAF permit holder is unable to submit a GAF landings report due to hardware, software, or Internet failure for a period longer than the required reporting time, or a correction must be made to information already submitted, the GAF permit holder must contact NOAA Office of Law Enforcement, Juneau, AK, at 800–304–4846 (Select Option 1).

(5) If a GAF is retained on a charter vessel without a charter vessel guide on board, the charter vessel guide must immediately record in the ADF&G Saltwater Charter Logbook the GAF permit number under which GAF were caught and retained, and the number of GAF kept under the corresponding charter vessel angler's name.

(B) *Electronic Reporting of GAF.* A GAF permit holder must obtain, at his or her own expense, the technology to submit GAF landing reports to the NMFS-approved reporting system for GAF landings.

(C) *NMFS-Approved Electronic Reporting System.* The GAF permit holder agrees to the following terms (see paragraphs (d)(4)(iii)(C)(1) through (3) of this section):

(1) To use any NMFS online service or reporting system only for authorized purposes;

(2) To safeguard the NMFS Person Identification Number and password to prevent their use by unauthorized persons; and

(3) To accept the responsibility of and acknowledge compliance with §300.4(a) and (b), §300.65(d), and §300.66(p) and (q).

(D) *Information entered for each GAF caught and retained.* The GAF permit holder must enter the following information for each charter vessel fishing trip in which GAF were retained under the authorization of the permit holder's GAF permit into the NMFS-approved electronic reporting system (see paragraphs (d)(4)(iii)(D)(1) through (9) of this section) by 11:59 p.m. (Alaska local time) on the last day of a charter fishing trip in which a charter vessel angler retained GAF:

(1) Logbook number from the Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook.

(2) Vessel identification number for vessel on which GAF were caught and retained:

(i) State of Alaska issued boat registration (AK number), or

(ii) U.S. Coast Guard documentation number.

(3) GAF permit number under which GAF were caught and retained.

(4) Alaska Department of Fish and Game sport fishing guide license or registration number held by the charter vessel guide who certified the logbook data sheet.

(5) Date that GAF was caught and retained.

(6) Number of GAF caught and retained.

(7) Length of each GAF caught and retained. Halibut lengths are measured in inches in a straight line from the anterior-most tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail.

(8) Community charter halibut permit only: Community or Port where the charter vessel fishing trip began (*i.e.*, where charter vessel anglers boarded the vessel).

(9) Community charter halibut permit only: Community or Port where the charter vessel fishing trip ended (*i.e.*, where charter vessel anglers or fish were offloaded from the vessel).

(E) *Properly reported landing.* (1) The GAF permit holder is responsible for ensuring that all GAF harvested on board a vessel are debited from the GAF permit holder's account under which the GAF were retained.

(2) A GAF landing confirmation number issued by the NMFS-approved electronic reporting system and recorded by the GAF permit holder on the GAF permit log used to record the dates and lengths of retained GAF, as required in paragraph (d)(4)(iii)(A)(1) of this section, constitutes confirmation that the GAF permit holder's GAF landing is properly reported and the GAF permit holder's account is properly debited.

(3) Instructions for correcting a submitted GAF landing electronic report are at (d)(4)(iii)(A)(4) of this section.

(5) *Carcass retention requirement for size-restricted halibut.* If a size-restricted halibut is filleted on board the charter vessel, the entire carcass, with head and tail connected as a single piece,

## Int'l. Fishing and Related Activities

## § 300.65

must be retained on board the charter vessel on which it was caught until all fillets are offloaded.

(6) If a charter vessel angler catches and retains halibut, and that halibut is on board a fishing vessel with halibut caught and retained by persons who are not charter vessel anglers, then the daily bag limit, possession limit, size limit, and carcass retention regulations applicable to charter vessel anglers shall apply to all halibut on board the fishing vessel.

(e) The Local Area Management Plan (LAMP) for Sitka Sound provides guidelines for participation in the halibut fishery in Sitka Sound.

(1) For purposes of this section, Sitka Sound means (See Figure 1 to subpart E):

(i) With respect to paragraph (e)(2) of this section, that part of the Commission regulatory area 2C that is enclosed on the north and east:

(A) By a line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and

(B) By a line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. long.; and

(C) That is enclosed on the south and west by a line from Cape Edgecumbe at 56°59'54" N. lat., 135°51'27" W. long. to Vasilief Rock at 56°48'56" N. lat., 135°32'30" W. long., and

(D) To the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(ii) With respect to paragraphs (e)(3), (e)(4), and (e)(5) of this section, that part of the Commission Regulatory Area 2C that is enclosed on the north and east:

(A) By a line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and

(B) A line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. lat.; and

(C) That is enclosed on the south and west by a line from Sitka Point at 56°59'23" N. lat., 135°49'34" W. long., to Hanus Point at 56°51'55" N. lat., 135°30'30" W. long.,

(D) To the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(2) A person using a vessel greater than 35 ft (10.7 m) in overall length, as defined at 50 CFR 300.61, is prohibited from fishing for IFQ halibut with setline gear, as defined at 50 CFR 300.61, within Sitka Sound as defined in paragraph (e)(1)(i) of this section.

(3) A person using a vessel less than or equal to 35 ft (10.7 m) in overall length, as defined at 50 CFR 300.61:

(i) Is prohibited from fishing for IFQ halibut with setline gear within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31; and

(ii) Is prohibited, during the remainder of the designated IFQ season, from retaining more than 2,000 lb (0.91 mt) of IFQ halibut within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, per IFQ fishing trip, as defined in 50 CFR 300.61.

(4) No charter vessel shall engage in sport fishing, as defined at §300.61, for halibut within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(i) No charter vessel shall retain halibut caught while engaged in sport fishing, as defined at §300.61, for other species, within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(ii) Notwithstanding paragraphs (e)(4) and (e)(4)(i) of this section, halibut harvested outside Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, may be retained onboard a charter vessel engaged in sport fishing, as defined in §300.61, for other species within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(5) Setline gear may not be used in a 4 nm radius extending south from Low Island at 57°00.70' N. lat., 135°36.57' W. long. within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(f) Sitka Pinnacles Marine Reserve. (1) For purposes of this paragraph (f), the Sitka Pinnacles Marine Reserve means an area totaling 2.5 square nm off Cape Edgecumbe, defined by

**§ 300.65**

straight lines connecting the following points in a counterclockwise manner:

- 56°55.5' N lat., 135°54.0' W long;
- 56°57.0' N lat., 135°54.0' W long;
- 56°57.0' N lat., 135°57.0' W long;
- 56°55.5' N lat., 135°57.0' W long.

(2) No person shall engage in commercial, sport or subsistence fishing, as defined at §300.61, for halibut within the Sitka Pinnacles Marine Reserve.

(3) No person shall anchor a vessel within the Sitka Pinnacles Marine Reserve if halibut is on board.

(g) *Subsistence fishing in and off Alaska.* No person shall engage in subsistence fishing for halibut unless that person meets the requirements in paragraphs (g)(1), (g)(2), or (g)(3) of this section.

(1) A person is eligible to harvest subsistence halibut if he or she is a rural resident of a community with customary and traditional uses of halibut listed in the following table:

**HALIBUT REGULATORY AREA 2C**

Rural Community	Organized Entity
Angoon .....	Municipality
Coffman Cove .....	Municipality
Craig .....	Municipality
Edna Bay .....	Census Designated Place
Elfin Cove .....	Census Designated Place
Gustavus .....	Census Designated Place
Haines .....	Municipality
Hollis .....	Census Designated Place
Hoonah .....	Municipality
Hydaburg .....	Municipality
Hyder .....	Census Designated Place
Take .....	Municipality
Kasaan .....	Municipality
Klawock .....	Municipality
Klukwan .....	Census Designated Place
Metlakatla .....	Census Designated Place
Meyers Chuck .....	Census Designated Place
Naukati .....	Municipality
Pelican .....	Municipality
Petersburg .....	Municipality
Point Baker .....	Census Designated Place
Port Alexander .....	Municipality
Port Protection .....	Census Designated Place
Saxman .....	Municipality
Sitka .....	Municipality
Skagway .....	Municipality
Tenakee Springs .....	Municipality
Thorne Bay .....	Municipality
Whale Pass .....	Census Designated Place
Wrangell .....	Municipality

**HALIBUT REGULATORY AREA 3A**

Rural Community	Organized Entity
Akhiok .....	Municipality
Chenega Bay .....	Census Designated Place
Cordova .....	Municipality
Karluk .....	Census Designated Place

**50 CFR Ch. III (10–1–22 Edition)**

**HALIBUT REGULATORY AREA 3A—Continued**

Rural Community	Organized Entity
Kodiak City .....	Municipality
Larsen Bay .....	Municipality
Nanwalek .....	Census Designated Place
Old Harbor .....	Municipality
Ouzinkie .....	Municipality
Port Graham .....	Census Designated Place
Port Lions .....	Municipality
Seldovia .....	Municipality
Tatitlek .....	Census Designated Place
Yakutat .....	Municipality

**HALIBUT REGULATORY AREA 3B**

Rural Community	Organized Entity
Chignik Bay .....	Municipality
Chignik Lagoon .....	Census Designated Place
Chignik Lake .....	Census Designated Place
Cold Bay .....	Municipality
False Pass .....	Municipality
Ivanof Bay .....	Census Designated Place
King Cove .....	Municipality
Nelson Lagoon .....	Census Designated Place
Perryville .....	Census Designated Place
Sand Point .....	Municipality

**HALIBUT REGULATORY AREA 4A**

Rural Community	Organized Entity
Akutan .....	Municipality
Nikolski .....	Census Designated Place
Unalaska .....	Municipality

**HALIBUT REGULATORY AREA 4B**

Rural Community	Organized Entity
Adak .....	Census Designated Place
Atka .....	Municipality

**HALIBUT REGULATORY AREA 4C**

Rural Community	Organized Entity
St. George .....	Municipality
St. Paul .....	Municipality

**HALIBUT REGULATORY AREA 4D**

Rural Community	Organized Entity
Gambell .....	Municipality
Savoonga .....	Municipality
Diomed (Inalik) .....	Municipality

**HALIBUT REGULATORY AREA 4E**

Rural Community	Organized Entity
Alakanuk .....	Municipality
Aleknegik .....	Municipality
Bethel .....	Municipality
Brevig Mission .....	Municipality
Chefornak .....	Municipality
Chevak .....	Municipality
Clark's Point .....	Municipality

**Int'l. Fishing and Related Activities**

**§ 300.65**

**HALIBUT REGULATORY AREA 4E—Continued**

Rural Community	Organized Entity
Council	Census Designated Place
Dillingham	Municipality
Eek	Municipality
Egegik	Municipality
Elim	Municipality
Emmonak	Municipality
Golovin	Municipality
Goodnews Bay	Municipality
Hooper Bay	Municipality
King Salmon	Census Designated Place
Kipnuk	Census Designated Place
Kongiganak	Census Designated Place
Kotlik	Municipality
Koyuk	Municipality
Kwigillingok	Census Designated Place
Levelock	Census Designated Place
Manokotak	Municipality
Mekoryak	Municipality
Naknek	Census Designated Place
Napakiak	Municipality
Napaskiak	Municipality
Newtok	Census Designated Place
Nightmute	Municipality
Nome	Municipality
Oscarville	Census Designated Place
Pilot Point	Municipality
Platinum	Municipality
Port Heiden	Municipality
Quinhagak	Municipality
Scammon Bay	Municipality
Shaktolik	Municipality
Sheldon Point (Nunam Iqua)	Municipality
Shishmaref	Municipality
Solomon	Census Designated Place
South Naknek	Census Designated Place
St. Michael	Municipality
Stebbins	Municipality
Teller	Municipality
Togiak	Municipality
Toksook Bay	Municipality
Tuntutuliak	Census Designated Place
Tununak	Census Designated Place
Twin Hills	Census Designated Place
Ugashik	Census Designated Place
Unalakleet	Municipality
Wales	Municipality
White Mountain	Municipality

(2) A person is eligible to harvest subsistence halibut if he or she is a member of an Alaska Native tribe with customary and traditional uses of halibut listed in the following table:

**HALIBUT REGULATORY AREA 2C**

Place with Tribal Headquarters	Organized Tribal Entity
Angoon	Angoon Community Association
Craig	Craig Community Association
Haines	Chilkoot Indian Association
Hoonah	Hoonah Indian Association
Hydaburg	Hydaburg Cooperative Association
Juneau	Aukquan Traditional Council Central Council Tlingit and Haida Indian Tribes Douglas Indian Association

**HALIBUT REGULATORY AREA 2C—Continued**

Place with Tribal Headquarters	Organized Tribal Entity
Kake	Organized Village of Kake
Kasaan	Organized Village of Kasaan
Ketchikan	Ketchikan Indian Corporation
Klawock	Klawock Cooperative Association
Klukwan	Chilkat Indian Village
Metlakatla	Metlakatla Indian Community, Annette Island Reserve
Petersburg	Petersburg Indian Association
Saxman	Organized Village of Saxman
Sitka	Sitka Tribe of Alaska
Skagway	Skagway Village
Wrangell	Wrangell Cooperative Association

**HALIBUT REGULATORY AREA 3A**

Place with Tribal Headquarters	Organized Tribal Entity
Akhiok	Native Village of Akhiok
Chenega Bay	Native Village of Chanega
Cordova	Native Village of Eyak
Karluk	Native Village of Karluk
Kenai-Soldotna	Kenaitze Indian Tribe Village of Salamatoff
Kodiak City	Lesnoi Village (Woody Island) Native Village of Afognak Shoonag' Tribe of Kodiak
Larsen Bay	Native Village of Larsen Bay
Nanwalek	Native Village of Nanwalek
Ninilchik	Ninilchik Village
Old Harbor	Village of Old Harbor
Ouzinkie	Native Village of Ouzinkie
Port Graham	Native Village of Port Graham
Port Lions	Native Village of Port Lions
Seldovia	Seldovia Village Tribe
Tatitlek	Native Village of Tatitlek
Wasilla	Village of Kanatak
Yakutat	Yakutat Tlingit Tribe

**HALIBUT REGULATORY AREA 3B**

Place with Tribal Headquarters	Organized Tribal Entity
Chignik Bay	Native Village of Chignik
Chignik Lagoon	Native Village of Chignik Lagoon
Chignik Lake	Chignik Lake Village
False Pass	Native Village of False Pass
Ivanof Bay	Ivanoff Bay Village
King Cove	Agdaagux Tribe of King Cove Native Village of Belkofski
Nelson Lagoon	Native Village of Nelson Lagoon
Perryville	Native Village of Perryville
Sand Point	Pauloff Harbor Village Native Village of Unga Gagan Tayagungin Tribe of Sand Point Village

**HALIBUT REGULATORY AREA 4A**

Place with Tribal Headquarters	Organized Tribal Entity
Akutan	Native Village of Akutan
Nikolski	Native Village of Nikolski
Unalaska	Qawalingin Tribe of Unalaska

§ 300.65

HALIBUT REGULATORY AREA 4B

Place with Tribal Headquarters	Organized Tribal Entity
Atka .....	Native Village of Atka

HALIBUT REGULATORY AREA 4C

Place with Tribal Headquarters	Organized Tribal Entity
St. George .....	Pribilof Islands Aleut Commu-
St. Paul .....	nities of St. Paul Island and
	St. George Island

HALIBUT REGULATORY AREA 4D

Place with Tribal Headquarters	Organized Tribal Entity
Gambell .....	Native Village of Gambell
Savoonga .....	Native Village of Savoonga
Diomedes (Inalik) .....	Native Village of Diomedes
	(Inalik)

HALIBUT REGULATORY AREA 4E

Place with Tribal Headquarters	Organized Tribal Entity
Alakanuk .....	Village of Alakanuk
Aleknagik .....	Native Village of Aleknagik
Bethel .....	Orutsaramuit Native Village
Brevig Mission .....	Native Village of Brevig Mission
Chefornak .....	Village of Chefornak
Chevak .....	Chevak Native Village
Clark's Point .....	Village of Clark's Point
Council .....	Native Village of Council
Dillingham .....	Native Village of Dillingham
	Native Village of Ekuq
	Native Village of Kakanak
Eek .....	Native Village of Eek
Egegik .....	Egegik Village
Elim .....	Native Village of Elim
Emmonak .....	Chuloonawick Native Village
	Emmonak Village
Golovin .....	Chinik Eskimo Community
Goodnews Bay .....	Native Village of Goodnews Bay
Hooper Bay .....	Native Village of Hooper Bay
	Native Village of Paimiut
King Salmon .....	King Salmon Tribal Council
Kipnuk .....	Native Village of Kipnuk
Kongiganak .....	Native Village of Kongiganak
Kotlik .....	Native Village of Hamilton
	Village of Bill Moore's Slough
	Village of Kotlik
Koyuk .....	Native Village of Koyuk
Kwigillingok .....	Native Village of Kwigillingok
Levelock .....	Levelock Village
Manokotak .....	Manokotak Village
Mekoryak .....	Native Village of Mekoryak
Naknek .....	Naknek Native Village
Napakiaik .....	Native Village of Napakiaik
Napaskiak .....	Native Village of Napaskiak
Newtok .....	Newtok Village
Nightmute .....	Native Village of Nightmute
	Umkumiute Native Village
Nome .....	King Island Native Community
	Nome Eskimo Community
Oscarville .....	Oscarville Traditional Village
Pilot Point .....	Native Village of Pilot Point
Platinum .....	Platinum Traditional Village

50 CFR Ch. III (10-1-22 Edition)

HALIBUT REGULATORY AREA 4E—Continued

Place with Tribal Headquarters	Organized Tribal Entity
Port Heiden .....	Native Village of Port Heiden
Quinhagak .....	Native Village of Kwinhagak
Scammon Bay .....	Native Village of Scammon Bay
Shaktoolik .....	Native Village of Shaktoolik
Sheldon Point (Nunam	Native Village of Sheldon's
Iqua) .....	Point
Shishmaref .....	Native Village of Shishmaref
Solomon .....	Village of Solomon
South Naknek .....	South Naknek Village
St. Michael .....	Native Village of Saint Michael
Stebbins .....	Stebbins Community Associa-
	tion
Teller .....	Native Village of Mary's Igloo
	Native Village of Teller
Togiak .....	Traditional Village of Togiak
Toksook Bay .....	Native Village of Toksook Bay
Tuntutuliak .....	Native Village of Tuntutuliak
Tununak .....	Native Village of Tununak
Twin Hills .....	Twin Hills Village
Ugashik .....	Ugashik Village
Unalakleet .....	Native Village of Unalakleet
Wales .....	Native Village of Wales
White Mountain .....	Native Village of White Moun-
	tain

(3) A person is eligible to harvest subsistence halibut if he or she is a rural resident in one of the rural areas of Alaska described as follows:

(i) Southeast Alaska east of 141° W. long., except for the land areas of the Ketchikan Gateway Borough as described at paragraph (g)(4)(i) of this section, the land areas of the City and Borough of Juneau, and the Ketchikan and Juneau non-subsistence marine waters areas as defined in paragraphs (h)(3)(i) and (h)(3)(ii) of this section (see figures 2 and 3 to this subpart E).

(ii) The Alaska Peninsula, Aleutian Islands, Kodiak Island Archipelago, and the area south of the northern boundary of the Bristol Bay Borough and south of 58°39.2' N. lat. (see figures 5, 6, and 7 to this subpart E).

(iii) Nelson, Nunivak, and Saint Lawrence Islands (see figure 6 to this subpart E).

(iv) All other areas of Alaska within ten statute miles of mean high water on the Bering Sea and Pacific Ocean coasts, south of Cape Espenberg, including along the Kuskokwim River to Bethel, and that are not specified as non-rural land or water areas as defined in paragraph (g)(4) of this section (see figures 4, 5, 6, and 7 to this subpart E).

(4) Non-rural areas consist of the non-subsistence marine waters areas

**Int'l. Fishing and Related Activities**

**§ 300.65**

defined in paragraph (h)(3) of this section and the land areas of the following cities and boroughs for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska:

(i) The Ketchikan Gateway Borough on May 18, 2008. This area encompasses all those islands bounded on the east, north, and west by Behm Canal, Behm Narrows, and Clarence Strait to its junction with Nichols Passage, and on the south by Nichols and Revillagigedo Channel to its junction with Behm Canal. The designated boundaries extend to the center line of Behm Canal, Behm Narrows, Clarence Strait, Nichols Passage, and Revillagigedo Channel, and include all the area of Revillagigedo, Gravina, Pennock, Betton, Grant and other Clover Passage and Naha Bay Islands, Hassler, Gedney, Black, Smeaton, Manzanita, Rudyerd, and Bold Islands, and all other offshore and adjacent islands and inlets thereto (see figure 2 to this subpart E).

(ii) The City and Borough of Juneau (see figure 3 to this subpart E).

(iii) The Greater Anchorage Area Borough (see figures 4 and 5 to this subpart E).

(iv) The Matanuska-Susitna Borough (see figure 5 to this subpart E).

(v) The Kenai Peninsula Borough excluding the area of the Seldovia Census Designated Place, the area south and west of that place, and the area south and west of a line that runs from 59°27.5' N. lat., 151°31.7' W. long. to 59°12.5' N. lat., 151°18.5' W. long. (see figure 5 to this subpart E).

(vi) The City of Valdez (see figures 4 and 5 to this subpart E).

(h) *Limitations on subsistence fishing.* Subsistence fishing for halibut may be conducted only by persons who qualify for such fishing pursuant to paragraph (g) of this section and who hold a valid subsistence halibut registration certificate in that person's name issued by NMF'S pursuant to paragraph (i) of this section, provided that such fishing is consistent with the following limitations.

(1) Subsistence fishing is limited to setline gear and hand-held gear, including longline, handline, rod and reel, spear, jig and hand-troll gear.

(i) Subsistence fishing gear set or retrieved from a vessel while engaged in subsistence fishing for halibut must not have more than the allowable number of hooks per vessel, or per person registered in accordance with paragraph (i) of this section and aboard the vessel, whichever is less, according to the regulatory area and permit type indicated in the following table:

Regulatory Area	Permit Type	Gear Restrictions
2C—Except Sitka Sound, and Ketchikan and Juneau non-subsistence marine waters areas	SHARC	30 hooks per vessel
	Ceremonial Permit	30 hooks per vessel
	Educational Permit	30 hooks per vessel
	Community Harvest Permit	30 hooks per person onboard up to 90 hooks per vessel
2C—Sitka Sound	SHARC	September 1 through May 31: 30 hooks per vessel
		June 1 through August 31: 15 hooks per vessel; no power hauling
	Ceremonial Permit	September 1 through May 31: 30 hooks per vessel
		June 1 through August 31: fishing under Ceremonial Permit not allowed
	Educational Permit	30 hooks per vessel
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
2C—Ketchikan and Juneau non-subsistence marine waters areas	SHARC	general subsistence halibut fishing not allowed
	Ceremonial Permit	30 hooks per vessel
	Educational Permit	30 hooks per vessel

§ 300.65

50 CFR Ch. III (10–1–22 Edition)

Regulatory Area	Permit Type	Gear Restrictions
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
3A—Except Chiniak Bay, and Anchorage-Matsu-Kenai and Valdez non-subsistence marine waters areas	SHARC	30 hooks per person onboard up to 90 hooks per vessel
	Ceremonial Permit	30 hooks per person onboard up to 90 hooks per vessel
	Educational Permit	30 hooks per person onboard up to 90 hooks per vessel
	Community Harvest Permit	30 hooks per person onboard up to 90 hooks per vessel
3A—Chiniak Bay	SHARC	30 hooks per person onboard up to 60 hooks per vessel
	Ceremonial Permit	30 hooks per person onboard up to 90 hooks per vessel
	Educational Permit	30 hooks per person onboard up to 90 hooks per vessel
	Community Harvest Permit	30 hooks per person onboard up to 90 hooks per vessel
3A—Anchorage-Matsu-Kenai and Valdez non-subsistence marine waters areas	SHARC	general subsistence halibut fishing not allowed
	Ceremonial Permit	30 hooks per person onboard up to 90 hooks per vessel
	Educational Permit	30 hooks per person onboard up to 90 hooks per vessel
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
3B	SHARC	30 hooks per person onboard up to 90 hooks per vessel

Regulatory Area	Permit Type	Gear Restrictions
4A and 4B	SHARC	30 hooks per person onboard up to 90 hooks per vessel
4C, 4D, and 4E	SHARC	no hook limit

(ii) All setline gear marker buoys carried on board or used by any vessel regulated under this section shall be marked with the following: first initial, last name, and address (street, city, and state), followed by the letter “S” to indicate that it is used to harvest subsistence halibut.

(iii) Markings on setline marker buoys shall be in characters at least 4 inches (10.16 cm) in height and 0.5 inch (1.27 cm) in width in a contrasting color visible above the water line and shall be maintained so the markings are clearly visible.

(2) The retention of subsistence halibut is limited per person eligible to conduct subsistence fishing for halibut and onboard the vessel according to the following table:

Regulatory Area	Permit Type	Retention Limits
2C—Except Sitka Sound, and Ketchikan and Juneau non-subsistence marine waters areas	SHARC	20 halibut per day per vessel and in possession
	Ceremonial Permit	25 halibut per permit
	Educational Permit	25 halibut per permit
	Community Harvest Permit	no daily or possession limit
2C—Sitka Sound	SHARC	September 1 through May 31: 10 halibut per day per vessel and in possession
		June 1 through August 31: 5 halibut per day per vessel and in possession
	Ceremonial Permit	September 1 through May 31: 25 halibut per permit

**Int'l. Fishing and Related Activities**

**§ 300.65**

Regulatory Area	Permit Type	Retention Limits
		June 1 through August 31: fishing under Ceremonial Permit not allowed
	Educational Permit	25 halibut per permit
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
2C—Ketchikan and Juneau non-subsistence marine waters areas	SHARC	general subsistence halibut fishing not allowed
	Ceremonial Permit	25 halibut per permit
	Educational Permit	25 halibut per permit
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
3A—Including Chiniak Bay, but excluding Anchorage-Matsu-Kenai and Valdez non-subsistence marine waters areas	SHARC	20 halibut per person per day and in possession
	Ceremonial Permit	25 halibut per permit
	Educational Permit	25 halibut per permit
	Community Harvest Permit	no daily or possession limit
3A—Anchorage-Matsu-Kenai and Valdez non-subsistence marine waters areas	SHARC	general subsistence halibut fishing not allowed
	Ceremonial Permit	25 halibut per permit
	Educational Permit	25 halibut per permit
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
3B	SHARC	20 halibut per person per day and in possession
4A and 4B	SHARC	20 halibut per person per day; no possession limit

Regulatory Area	Permit Type	Retention Limits
4C, 4D, and 4E	SHARC	no daily or possession limit

(3) Subsistence fishing may be conducted in any waters in and off Alaska except in the four non-subsistence marine waters areas defined as follows:

(i) *Ketchikan non-subsistence marine waters area in Commission regulatory area 2C* (see Figure 2 to subpart E) is defined as those waters between a line from Caamano Point at 55°29.90' N. lat., 131°58.25' W. long. to Point Higgins at 55°27.42' N. lat., 131°50.00' W. long. and a point at 55°11.78' N. lat., 131°05.13' W. long., located on Point Sykes to a point at 55°12.22' N. lat., 131°05.70' W. long., located one-half mile northwest of Point Sykes to Point Alava at 55°11.54' N. lat., 131°11.00' W. long. and within one mile of the mainland and the Gravina and Revillagigedo Island shorelines, including within one mile of the Cleveland Peninsula shoreline and east of the longitude of Niblack Point at 132°07.23' W. long., and north of the latitude of the southernmost tip of Mary Island at 55°02.66' N. lat.;

(ii) *Juneau non-subsistence marine waters area in Commission regulatory area 2C* (see Figure 3 to subpart E) is defined as those waters of Stephens Passage and contiguous waters north of the latitude of Midway Island Light (57°50.21' N. lat.), including the waters of Taku Inlet, Port Snettisham, Saginaw Channel, and Favorite Channel, and those waters of Lynn Canal and contiguous waters south of the latitude of the northernmost entrance of Berners Bay (58°43.07' N. lat.), including the waters of Berners Bay and Echo Cove, and those waters of Chatham Strait and contiguous waters north of the latitude of Point Marsden (58°03.42' N. lat.), and east of a line from Point Couverden at 58°11.38' N. lat., 135°03.40' W. long., to Point Augusta at 58°02.38' N. lat., 134°57.11' W. long.;

(iii) *The Anchorage-Matsu-Kenai non-subsistence marine waters area in Commission Regulatory Area 3A* (see figures 4, 5, 6, and 7 to this subpart E) is defined as:

(A) All waters of Cook Inlet north of a line extending from the westernmost point of Hesketh Island at 59°30.40' N. lat., except those waters within mean

lower low tide from a point one mile south of the southern edge of the Chuitna River (61°05.00' N. lat., 151°01.00' W. long.) south to the easternmost tip of Granite Point (61°01.00' N. lat., 151°23.00' W. long.) (Tyonek subdistrict); and

(B) All waters of Alaska south of 59°30.40' N. lat. on the western shore of Cook Inlet to Cape Douglas (58°51.10' N. lat.) and in the east to Cape Fairfield (148°50.25' W. long.), except those waters of Alaska west of a line from the easternmost point of Jakolof Bay (151°31.90' W. long.), and following the shore to a line extending south from the easternmost point of Rocky Bay (151°18.41' W. long.); and

(iv) *Valdez non-subsistence marine waters area in Commission regulatory area 3A* (see figures 4 and 5 to this subpart E) is defined as the waters of Port Valdez and Valdez Arm located north of 61°01.38' N. lat., and east of 146°43.80' W. long.

(4) Waters in and off Alaska that are not specifically identified as non-subsistence marine waters areas in paragraph (h)(3) of this section are rural for purposes of subsistence fishing for halibut. Subsistence fishing may be conducted in any rural area by any person with a valid subsistence halibut registration certificate in his or her name issued by NMFS under paragraph (i) of this section, except that:

(i) A person who is not a rural resident but who is a member of an Alaska Native tribe that is located in a rural area and that is listed in the table in paragraph (g)(2) of this section is limited to conducting subsistence fishing for halibut only in his or her area of tribal membership.

(ii) A person who is a resident outside the State of Alaska but who is a member of an Alaska Native tribe that is located in a rural area and that is listed in the table in paragraph (g)(2) of this section is limited to conducting subsistence fishing for halibut only in his or her area of tribal membership.

(iii) For purposes of this paragraph (h)(4), “area of tribal membership” means rural areas of the Commission regulatory area under which the Organized Tribal Entity is listed in the tables set out in paragraph (g)(2) of this section, or the Bering Sea closed area

adjacent to the rural area in which the Alaska Native tribal headquarters is located.

(i) *Subsistence registration.* A person must register as a subsistence halibut fisher and possess a valid subsistence halibut registration certificate in his or her name issued by NMFS before he or she begins subsistence fishing for halibut in waters in and off Alaska.

(1) A subsistence halibut registration certificate will be issued to any person who registers according to paragraph (i)(2) of this section and who is qualified to conduct subsistence fishing for halibut according to paragraph (g) of this section. The Alaska Region, NMFS, may enter into cooperative agreements with Alaska Native tribal governments or their representative organizations for purposes of identifying persons qualified to conduct subsistence fishing for halibut according to paragraph (g) of this section.

(2) *Registration.* To register as a subsistence halibut fisherman, a person may request a cooperating Alaska Native tribal government or other entity designated by NMFS to submit an application on his or her behalf to the Alaska Region, NMFS. Alternatively, a person may apply by submitting a completed application to the Alaska Region, NMFS. Application forms are available on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>, or by contacting NMFS at 800-304-4846, Option 2. NMFS will process a SHARC Application for an Alaska Native Tribal Member or a SHARC Application for a Rural Resident provided that an application is completed, with all applicable fields accurately filled-in, and all required additional documentation is submitted. Initial applications for a SHARC must be signed and mailed or faxed to NMFS (see instructions on form). Renewals may be submitted electronically, mailed, or faxed.

(i) *Non-electronic submittal.* The applicant must sign and date the application certifying that all information is true, correct, and complete. The applicant must submit the paper application as indicated on the application.

(ii) *Electronic submittal.* An individual can submit a SHARC renewal on-line using an application available at the

## Int'l. Fishing and Related Activities

## § 300.65

Alaska Region website. By using the SHARC number and date of birth, and by submitting the application form, the applicant certifies that all information is true, correct, and complete.

(3) *Expiration of registration.* Each subsistence halibut registration certificate will be valid only for the period of time specified on the certificate. A person eligible to harvest subsistence halibut under paragraph (g) of this section may renew his or her registration certificate that is expired or will expire within 3 months by following the procedures described in paragraph (i)(2) of this section. A subsistence halibut registration certificate will expire:

(i) 2 years from the date of its issuance to a person eligible to harvest subsistence halibut under paragraph (g)(1) of this section, and

(ii) 4 years from the date of its issuance to a person eligible to harvest subsistence halibut under paragraph (g)(2) of this section.

(j) *Community Harvest Permit (CHP).* An Area 2C or Area 3A community or Alaska Native tribe listed in paragraphs (g)(1) or (g)(2) of this section may apply for a CHP, which allows a community or Alaska Native tribe to appoint one or more individuals from its respective community or Alaska Native tribe to harvest subsistence halibut from a single vessel under reduced gear and harvest restrictions. The CHP consists of a harvest log and up to five laminated permit cards. A CHP is a permit subject to regulation under §679.4(a) of this title.

(1) *Qualifications.* (i) NMFS may issue a CHP to any community or Alaska Native tribe that applies according to paragraph (j)(2) of this section and that is qualified to conduct subsistence fishing for halibut according to paragraph (g) of this section.

(ii) NMFS will issue a CHP to a community in Area 2C or Area 3A only if:

(A) The applying community is listed as eligible in Area 2C or Area 3A according to paragraph (g)(1) of this section; and

(B) No Alaska Native tribe listed in paragraph (g)(2) of this section exists in that community.

(iii) NMFS will issue a CHP to an Alaska Native tribe in Area 2C or Area 3A only if the applying tribe is listed as

eligible in Area 2C or Area 3A according to paragraph (g)(2) of this section.

(iv) Eligible communities or Alaska Native tribes may appoint only one CHP Coordinator per community or tribe.

(2) *Application.* A community or Alaska Native tribe may apply for a CHP by submitting an application to the Alaska Region, NMFS. Applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668. A complete application must include:

(i) The name of the community or Alaska Native tribe requesting the CHP;

(ii) The full name of the person who is designated as the CHP Coordinator for each community or Alaska Native tribe, the designated CHP Coordinator's mailing address (number and street, city, state, and zip code), community of residence (the rural community or residence from paragraph (g)(1) of this section) or the Alaska Native tribe if applicable (as indicated in paragraph (g)(2) of this section), and the daytime telephone number; and

(iii) Any previously issued CHP harvest logs.

(3) *Restrictions.* Subsistence fishing for halibut under a CHP shall be valid only:

(i) In Area 2C or Area 3A, except that a CHP may not be used:

(A) Within Sitka Sound as defined in paragraph (e)(1)(ii) of this section (see Figure 1 to this subpart E); or

(B) Within the Ketchikan, Juneau, Anchorage-Matsu-Kenai, and Valdez non-subsistence marine waters areas as defined in paragraph (h)(3) of this section (see figures 2, 3, 4, 5, 6, and 7 to this subpart E).

(ii) To persons in possession of a valid subsistence halibut registration certificate issued in accordance with paragraph (i) of this section for the same community or Alaska Native tribe listed on the CHP;

(iii) On a single vessel on which a CHP card is present; and

(iv) If subsistence fishing gear set or retrieved from a vessel on which the CHP card is present does not exceed the restrictions of paragraph (h) of this section.

§ 300.65

50 CFR Ch. III (10–1–22 Edition)

(4) *Expiration of permit.* Each CHP will be valid only for the period of time specified on the permit. A CHP will expire one year from the date of issuance to a community or Alaska Native tribe eligible to harvest halibut under paragraph (g) of this section. A community or Alaska Native tribe eligible to harvest subsistence halibut under paragraph (g) of this section may renew its CHP that is expired or will expire within three months by following the procedures described in paragraph (j)(2) of this section.

(5) *Duties of the CHP coordinator.* Each CHP Coordinator must ensure:

(i) The designated harvesters who may fish under the CHP are identified on the Community Harvest Permit harvest log when the CHP is issued to the designated harvesters;

(ii) The CHP remains in the possession of the CHP Coordinator or other tribal or government authority when not in use and is issued to the designated harvesters when necessary; and

(iii) All required recordkeeping and data reporting of subsistence harvests under the CHP are performed.

(6) *Harvest log submission.* Each Community Harvest Permit harvest log must be submitted to NMFS on or before the date of expiration by facsimile or mail. Harvest logs must be mailed to RAM at the address given in paragraph (j)(2) of this section or faxed to 907-586-7354. The log must provide information on:

(i) The subsistence fisher's identity including his or her full name, subsistence halibut registration certificate number, date of birth, mailing address (number and street, city, state, and zip code), community of residence, daytime phone number, and tribal identity (if appropriate); and

(ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the period specified on the permit, and if so, the date harvest occurred, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks used, the Commission regulatory area and local water body from which the halibut were harvested, and the number of lingcod and rockfish caught while subsistence fishing for halibut.

(k) *Ceremonial Permit or Educational Permit.* An Area 2C or Area 3A Alaska Native tribe that is listed in paragraph (g)(2) of this section may apply for a Ceremonial or Educational Permit, allowing the tribe to harvest up to 25 halibut per permit issued. The Ceremonial and Educational Permits each consist of a harvest log and a single laminated permit card. Ceremonial and Educational Permits are permits subject to regulation under §679.4(a) of this title.

(1) *Qualifications.* (i) NMFS may issue a Ceremonial or Educational Permit to any Alaska Native tribe that completes an application according to paragraph (k)(2) of this section and that is qualified to conduct subsistence fishing for halibut according to paragraph (g)(2) of this section.

(ii) Eligible Alaska Native tribes may appoint only one Ceremonial Permit Coordinator per tribe.

(iii) Eligible educational programs may appoint only one authorized Instructor per Educational Permit.

(2) *Application.* An Alaska Native tribe may apply for a Ceremonial or Educational Permit by submitting an application to the Alaska Region, NMFS. Applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668.

(i) A complete application must include:

(A) The name of the Alaska Native tribe requesting the Ceremonial or Educational Permit;

(B) The name of the person designated as the Ceremonial Permit Coordinator for each Alaska Native tribe or the name of the person designated as the Instructor for an Educational Permit, the Ceremonial Permit Coordinator or Instructor's mailing address (number and street, city, state, and zip code), and the daytime telephone number;

(C) Any previously issued Ceremonial Permit harvest logs from any expired Ceremonial Permit if applying for a Ceremonial Permit; and

(D) Any previously issued Educational Permit harvest logs from any expired Educational Permit if applying for an Educational Permit.

## Int'l. Fishing and Related Activities

## § 300.65

(ii) NMFS will issue a Ceremonial Permit for the harvest of halibut associated with traditional cultural events only if the application:

(A) Indicates the occasion of cultural or ceremonial significance; and

(B) Identifies the person designated by the eligible Alaska Native tribe as the Ceremonial Permit Coordinator.

(iii) NMFS will issue an Educational Permit only if the application:

(A) Includes the name and address of the educational institution or organization;

(B) Includes the instructor's name;

(C) Demonstrates the enrollment of qualified students;

(D) Describes minimum attendance requirements of the educational program; and

(E) Describes standards for the successful completion of the educational program.

(3) *Restrictions.* Subsistence fishing for halibut under Ceremonial or Educational Permits shall be valid only:

(i) In Area 3A, except:

(A) In the Anchorage-Matsu-Kenai non-subsistence marine waters area defined in paragraph (h)(3) of this section (see figures 4, 5, 6, and 7 to this subpart E), only the following tribes may use a Ceremonial or Educational permit:

(1) Kenaitze Indian Tribe;

(2) Seldovia Village Tribe;

(3) Ninilchik Village;

(4) Native Village of Port Graham;

(5) Native Village of Nanwalek; and

(6) Village of Salamatoff.

(B) In the Valdez non-subsistence marine waters area defined in paragraph (h)(3) of this section (see figures 4 and 5 to this subpart E), only the Native Village of Tatitlek may use a Ceremonial or Educational permit.

(ii) In Area 2C, except:

(A) In the Ketchikan non-subsistence marine waters area defined in paragraph (h)(3) of this section (see figure 2 to this subpart E), only the following tribes may use a Ceremonial or Educational permit:

(1) Central Council of Tlingit/Haida Indians;

(2) Ketchikan Indian Corporation; and

(3) Organized Village of Saxman;

(B) In the Juneau non-subsistence marine waters area defined in para-

graph (h)(3) of this section (see figure 3 to this subpart E), only the following tribes may use a Ceremonial or Educational permit:

(1) Central Council of Tlingit/Haida Indians;

(2) Douglas Indian Association; and

(3) Aukquan Traditional Council.

(C) A Ceremonial Permit may not be used within Sitka Sound from June 1 through August 31;

(iii) On a single vessel on which the Ceremonial or Educational Permit card is present;

(iv) On the vessel on which the instructor is present for Educational Permits;

(v) To persons in possession of a valid subsistence halibut registration certificate issued in accordance with paragraph (i) of this section for the same Alaska Native tribe listed on the Ceremonial or Educational Permit, except that students enrolled in an educational program may fish under an Educational Permit without a subsistence halibut registration certificate; and

(vi) If subsistence fishing gear set or retrieved from a vessel on which the Ceremonial or Educational Permit card is present does not exceed the restrictions of paragraph (h) of this section.

(4) *Expiration of permits.* Each Ceremonial or Educational Permit will be valid only for the period of time specified on the permit. Ceremonial and Educational Permits will expire 30 days from the date of issuance to an Alaska Native tribe eligible to harvest halibut under paragraph (g)(2) of this section. A tribe eligible to harvest subsistence halibut under paragraph (g)(2) of this section may apply for additional Ceremonial or Educational Permits at any time.

(5) *Duties of Ceremonial Permit Coordinators and Instructors.* Each Ceremonial Permit Coordinator or Instructor must ensure:

(i) The designated harvesters or students who may fish under the Ceremonial or Educational Permit are identified on the Ceremonial/Educational Permit harvest log when the permit is used;

(ii) The Ceremonial Permit remains in the possession of the Ceremonial

## § 300.66

Permit Coordinator or other tribal authority when not in use and is issued to designated harvesters when necessary; and

(iii) All required recordkeeping and data reporting of subsistence harvests under the Ceremonial or Educational Permit are performed.

(6) *Harvest log submission.* Submission of a Ceremonial or Educational Permit log shall be required upon the expiration of each permit and must be received by Restricted Access Management within 15 days of the expiration by facsimile or mail. Harvest logs must be mailed to RAM at the address given in paragraph (k)(2) of this section or faxed to 907-586-7354. The log must provide information on:

(i) The subsistence fisher's identity including his or her full name, subsistence halibut registration certificate number if applicable (students do not need a SHARC), date of birth, mailing address (number and street, city, state, and zip code), community of residence, daytime phone number, and tribal identity;

(ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the period indicated on the permit, and if so, the date when harvest occurred, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks used, the Commission regulatory area and local water body from which the halibut were harvested, and the number of lingcod and rockfish caught while subsistence fishing for halibut.

(1) *Appeals.* If Restricted Access Management (RAM) determines that an application is deficient, it will prepare and send an Initial Administrative Determination (IAD) to the applicant. The IAD will indicate the deficiencies in the application or any additional provided information. An applicant who receives an IAD may appeal RAM's findings pursuant to §679.43 of this title.

[68 FR 18156, Apr. 15, 2003]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §300.65, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

## 50 CFR Ch. III (10-1-22 Edition)

### § 300.66 Prohibitions.

In addition to the general prohibitions specified in 50 CFR 300.4, it is unlawful for any person to do any of the following:

(a) Fish for halibut except in accordance with the annual management measures published pursuant to 50 CFR 300.62.

(b) Fish for halibut except in accordance with the catch sharing plans and domestic management measures implemented under §§300.63, 300.65, and 300.67.

(c) Fish for halibut in Sitka Sound in violation of the Sitka Sound LAMP implemented under 50 CFR 300.65(e).

(d) Fish for halibut or anchor a vessel with halibut on board within the Sitka Pinnacles Marine Reserve defined at 50 CFR 300.65(f).

(e) Fish for subsistence halibut in and off Alaska unless the person is qualified to do so under §300.65(g), possesses a valid subsistence halibut registration certificate pursuant to §300.65(i), and makes this certificate available for inspection by an authorized officer on request, except that students enrolled in a valid educational program and fishing under an Educational Permit issued pursuant to §300.65(k) do not need a subsistence halibut registration certificate.

(f) Fish for subsistence halibut in and off Alaska with gear other than that described at 50 CFR 300.65(h)(1) and retain more halibut than specified at 50 CFR 300.65(h)(2).

(g) Fish for subsistence halibut in and off Alaska in a non-subsistence marine waters area specified at §300.65(h)(3).

(h) Conduct subsistence fishing for halibut while commercial fishing or sport fishing for halibut, as defined in §300.61, from the same vessel on the same calendar day, or possess on board a vessel halibut harvested while subsistence fishing with halibut harvested while commercial fishing or sport fishing, except that persons authorized to conduct subsistence fishing under §300.65(g), and who land their total annual harvest of halibut:

(1) In Commission regulatory Areas 4D or 4E may retain, with harvests of Community Development Quota (CDQ) halibut, subsistence halibut harvested

## Int'l. Fishing and Related Activities

## § 300.66

in Commission regulatory areas 4D or 4E that are smaller than the size limit specified in the annual management measures published pursuant to §300.62; or

(2) In Commission regulatory Areas 4C, 4D or 4E may retain, with harvests of CDQ halibut, subsistence halibut harvested in Commission regulatory areas 4C, 4D or 4E that are equal to or greater than the size limit specified in the annual management measures published pursuant to §300.62.

(i) Conduct commercial and sport fishing for halibut, as defined in §300.61, from the same vessel on the same calendar day.

(j) Fish for subsistence halibut from a charter vessel or retain subsistence halibut onboard a charter vessel if anyone other than the owner of record, as indicated on the State of Alaska vessel registration, or the owner's immediate family is aboard the charter vessel and unless each person engaging in subsistence fishing onboard the charter vessel holds a subsistence halibut registration certificate in the person's name pursuant to §300.65(i) and complies with the gear and harvest restrictions found at §300.65(h). For purposes of this paragraph (i), the term "charter vessel" means a vessel that is registered, or that should be registered, as a sport fishing guide vessel with the Alaska Department of Fish and Game.

(k) Retain or possess subsistence halibut for commercial purposes; cause subsistence halibut to be sold, bartered, or otherwise entered into commerce; or solicit exchange of subsistence halibut for commercial purposes, except that a person who qualified to conduct subsistence fishing for halibut under §300.65(g), and who holds a subsistence halibut registration certificate in the person's name under §300.65(i), may be reimbursed for the expense of fishing for subsistence halibut under the following conditions:

(1) Persons who qualify as rural residents under §300.65(g)(1) or (g)(3) and hold a SHARC in the person's name under §300.65(i) may be reimbursed for actual expenses for ice, bait, food, and fuel directly related to subsistence fishing for halibut, by residents of the same rural community or by rural residents residing within ten statute miles

of the rural location listed on the person's SHARC application; or

(2) Persons who qualify as Alaska Native tribal members under §300.65(g)(2) and hold a SHARC in the person's name under §300.65(i) may be reimbursed for actual expenses for ice, bait, food, and fuel directly related to subsistence fishing for halibut, by any Alaska Native tribe, or its members, or residents of the same rural community or by rural residents residing within ten statute miles of the rural location listed on the person's SHARC application.

(l) Retain subsistence halibut harvested under a CHP, Ceremonial Permit, or Educational Permit together in any combination or with halibut harvested under any other license or permit.

(m) Fillet, mutilate, or otherwise disfigure subsistence halibut in any manner that prevents the determination of the number of fish caught, possessed, or landed.

(n) Exceed any of the harvest or gear limitations specified at §300.65(c)(5) or adopted by the Commission as annual management measures and published in the FEDERAL REGISTER as required in §300.62.

(o) Transfer subsistence halibut to charter vessel anglers.

(p) Fail to comply with the requirements of §§300.65 and 300.67.

(q) Fail to submit or submit inaccurate information on any report, license, catch card, application, or statement required or submitted under §§300.65 and 300.67, or submit inaccurate information to an authorized officer.

(r) Refuse to present valid identification, U.S. Coast Guard operator's license, permit, license, or Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip logbook upon the request of an authorized officer.

(s) Be a charter vessel guide with charter vessel anglers on board, or a charter vessel operator if the charter vessel guide is not on board, in Commission regulatory area 2C or 3A without an original valid charter halibut permit for the regulatory area in which the charter vessel is operating during a charter vessel fishing trip.

(t) Be a charter vessel guide in Commission regulatory area 2C or 3A with more charter vessel anglers catching and retaining halibut during a charter vessel fishing trip than the total angler endorsement number specified on the charter halibut permit(s) or community charter halibut permit(s) in use for that trip.

(u) Be a charter vessel guide of a charter vessel on which one or more charter vessel anglers are catching and retaining halibut in both Commission regulatory areas 2C and 3A during one charter vessel fishing trip.

(v) Be a charter vessel guide or a charter vessel operator during a charter vessel fishing trip in Commission regulatory area 2C or 3A with one or more charter vessel anglers that are catching and retaining halibut without having on board the vessel with the charter vessel anglers a State of Alaska Department of Fish and Game Saltwater Charter Logbook in which the charter vessel guide has specified the following:

(1) The person named on the charter halibut permit or permits being used during that charter vessel fishing trip;

(2) The charter halibut permit or permits number(s) being used during that charter vessel fishing trip; and

(3) The name and State-issued vessel registration (AK number) or U.S. Coast Guard documentation number of the charter vessel.

[68 FR 18156, Apr. 15, 2003, as amended at 70 FR 16754, Apr. 1, 2005; 72 FR 30728, June 4, 2007; 72 FR 67669, Nov. 30, 2007; 73 FR 30524, May 28, 2008; 73 FR 52797, Sept. 11, 2008; 73 FR 54942, Sept. 24, 2008; 74 FR 21228, May 6, 2009; 74 FR 57110, Nov. 4, 2009; 75 FR 600, Jan. 5, 2010; 78 FR 75890, Dec. 12, 2013; 80 FR 35206, June 19, 2015]

**§ 300.67 Charter halibut limited access program.**

This section establishes limitations on using a vessel on which charter vessel anglers catch and retain Pacific halibut in International Pacific Halibut Commission (IPHC) regulatory areas 2C and 3A.

(a) *General permit requirements.* (1) In addition to other applicable permit, licensing, or registration requirements, any charter vessel guide of a charter vessel during a charter vessel fishing trip with one or more charter vessel

anglers catching and retaining Pacific halibut on board must have on board the vessel an original valid charter halibut permit or permits endorsed for the regulatory area in which the charter vessel is operating and endorsed for at least the number of charter vessel anglers who are catching and retaining Pacific halibut. Each charter halibut permit holder must ensure that the charter vessel operator and charter vessel guide of the charter vessel comply with all requirements of §§ 300.65, 300.66, and 300.67.

(2) *Area endorsement.* A charter halibut permit is valid only in the International Pacific Halibut Commission regulatory area for which it is endorsed. Regulatory areas are defined in the annual management measures published pursuant to § 300.62.

(3) *Charter vessel angler endorsement.* A charter halibut permit is valid for up to the maximum number of charter vessel anglers on a single charter vessel for which the charter halibut permit is endorsed.

(4) *Annual registration.* A charter halibut permit holder must register a charter halibut permit with NMFS during the calendar year when it will be used to be valid.

(i) *Application and submittal.* An application for a charter halibut permit annual registration will be made available by NMFS. A completed registration application may be submitted using the NMFS-approved electronic reporting system on the Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>. Completed applications may also be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application.

(ii) *Complete annual registration.* To be complete, a charter halibut permit registration application must have all required fields accurately completed and be signed and dated by the applicant.

(iii) *Denied registration applications.* If NMFS does not approve an annual charter halibut permit registration application, NMFS will inform the applicant of the basis for its disapproval and provide the applicant with a 30-day evidentiary period in which to correct any application deficiencies.

(A) *Initial Administration Determination (IAD).* NMFS will send an IAD to

## Int'l. Fishing and Related Activities

## § 300.67

the applicant following the expiration of the 30-day evidentiary period if NMFS determines there is sufficient reason to deny the application. The IAD will indicate the deficiencies in the application and the deficiencies with the information submitted by the applicant in support of its claim.

(B) *Appeal.* An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to 15 CFR part 906.

(b) *Qualifications for a charter halibut permit.* A charter halibut permit for IPHC regulatory area 2C must be based on meeting participation requirements in area 2C. A charter halibut permit for IPHC regulatory area 3A must be based on meeting participation requirements in area 3A. Qualifications for a charter halibut permit in each area must be determined separately and must not be combined.

(1) NMFS will issue a charter halibut permit to a person who meets the following requirements:

(i) The person applies for a charter halibut permit within the application period specified in the FEDERAL REGISTER and completes the application process pursuant to paragraph (h) of this section.

(ii) The person is the individual or non-individual entity to which the State of Alaska Department of Fish and Game (ADF&G) issued the ADF&G Business Owner Licenses that authorized logbook fishing trips that meet the minimum participation requirements described in paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) of this section for one or more charter halibut permits, unless the person is applying as a successor-in-interest.

(A) Reported five (5) bottomfish logbook fishing trips or more during one year of the qualifying period; and

(B) Reported five (5) halibut logbook fishing trips or more during the recent participation period.

(iii) If the person is applying as a successor-in-interest to the person to which ADF&G issued the Business Owner Licenses that authorized logbook fishing trips that meet the participation requirements described in paragraphs (b)(1)(ii) of this section for one or more charter halibut permits,

NMFS will require the following written documentation:

(A) If the applicant is applying on behalf of a deceased individual, the applicant must document that the individual is deceased, that the applicant is the personal representative of the deceased's estate appointed by a court, and that the applicant specifies who, pursuant to the applicant's personal representative duties, should receive the permit(s) for which application is made; or

(B) If the applicant is applying as a successor-in-interest to an entity that is not an individual, the applicant must document that the entity has been dissolved and that the applicant is the successor-in-interest to the dissolved entity.

(iv) If more than one applicant claims that they are the successor-in-interest to a dissolved entity, NMFS will award the permit or permits for which the dissolved entity qualified in the name(s) of the applicants that submitted a timely application and proved that they are a successor-in-interest to the dissolved entity.

(2) Notwithstanding any other provision in this subpart, and except as provided in paragraph (b)(1)(iv) of this section,

(i) One logbook fishing trip shall not be credited to more than one applicant;

(ii) One logbook fishing trip made pursuant to one ADF&G Business Owner License shall not be credited to more than one applicant; and

(iii) Participation by one charter halibut fishing business shall not be allowed to support issuance of permits to more than one applicant.

(3) For purposes of this section, the term "ADF&G Business Owner(s) License(s)" includes a "business registration," "sport fish business owner license," "sport fish business license," and "ADF&G business license".

(c) *Number of charter halibut permits.* An applicant that meets the participation requirements in paragraph (b) of this section will be issued the number of charter halibut permits equal to the lesser of the number of permits determined by paragraphs (c)(1) or (c)(2) of this section as follows:

(1) The total number of bottomfish logbook fishing trips made pursuant to

the applicant's ADF&G Business License in the applicant-selected year divided by five, and rounded down to a whole number; or

(2) The number of vessels that made the bottomfish logbook fishing trips in the applicant-selected year.

(d) *Designation of transferability.* Each permit issued to an applicant under paragraph (c) of this section will be designated as transferable or non-transferable.

(1) Minimum participation criteria for a transferable permit are described in paragraphs (d)(1)(i) and (d)(1)(ii) of this section as follows:

(i) Reported fifteen (15) bottomfish logbook fishing trips or more from the same vessel during one year of the qualifying period; and

(ii) Reported fifteen (15) halibut logbook fishing trips or more from the same vessel during the recent participation period.

(iii) The vessel used during the recent participation period is not required to be the same vessel used during the qualifying period.

(2) The number of transferable charter halibut permits issued to an applicant will be equal to the lesser of the number of vessels that met the minimum transferable permit qualifications described in paragraphs (d)(1)(i) or (d)(1)(ii) of this section.

(e) *Angler endorsement.* A charter halibut permit will be endorsed as follows:

(1) The angler endorsement number for the first transferable permit for an area issued to an applicant will be the greatest number of charter vessel anglers reported on any logbook trip in the qualifying period in that area.

(2) The angler endorsement number for each subsequent transferable permit issued to the same applicant for the same area will be the greatest number of charter vessel anglers reported by the applicant on any logbook trip in the qualifying period for a vessel not already used in that area to determine an angler endorsement, until all transferable permits issued to the applicant are assigned an angler endorsement.

(3) The angler endorsement number for the first non-transferable permit for an area issued to an applicant will be the greatest number of charter ves-

sel anglers reported on any logbook trip in the qualifying period for a vessel not already used to determine an angler endorsement in that area.

(4) The angler endorsement number for each subsequent non-transferable permit issued to the same applicant for the same area will be the greatest number of charter vessel anglers reported by the applicant on any logbook trip in the qualifying period for a vessel not already used in that area to determine an angler endorsement, until all non-transferable permits issued to the applicant are assigned an angler endorsement.

(5) The angler endorsement number will be four (4) if the greatest number of charter vessel anglers reported on any logbook fishing trip for an area in the qualifying period is less than four (4), or no charter vessel anglers were reported on any of the applicant's logbook fishing trips in the applicant-selected year.

(6) The angler endorsement number will be six (6) on a charter halibut permit issued pursuant to military service under paragraph (g)(3) of this section.

(f) For purposes of this section, the following terms are defined as follows:

(1) *Applicant-selected year* means the year in the qualifying period, 2004 or 2005, selected by the applicant for NMFS to use in determining the applicant's number of transferable and non-transferable permits.

(2) *Bottomfish logbook fishing trip* means a logbook fishing trip in the qualifying period that was reported to the State of Alaska in a Saltwater Charter Logbook with one of the following pieces of information: The statistical area(s) where bottomfish fishing occurred, the boat hours that the vessel engaged in bottomfish fishing, or the number of rods used from the vessel in bottomfish fishing.

(3) *Halibut logbook fishing trip* means a logbook fishing trip in the recent participation period that was reported to the State of Alaska in a Saltwater Charter Logbook within the time limit for reporting the trip in effect at the time of the trip with one of the following pieces of information: The number of halibut that was kept, the number of halibut that was released, the statistical area(s) where bottomfish

## Int'l. Fishing and Related Activities

## § 300.67

fishing occurred, or the boat hours that the vessel engaged in bottomfish fishing.

(4) *Logbook fishing trip* means a bottomfish logbook fishing trip or a halibut logbook fishing trip that was reported as a trip to the State of Alaska in a Saltwater Charter Logbook within the time limits for reporting the trip in effect at the time of the trip, except that for multi-day trips, the number of trips will be equal to the number of days of the multi-day trip, e.g., a two day trip will be counted as two trips.

(5) *Official charter halibut record* means the information prepared by NMFS on participation in charter halibut fishing in Area 2C and Area 3A that NMFS will use to implement the Charter Halibut Limited Access Program and evaluate applications for charter halibut permits.

(6) *Qualifying period* means the sport fishing season established by the International Pacific Halibut Commission (February 1 through December 31) in 2004 and 2005.

(7) *Recent participation period* means the sport fishing season established by the International Pacific Halibut Commission (February 1 through December 31) in 2008.

(g) *Unavoidable circumstance*. Unavoidable circumstance claims must be made pursuant to paragraph (h)(6) of this section, and will be limited to persons who would be excluded from the charter halibut fishery entirely unless their unavoidable circumstance is recognized. This unavoidable circumstance provision cannot be used to upgrade the number of permits issued or to change a non-transferable permit to a transferable permit, and is limited to the following circumstances.

(1) *Recent participation period*. An applicant for a charter halibut permit that meets the participation requirement for the qualifying period, but does not meet the participation requirement for the recent participation period, may receive one or more charter halibut permits if the applicant proves paragraphs (g)(1)(i) through (iv) of this section as follows:

(i) The applicant had a specific intent to operate a charter halibut fishing

business in the recent participation period;

(ii) The applicant's specific intent was thwarted by a circumstance that was:

(A) Unavoidable;

(B) Unique to the owner of the charter halibut fishing business; and

(C) Unforeseen and reasonably unforeseeable by the owner of the charter halibut fishing business;

(iii) The circumstance that prevented the applicant from operating a charter halibut fishing business actually occurred; and

(iv) The applicant took all reasonable steps to overcome the circumstance that prevented the applicant from operating a charter halibut fishing business in the recent participation period.

(v) If the applicant proves the foregoing (see paragraphs (g)(1)(i) through (iv) of this section), the applicant will receive the number of transferable and non-transferable permits and the angler endorsements on these permits that result from the application of criteria in paragraphs (b), (c), (d), (e), and (f) of this section.

(2) *Qualifying period*. An applicant for a charter halibut permit that meets the participation requirement for the recent participation period but does not meet the participation requirement for the qualifying period, may receive one or more permits if the applicant proves paragraphs (g)(2)(i) through (iv) of this section as follows:

(i) The applicant had a specific intent to operate a charter halibut fishing business in at least one year of the qualifying period;

(ii) The applicant's specific intent was thwarted by a circumstance that was:

(A) Unavoidable;

(B) Unique to the owner of the charter halibut fishing business; and

(C) Unforeseen and reasonably unforeseeable by the owner of the charter halibut fishing business;

(iii) The circumstance that prevented the applicant from operating a charter halibut fishing business actually occurred; and

(iv) The applicant took all reasonable steps to overcome the circumstance

that prevented the applicant from operating a charter halibut fishing business in at least one year of the qualifying period.

(v) If the applicant proves the foregoing (see paragraphs (g)(2)(i) through (iv) of this section), the applicant will receive either:

(A) One non-transferable permit with an angler endorsement of four (4); or

(B) The number of transferable and non-transferable permits, and the angler endorsement on those permits, that result from the logbook fishing trips that the applicant proves likely would have taken by the applicant but for the circumstance that thwarted the applicant's specific intent to operate a charter halibut fishing business in one year of the qualifying period and the applicant did not participate during the other year of the qualifying period.

(3) *Military service.* An applicant for a charter halibut permit that meets the participation requirement in the recent participation period, but does not meet the participation requirement for the qualifying period, may receive one or more permits if the applicant proves the following:

(i) The applicant was ordered to report for active duty military service as a member of a branch of the U.S. military, National Guard, or military reserve during the qualifying period; and

(ii) The applicant had a specific intent to operate a charter halibut fishing business that was thwarted by the applicant's order to report for military service.

(iii) The number of transferable and non-transferable charter halibut permit(s) that an applicant may receive under paragraph (g)(3) of this section will be based on the criteria in paragraph (g)(2)(v)(B) of this section. Angler endorsements on all such charter halibut permits will be pursuant to paragraph (e)(2) of this section.

(h) *Application for a charter halibut permit.* (1) An application period of no less than 60 days will be specified by notice in the FEDERAL REGISTER during which any person may apply for a charter halibut permit. Any application that is submitted by mail and post-marked, or submitted by hand delivery or facsimile, after the last day of the application period will be denied. Elec-

tronic submission other than by facsimile will be denied. Applications must be submitted to the address given in the FEDERAL REGISTER notice of the application period.

(2) *Charter halibut permit.* To be complete, a charter halibut permit application must be signed and dated by the applicant, and the applicant must attest that, to the best of the applicant's knowledge, all statements in the application are true and the applicant complied with all legal requirements for logbook fishing trips in the qualifying period and recent participation period that were reported under the applicant's ADF&G Business Owner Licenses. An application for a charter halibut permit will be made available by NMFS. Completed applications may be submitted by mail, hand delivery, or facsimile at any time during the application period announced in the FEDERAL REGISTER notice of the application period described at paragraph (h)(1) of this section.

(3) *Application procedure.* NMFS will create the official charter halibut record and will accept all application claims that are consistent with the official charter halibut record. If an applicant's claim is not consistent with the official charter halibut record, NMFS will issue non-transferable interim permit(s) for all undisputed permit claims, and will respond to the applicant by letter specifying a 30-day evidentiary period during which the applicant may provide additional information or argument to support the applicant's claim for disputed permit(s). Limits on the 30-day evidentiary period are as follows:

(i) An applicant shall be limited to one 30-day evidentiary period; and

(ii) Additional information received after the 30-day evidentiary period has expired will not be considered for purposes of the initial administrative determination.

(4) After NMFS evaluates the additional information submitted by the applicant during the 30-day evidentiary period, it will take one of the following two actions.

(i) If NMFS determines that the applicant has met its burden of proving that the official charter halibut record

## Int'l. Fishing and Related Activities

## § 300.67

is incorrect, NMFS will amend the official charter halibut record and use the official charter halibut record, as amended, to determine whether the applicant is eligible to receive one or more charter halibut permits, the nature of those permits and the angler and area endorsements on those permits; or

(ii) If NMFS determines that the applicant has not met its burden of proving that the official charter halibut record is incorrect, NMFS will notify the applicant by an initial administration determination, pursuant to paragraph (h)(5) of this section.

(5) *Initial Administration Determination (IAD)*. NMFS will send an IAD to the applicant following the expiration of the 30-day evidentiary period if NMFS determines that the applicant has not met its burden of proving that the official charter halibut record is incorrect or that other reasons exist to initially deny the application. The IAD will indicate the deficiencies in the application and the deficiencies with the information submitted by the applicant in support of its claim.

(6) *Appeal*. An applicant that receives an IAD may appeal to the Office of Administrative Appeals (OAA) pursuant to 15 CFR part 906.

(i) If the applicant does not apply for a charter halibut permit within the application period specified in the FEDERAL REGISTER, the applicant will not receive any interim permits pending final agency action on the application.

(ii) If the applicant applies for a permit within the specified application period and OAA accepts the applicant's appeal, the applicant will receive the number and kind of interim permits which are not in dispute, according to the information in the official charter halibut record.

(iii) If the applicant applies for a permit within the specified application period and OAA accepts the applicant's appeal, but according to the information in the official charter halibut record, the applicant would not be issued any permits, the applicant will receive one interim permit with an angler endorsement of four (4).

(iv) All interim permits will be non-transferable and will expire when

NMFS takes final agency action on the application.

(1) *Transfer of a charter halibut permit*—(1) *General*. A transfer of a charter halibut permit is valid only if it is approved by NMFS. NMFS will approve a transfer of a charter halibut permit if the permit to be transferred is a transferable permit issued under paragraph (d)(2) of this section, if a complete transfer application is submitted, and if the transfer application meets the standards for approval in paragraph (i)(2) of this section.

(2) *Standards for approval of transfers*. NMFS will transfer a transferable charter halibut permit to a person designated by the charter halibut permit holder if, at the time of the transfer the following standards are met:

(i) The person designated to receive the transferred permit is a U.S. citizen or a U.S. business with a minimum of 75 percent U.S. ownership;

(ii) The parties to the transfer do not owe NMFS any fines, civil penalties or any other payments;

(iii) The transfer is not inconsistent with any sanctions resulting from Federal fishing violations;

(iv) The transfer will not cause the designated recipient of the permit to exceed the permit limit at paragraph (j) of this section, unless an exception to that limit applies;

(v) The GAF permit is not assigned to a charter halibut permit for which the GAF account contains unharvested GAF, pursuant to § 300.65 (c)(5)(iii)(A)(3) and (4);

(vi) A transfer application is completed and approved by NMFS; and

(vii) The transfer does not violate any other provision in this part.

(3) For purposes of paragraph (i)(2) of this section, a U.S. business with a minimum of 75 percent U.S. ownership means a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity where at least 75 percent of the interest in such entity, at each tier of ownership of such entity and in the aggregate, is owned and controlled by citizens of the United States.

(4) *Application to transfer a charter halibut permit*. To be complete, a charter halibut permit transfer application

must have dated signatures of the applicants, and the applicants must attest that, to the best of the applicants' knowledge, all statements in the application are true. An application to transfer a charter halibut permit will be made available by NMFS. Completed transfer applications may be submitted by mail or hand delivery at any time to the addresses listed on the application. Electronic or facsimile deliveries will not be accepted.

(5) *Denied transfer applications.* If NMFS does not approve a charter halibut permit transfer application, NMFS will inform the applicant of the basis for its disapproval.

(6) *Transfer due to court order, operation of law or as part of a security agreement.* NMFS will transfer a charter halibut permit based on a court order, operation of law or a security agreement, if NMFS determines that a transfer application is complete and the transfer will not violate an eligibility criterion for transfers.

(j) *Charter halibut permit limitations—*

(1) *General.* A person may not own, hold, or control more than five (5) charter halibut permits except as provided by paragraph (j)(4) of this section. NMFS will not approve a transfer application that would result in the applicant that would receive the transferred permit holding more than five (5) charter halibut permits except as provided by paragraph (j)(6) of this section.

(2) *Ten percent ownership criterion.* In determining whether two or more persons are the same person for purposes of paragraph (j)(1) of this section, NMFS will apply the definition of an "affiliation for the purpose of defining AFA entities" at § 679.2 of this title.

(3) A permit will cease to be a valid permit if the permit holder is:

(i) An individual and the individual dies; or

(ii) A non-individual (*e.g.*, corporation or partnership) and dissolves or changes as defined at paragraph (j)(5) of this section.

(iii) A transferable permit may be made valid by transfer to an eligible recipient.

(4) *Exception for initial recipients of permits.* Notwithstanding the limitation at paragraph (j)(1) of this section,

NMFS may issue more than five (5) charter halibut permits to an initial recipient that meets the requirements described in paragraphs (b), (d), and (e) of this section for more than five (5) charter halibut permits, subject to the following limitations:

(i) This exception applies only to an initial recipient as the recipient exists at the time that it is initially issued the permits;

(ii) If an initial recipient of transferable permit(s) who is an individual dies, the individual's successor-in-interest may not hold more than five (5) charter halibut permits;

(iii) If an initial recipient permit holder that is a non-individual, such as a corporation or a partnership, dissolves or changes, NMFS will consider the new entity a new permit holder and the new permit holder may not hold more than five (5) charter halibut permits.

(5) For purposes of this paragraph (j), a "change" means:

(i) For an individual, the individual has died, in which case NMFS must be notified within 30 days of the individual's death; and

(ii) For a non-individual entity, the same as defined at § 679.42(j)(4)(i) of this title, in which case the permit holder must notify NMFS within 15 days of the effective date of the change as required at § 679.42(j)(5) of this title.

(6) *Exception for transfer of permits.* Notwithstanding the limitation at paragraph (j)(1) of this section, NMFS may approve a permit transfer application that would result in the person that would receive the transferred permit(s) holding more than five (5) transferable charter halibut permits if the parties to the transfer meet the following conditions:

(i) The designated person that would receive the transferred permits does not hold any charter halibut permits;

(ii) All permits that would be transferred are transferable permits;

(iii) The permits that would be transferred are all of the transferable permits that were awarded to an initial recipient who exceeded the permit limitation of five (5) permits; and

(iv) The person transferring its permits also is transferring its entire

## Int'l. Fishing and Related Activities

## § 300.67

charter vessel fishing business, including all the assets of that business, to the designated person that would receive the transferred permits.

(k) *Community charter halibut permit*—

(1) *General.* A Community Quota Entity (CQE), as defined in §679.2 of this title, representing an eligible community listed in paragraph (k)(2) of this section, may receive one or more community charter halibut permits. A community charter halibut permit issued to a CQE will be designated for area 2C or area 3A, will be non-transferable, and will have an angler endorsement of six (6).

(2) *Eligible communities.* Each community charter halibut permit issued to a CQE under paragraph (k)(1) of this section will specify the name of an eligible community on the permit. Only the following communities are eligible to receive community charter halibut permits:

(i) For Area 2C: Angoon, Coffman Cove, Edna Bay, Game Creek, Hollis, Hoonah, Hydaburg, Kake, Kasaan, Klawock, Metlakatla, Meyers Chuck, Naukati Bay, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee, Thorne Bay, Whale Pass.

(ii) For Area 3A: Akhiok, Chenega Bay, Halibut Cove, Karluk, Larsen Bay, Nanwalek, Old Harbor, Ouzinkie, Port Graham, Port Lyons, Seldovia, Tatitlek, Tyonek, Yakutat.

(3) *Limitations.* The maximum number of community charter halibut permits that may be issued to a CQE for each eligible community the CQE represents is as follows:

(i) A CQE representing an eligible community or communities in regulatory area 2C may receive a maximum of four (4) community charter halibut permits per eligible community designated for Area 2C.

(ii) A CQE representing an eligible community or communities in regulatory area 3A may receive a maximum of seven (7) community charter halibut permits per eligible community designated for Area 3A.

(4) NMFS will not approve a transfer that will cause a CQE representing a community or communities to hold more than the total number of permits described in paragraphs (k)(4)(i) and (k)(4)(ii) of this section, per commu-

nity, including community charter halibut permits granted to the CQE under this paragraph (k) and any charter halibut permits acquired by the CQE by transfer under paragraph (i) of this section.

(i) The maximum number of charter halibut and community charter halibut permits that may be held by a CQE per community represented by the CQE in regulatory area 2C is eight (8).

(ii) The maximum number of charter halibut and community charter halibut permits that may be held by a CQE per community represented by the CQE in regulatory area 3A is fourteen (14).

(5) *Limitation on use of permits.* The following limitations apply to community charter halibut permits issued to a CQE under paragraph (k)(1) of this section.

(i) Every charter vessel fishing trip authorized by such a permit and on which halibut are caught and retained must begin or end at a location(s) specified on the application for a community charter halibut permit and that is within the boundaries of the eligible community designated on the permit. The geographic boundaries of the eligible community will be those defined by the United States Census Bureau.

(ii) Community charter halibut permits may be used only within the regulatory area for which they are designated to catch and retain halibut.

(6) *Application procedure.* To be complete, a community charter halibut permit application must be signed and dated by the applicant, and the applicant must attest that, to the best of the applicants' knowledge, all statements in the application are true and complete. An application for a community charter halibut permit will be made available by NMFS and may be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application. Electronic deliveries other than facsimile will not be accepted.

(7) An annual report on the use of charter halibut permits must be submitted by the CQE as required at §679.5(t) of this title.

(1) *Military charter halibut permit.* NMFS will issue a military charter halibut permit without an angler endorsement to an applicant provided

that the applicant is a Morale, Welfare and Recreation Program of the United States Armed Services.

(1) *Limitations.* A military charter halibut permit is non-transferable and may be used only in the regulatory area (2C or 3A) designated on the permit.

(2) *Application procedure.* An applicant may apply for a military charter halibut permit at any time. To be complete, a military charter halibut permit application must be signed and dated by the applicant, and the applicant must attest that, to the best of

the applicants' knowledge, all statements in the application are true and complete. An application for a military charter halibut permit will be made available by NMFS and may be submitted by mail, hand delivery, or facsimile at any time to the address(s) listed on the application. Electronic deliveries other than facsimile will not be accepted.

[75 FR 600, Jan. 5, 2010, as amended at 75 FR 56909, Sept. 17, 2010; 78 FR 33650, June 4, 2013; 78 FR 75890, Dec. 12, 2013; 80 FR 35207, June 19, 2015; 84 FR 64026, Nov. 20, 2019; 86 FR 70754, Dec. 13, 2021]

FIGURE 1 TO SUBPART E OF PART 300—SITKA LOCAL AREA MANAGEMENT PLAN

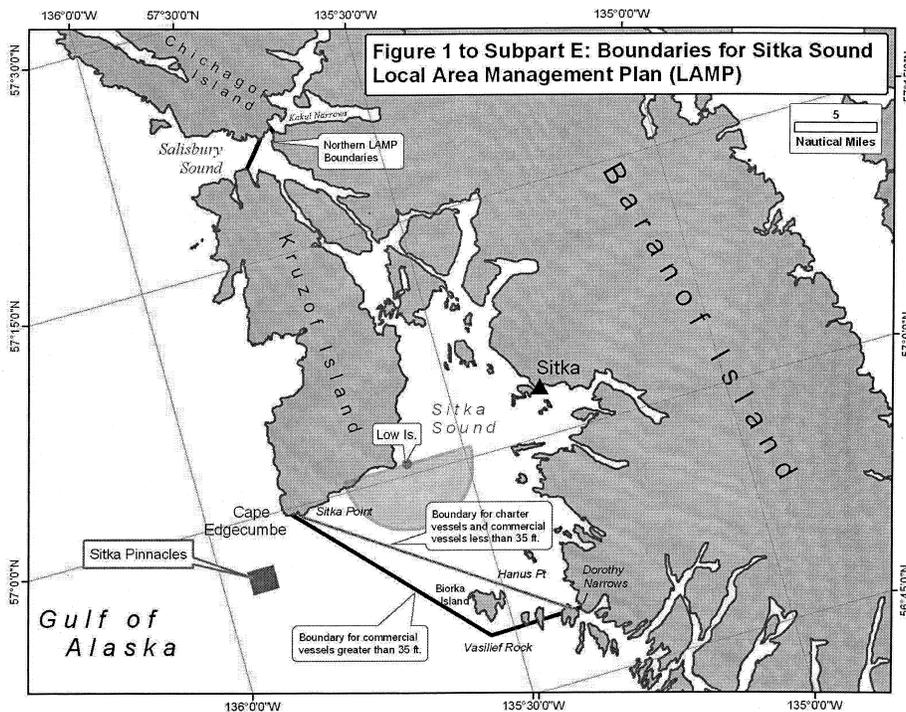
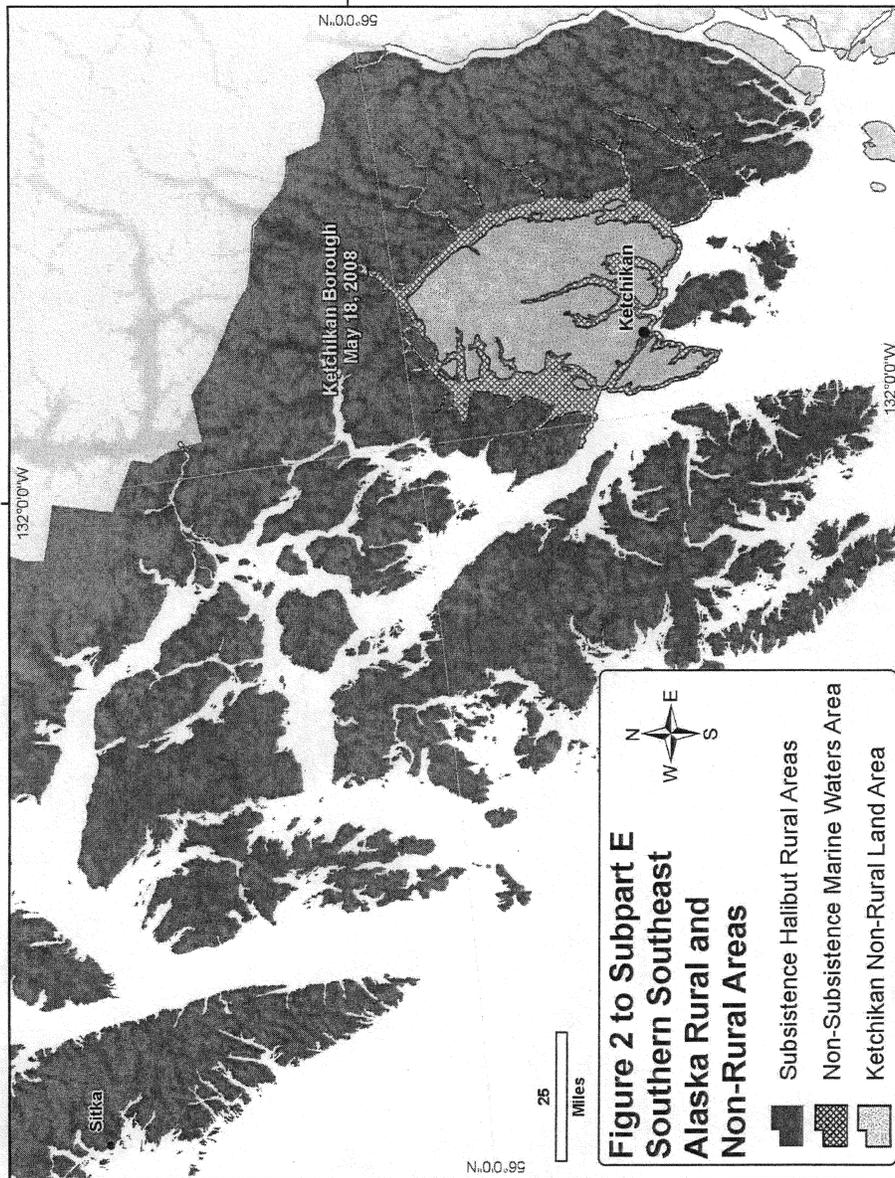
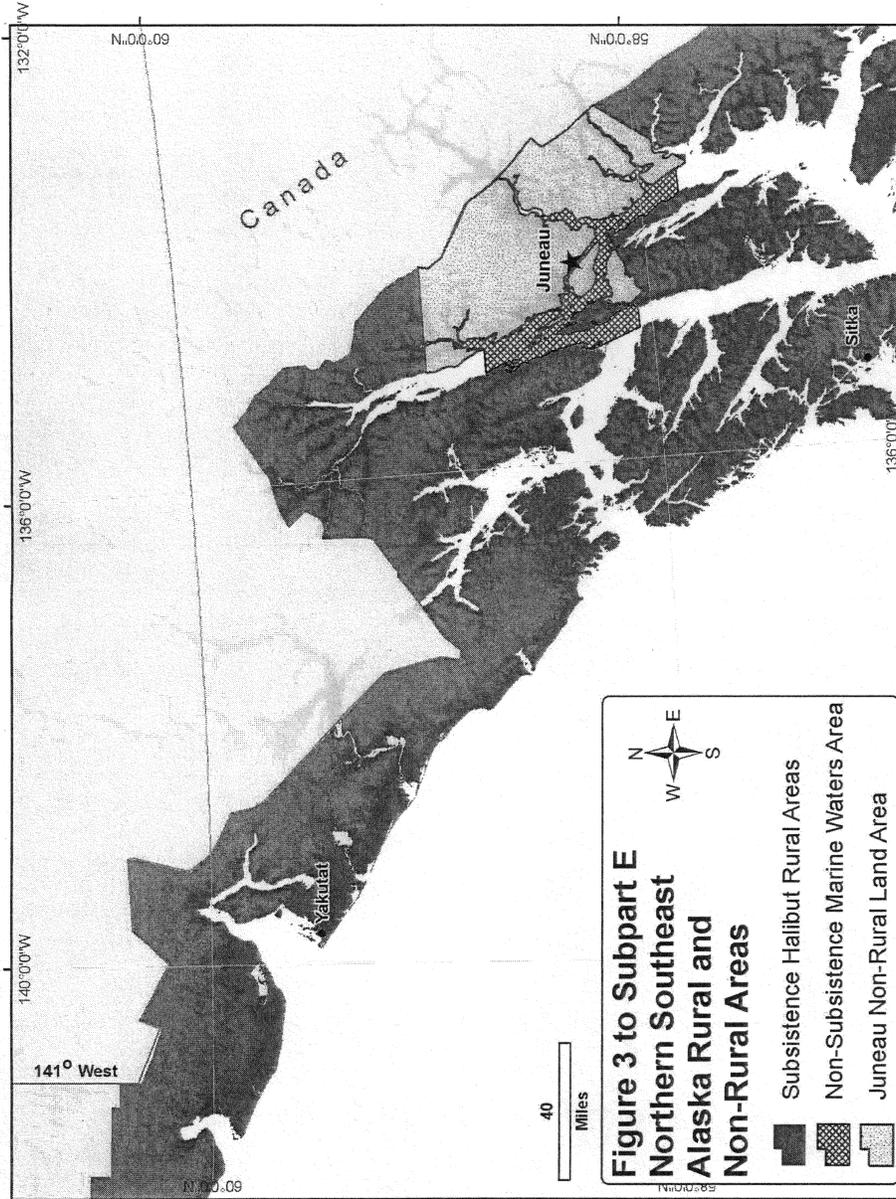


FIGURE 2 TO SUBPART E OF PART 300—SOUTHERN SOUTHEAST ALASKA RURAL AND NON-RURAL AREAS



[74 FR 57110, Nov. 4, 2009]

FIGURE 3 TO SUBPART E OF PART 300—NORTHERN SOUTHEAST ALASKA RURAL AND NON-RURAL AREAS

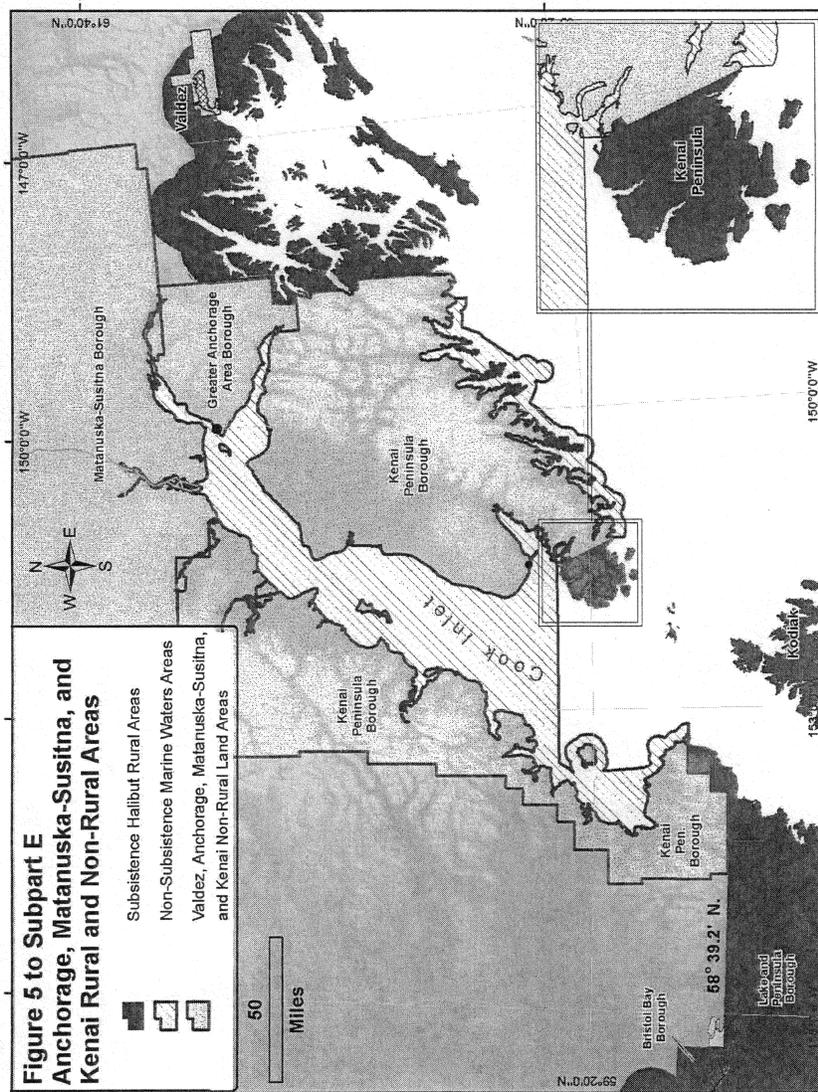


[74 FR 57110, Nov. 4, 2009]



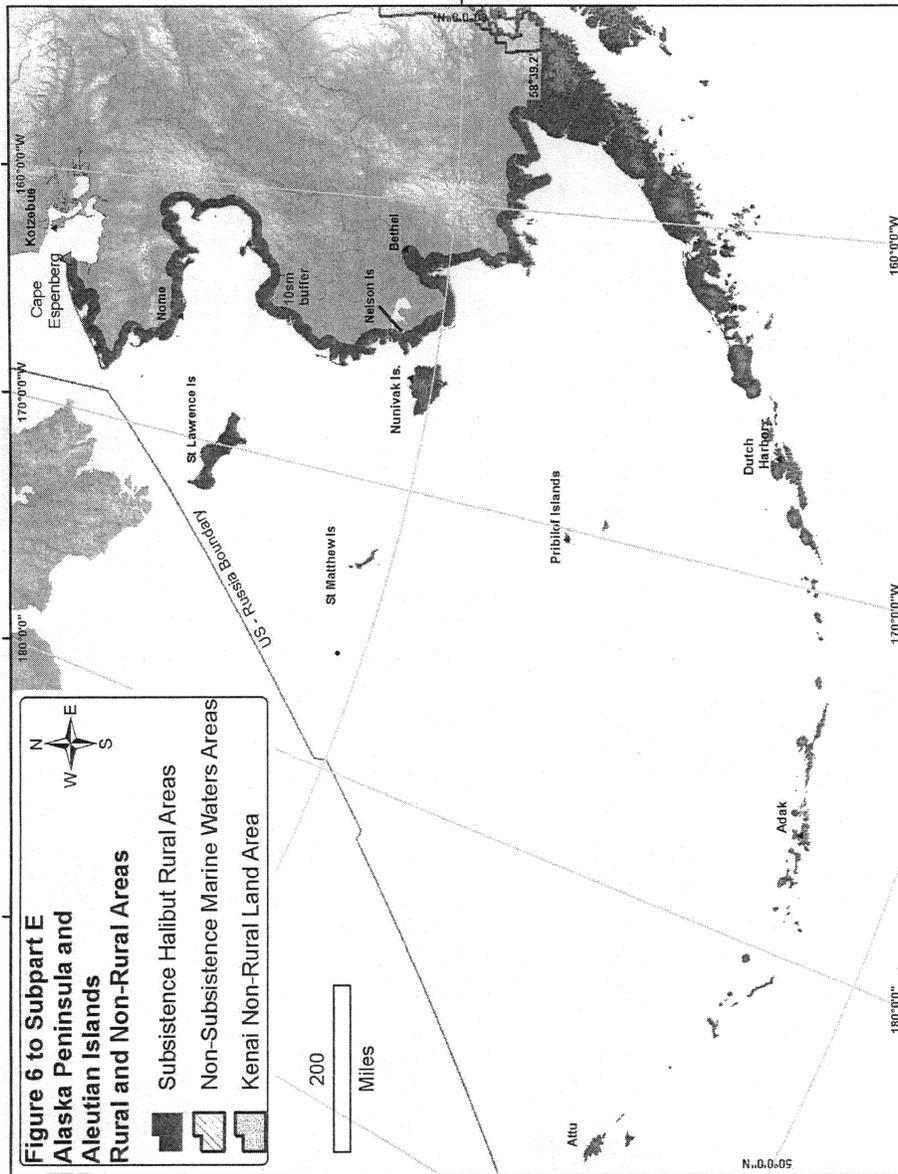
FIGURE 5 TO SUBPART E OF PART 300—ANCHORAGE, MATANUSKA-SUSITNA, AND KENAI RURAL AND NON-RURAL AREAS

Figure 5 to Subpart E of Part 300—Anchorage, Matanuska-Susitna, and Kenai Rural and Non-Rural Areas



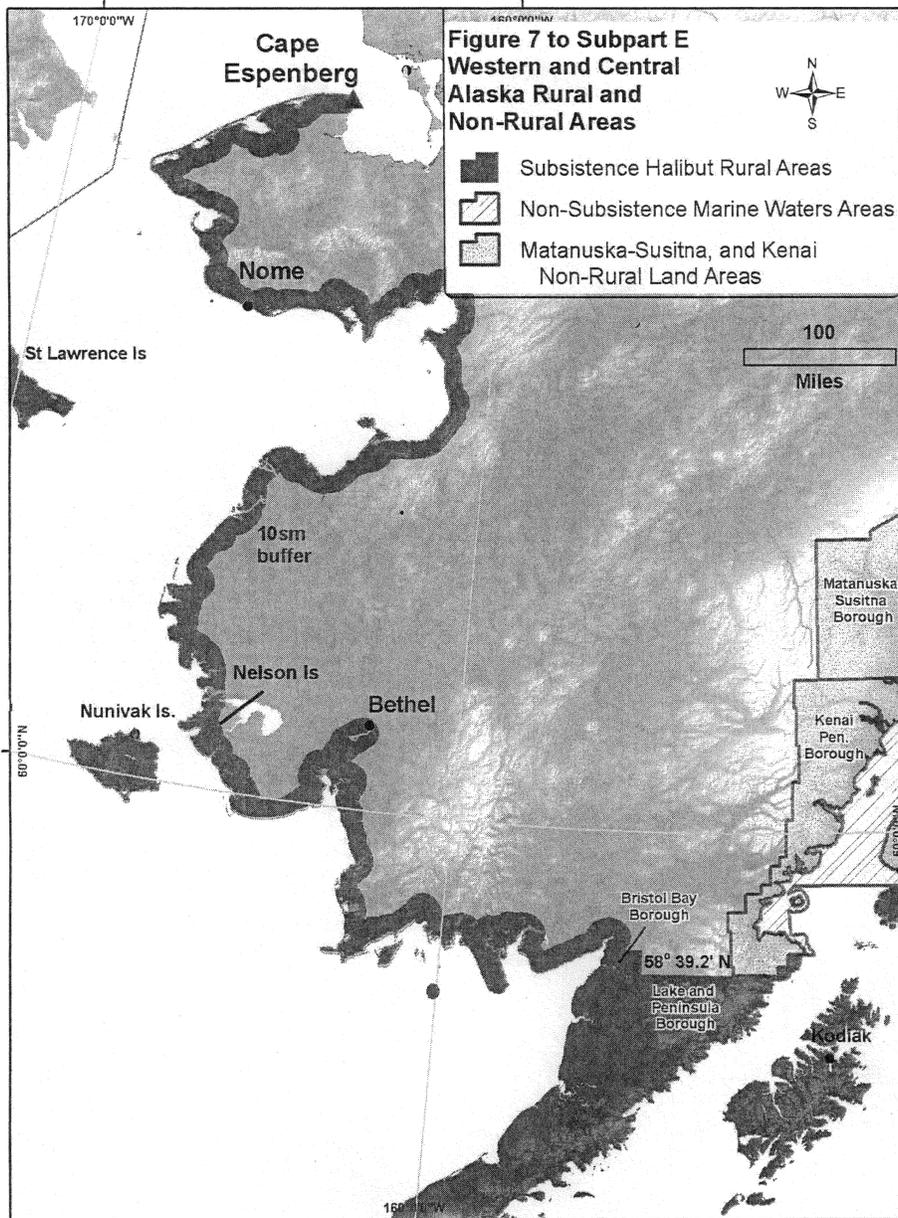
[74 FR 57110, Nov. 4, 2009]

FIGURE 6 TO SUBPART E OF PART 300—ALASKA PENINSULA AND ALEUTIAN ISLANDS RURAL AND NON-RURAL AREAS



[74 FR 57110, Nov. 4, 2009]

FIGURE 7 TO SUBPART E OF PART 300—WESTERN AND CENTRAL ALASKA RURAL AND NON-RURAL AREAS



[74 FR 57110, Nov. 4, 2009]

**Int'l. Fishing and Related Activities**

**§ 300.90**

**TABLE 1 TO SUBPART E OF PART 300— DETERMINATION OF COMMISSION REGULATORY AREA 2C ANNUAL COMMERCIAL ALLOCATION FROM THE ANNUAL COMBINED CATCH LIMIT FOR HALIBUT**

If the area 2C annual combined catch limit (CCL) in net pounds is:	then the area 2C annual commercial allocation is:
<5,000,000 lb .....	81.7% of the Area 2C CCL.
≥5,000,000 and ≤5,755,000 lb .....	the Area 2C CCL minus a fixed 915,000-lb allocation to the charter halibut fishery.
>5,755,000 lb .....	84.1% of the Area 2C CCL.

[78 FR 75890, Dec. 12, 2013]

**TABLE 2 TO SUBPART E OF PART 300—DETERMINATION OF COMMISSION REGULATORY AREA 3A ANNUAL COMMERCIAL ALLOCATION FROM THE ANNUAL COMBINED CATCH LIMIT FOR HALIBUT**

If the area 3A annual combined catch limit (CCL) in net pounds is:	then the area 3A annual commercial allocation is:
<10,000,000 lb .....	81.1% of the Area 3A CCL.
≥10,000,000 and ≤10,800,000 lb .....	the Area 3A CCL minus a fixed 1,890,000-lb allocation to the charter halibut fishery.
>10,800,000 and ≤20,000,000 lb .....	82.5% of the Area 3A CCL.
>20,000,000 and ≤25,000,000 lb .....	the Area 3A CCL minus a fixed 3,500,000-lb allocation to the charter halibut fishery.
>25,000,000 lb .....	86.0% of the Area 3A CCL.

[78 FR 75890, Dec. 12, 2013]

**TABLE 3 TO SUBPART E OF PART 300—DETERMINATION OF COMMISSION REGULATORY AREA 2C ANNUAL CHARTER HALIBUT ALLOCATION FROM THE ANNUAL COMBINED CATCH LIMIT**

If the area 2C annual combined catch limit for halibut in net pounds is:	then the area 2C annual charter allocation is:
<5,000,000 lb .....	18.3% of the Area 2C CCL.
≥5,000,000 and ≤5,755,000 lb .....	915,000 lb.
>5,755,000 lb .....	15.9% of the Area 2C CCL.

[78 FR 75890, Dec. 12, 2013]

**TABLE 4 TO SUBPART E OF PART 300—DETERMINATION OF COMMISSION REGULATORY AREA 3A ANNUAL CHARTER HALIBUT ALLOCATION FROM THE ANNUAL COMBINED CATCH LIMIT**

If the area 3A annual combined catch limit (CCL) for halibut in net pounds is:	then the area 3A annual charter allocation is:
<10,000,000 lb .....	18.9% of the Area 3A annual combined catch limit.
≥10,000,000 and ≤10,800,000 lb .....	1,890,000 lb.
>10,800,000 and ≤20,000,000 lb .....	17.5% of the Area 3A annual combined catch limit.
>20,000,000 and ≤25,000,000 lb .....	3,500,000 lb.
>25,000,000 lb .....	14.0% of the Area 3A annual combined catch limit.

[78 FR 75890, Dec. 12, 2013]

**Subpart F—Fraser River Sockeye and Pink Salmon Fisheries**

**§ 300.90 Purpose and scope.**

AUTHORITY: Pacific Salmon Treaty Act, 16 U.S.C. 3636(b).

This subpart implements the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631–3644) (Act) and is intended to supplement, not conflict with, the fishery