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NMFS recommends the following changes to:

Title 50: Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

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.

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 waters in and off Alaska, means the annual total allowable halibut harvest by persons fishing IFQ and Community Development Quota (CDQ) for each Commission regulatory area and for each Area 2C and Area 3A also includes annual total allowable halibut harvest by charter vessel anglers.

Annual commercial catch limit, for purposes of commercial fishing in waters in and off Alaska, means the annual total allowable halibut harvest by persons fishing IFQ, CDQ or GAF for each Area 2C and Area 3A.

Annual guided sport catch limit, for purposes of sport fishing in waters in and off Alaska, means the annual total allowable halibut harvest, except GAF halibut harvest, by charter vessel anglers in each Area 2C and Area 3A, as determined in §300.65(c)(3).

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 angler, for purposes of §§300.65(d), 300.66, and 300.67, means a person, paying or non-paying, using the services of a charter vessel guide.

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

Charter vessel guide, for purposes of §§300.65(d), 300.66 and 300.67, means a person who holds an annual sport guide license 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(d), means the person in control of the 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.

Crew member, for purposes of §§300.65(d), 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 specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.

Guideline harvest level (GHL) means the level of allowable halibut harvest by the charter vessel fishery.

Guided Angler Fish (GAF) means one or more halibut transferred annually from an Area 2C or Area 3A IFQ permit holder to a GAF permit that is issued to a person holding a charter halibut permit, community charter halibut permit, or military charter halibut permit for the corresponding area.

GAF permit means an annual permit issued by the National Marine Fisheries Service pursuant to §300.65(c)(6)(iii).

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 ~~TAC~~ 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 or other hook and line gear while commercial fishing in any IFQ regulatory area defined at §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.

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, to a person who is sport fishing, to take or attempt to take fish by being onboard a vessel with such person during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member.

Subarea 2A-1 includes all U.S. waters off the coast of Washington that are north of 46°53'18" N. lat. and east of 125°44'00" W. long., and all inland marine waters of Washington.

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.

* * * * *

§ 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.

§ 300.65 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 TAC combined catch limit among area 4 subareas and will be ~~implemented~~ promulgated by the Commission as annual management measures and published in the Federal Register as in annual management measures pursuant to 50 CFR required in §300.62 of this chapter.

(c) *Guideline harvest level.* (1) The annual GHLs for Regulatory Areas 2C and 3A are determined as follows:

| If the Annual Total Constant Exploitation Yield for Halibut is More Than: | Then the GHL will be: |
|----------------------------------------------------------------------------------|------------------------------|
| (i) Regulatory Area 2C | |
| (A) 9,027,000 lb (4,094.6 mt) | 1,432,000 lb (649.5 mt) |
| (B) 7,965,000 lb (3,612.9 mt) | 1,217,000 lb (552.0 mt) |
| (C) 6,903,000 lb (3,131.1 mt) | 1,074,000 lb (487.2 mt) |
| (D) 5,841,000 lb (2,649.4 mt) | 931,000 lb (422.3 mt) |
| (E) 4,779,000 lb (2,167.7 mt) | 788,000 lb (357.4 mt) |
| (ii) Regulatory Area 3A | |
| (A) 21,581,000 lb (9,789.0 mt) | 3,650,000 lb (1,655.6 mt) |
| (B) 19,042,000 lb (8,637.3 mt) | 3,103,000 lb (1,407.5 mt) |
| (C) 16,504,000 lb (7,486.1 mt) | 2,734,000 lb (1,240.1 mt) |
| (D) 13,964,000 lb (6,334.0 mt) | 2,373,000 lb (1,076.4 mt) |

| | |
|-----------------------------------|----------------------------------------|
| (E) 11,425,000 lb (5,182.3 mt) | 2,008,000 lb (910.8 mt) |
|-----------------------------------|----------------------------------------|

~~(2) NMFS will publish a notice in the Federal Register on an annual basis announcing the GHL based on the table in paragraph (c)(1) of this section for Area 2C and Area 3A for that calendar year after the IPHC establishes the constant exploitation yield for that year.~~

~~(3) The announced GHLs for Area 2C and 3A are intended to be the benchmarks for charter halibut harvest in those areas for the year in which it is announced pursuant to paragraph (c)(2) of this section. NMFS may take action at any time to limit the charter halibut harvest to as close to the GHL as practicable.~~

(c) Catch sharing plan (CSP) for Area 2C and Area 3A—(1) General. The Area 2C and Area 3A catch sharing plan (i) allocates the annual combined catch limit for each area between the annual commercial catch limit and the annual guided sport catch limit for the halibut commercial fishing and sport fishing seasons, pursuant to paragraphs (c)(3) and (4) of this section.

(ii) establishes CSP restrictions for charter vessel anglers in each Area 2C and Area 3A at specified annual combined catch limit levels, pursuant to paragraph (c)(5) of this section; and

(iii) authorizes the use of Area 2C and Area 3A halibut individual fishing quota (IFQ) as guided angler fish (GAF) for harvest by charter vessel anglers in the corresponding area, pursuant to paragraph (c)(6) of this section.

(2) Implementation. The Area 2C and Area 3A catch sharing plan annual catch limits and CSP restrictions for charter vessel anglers are promulgated by the Commission as annual management measures and published in the Federal Register as required in §300.62 of this chapter.

(3) Annual commercial catch limits. (i) The Area 2C and Area 3A annual commercial catch limits are determined pursuant to Tables 1 and 2 of this subpart E, promulgated by the Commission as annual management measures, and published in the Federal Register as required in §300.62 of this chapter.

(ii) Commercial fishing in Area 2C and Area 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 Area 2C and Area 3A annual guided sport catch limits are determined pursuant to Tables 3 and 4 of this subpart E, promulgated by the Commission as annual management measures, and published in the Federal Register as required in §300.62 of this chapter.

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

(5) CSP restrictions for charter vessel anglers in Area 2C and Area 3A—(i) General. The CSP restrictions for charter vessel anglers in Area 2C and Area 3A are determined annually in this section (§300.65(c)(5)), promulgated by the Commission as annual management measures, and published in the *Federal Register* as required in §300.62 of this chapter. The CSP regulations are in effect for the halibut sport fishing season and will not be changed within the halibut sport fishing season.

(ii) The effective CSP restrictions in Area 2C and Area 3A are determined using (A) the annual combined catch limit for each area promulgated by the Commission, and

(B) the projected charter vessel anglers' harvest of halibut for each area. The projected charter vessel anglers' harvest of halibut for each area is (1) determined by the Alaska Department of Fish and Game,

(2) prepared assuming that charter vessel anglers are subject to the default CSP restriction for Area 2C and Area 3A, as determined by Tables 5 and 6 of this subpart E, and

(3) expressed as a percentage of the annual combined catch limit for each area.

(iii) Effective CSP restrictions. The effective CSP restrictions for charter vessel anglers in Area 2C and Area 3A are determined annually by Tables 5 through 8 to this subpart E.

(A) Maximum size limit under one-halibut daily bag limit. If the default CSP restriction for charter vessel anglers in Area 2C or Area 3A is that the number of halibut caught and retained per calendar day by each charter vessel angler is limited to no more than one, as determined by Tables 5 and 6 to this subpart E, the effective CSP restriction for that area also may include a maximum size limit, to be determined as follows:

(1) If the projected charter vessel anglers' harvest of halibut under the default CSP restriction as a percentage of the annual combined catch limit for an area is greater than the percentage allocation used to determine the annual guided sport catch limit for that area, as determined in paragraph (c)(3) of this section, then the effective CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler in that area is limited to no more than one halibut of a maximum size, as determined in paragraph (c)(5)(iii)(C) of this section.

(2) If the projected charter vessel anglers' harvest of halibut under the default CSP restriction as a percentage of the annual combined catch limit for an area is less than the percentage allocation used to determine the annual guided sport

catch limit for that area, as determined in paragraph (c)(3) of this section, then the effective CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler in that area is limited to no more than one.

(B) For purposes of this section (§300.65(c)(5)(iii)), the following terms are defined as:

(1) C_L = Annual combined catch limit in millions of pounds for Area 2C or Area 3A, as promulgated by the Commission.

(2) H_p = Projected charter vessel anglers' harvest of halibut in numbers of fish for Area 2C or Area 3A, as determined by the Alaska Department of Fish and Game.

(3) \ln = Natural logarithm, or the logarithm to the base e , where e is an irrational constant approximately equal to 2.718281828. The natural logarithm of a number x (written as $\ln(x)$) is the power to which e would have to be raised to equal x .

(4) L_{cm} = Maximum allowable length in centimeters of one halibut caught and retained per calendar day by each charter vessel angler in Area 2C or Area 3A based on the Commission equation to convert halibut length to weight.

(5) L_{in} = Maximum allowable length in inches of one halibut caught and retained per calendar day by each charter vessel angler in Area 2C or Area 3A, as determined in paragraphs (c)(5)(iii)(C)(1) through (8) of this section.

(6) P_{max} = Maximum allowable harvest of halibut by charter vessel anglers in Area 2C or Area 3A as a percentage of the area annual combined catch limit, determined as follows:

| | | |
|---------------------------------------------------------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>If the Area 2C annual combined catch limit for halibut is between:</u> | <u>and:</u> | <u>then the maximum allowable harvest by charter vessel anglers as a percentage of the Area 2C annual combined catch limit (P_{max}) is:</u> |
| <u>0 lb</u> | <u>4,999,999 lb</u> | <u>17.3%</u> |
| <u>5,000,000 lb</u> | <u>8,999,999 lb</u> | <u>15.1%</u> |

| | | |
|---------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>If the Area 3A annual combined catch limit for halibut is between:</u> | <u>and:</u> | <u>then the maximum allowable harvest by charter vessel anglers as a percentage of the Area 3A annual combined catch limit (P_{max}) is:</u> |
| <u>0 lb</u> | <u>9,999,999 lb</u> | <u>15.4%</u> |
| <u>10,000,000 lb</u> | <u>19,999,999 lb</u> | <u>14.0%</u> |

(7) \bar{W}_{max} = Maximum allowable average weight (in pounds) of halibut in Area 2C or Area 3A under an annual length limit assuming that all charter vessel anglers in the respective area retain halibut of that length limit, expressed as the Commission equation to convert halibut length to weight:

$$\bar{W}_{max} = (P_{max} C_L) / H_p$$

(C) As determined by Tables 5 and 6 to this subpart E, each charter vessel angler in Area 2C or Area 3A is limited to catching and retaining one halibut per calendar day with a maximum size of L_{in} . L_{in} is the length limit corresponding to \bar{W}_{max} , calculated from P_{max} , C_L , and H_p , and rounded down to the nearest whole inch as follows:

(1)

$$P_{max} = \frac{\bar{W}_{max} \cdot H_p}{C_L}$$

(2)

$$P_{max} = \frac{6.821(10^{-9}) L_{in}^{2.84} H_p}{C_E}$$

(3)

$$\frac{P_{max} \cdot C_E}{H_p} = 6.821(10^{-9}) L_{in}^{2.84}$$

(4)

$$\frac{F_{max} \cdot C_E}{6.921(10^{-9})H_p} = L_{cm}^{3.24}$$

(5)

$$\ln \left[\frac{F_{max} \cdot C_E}{6.921(10^{-9})H_p} \right] = 3.24 \ln L_{cm}$$

(6)

$$\frac{1}{3.24} \ln \left[\frac{F_{max} \cdot C_E}{6.921(10^{-9})H_p} \right] = \ln L_{cm}$$

(7)

$$\frac{1}{3.24} \ln \left[\frac{F_{max} \cdot C_E}{6.921(10^{-9})H_p} \right] = L_{cm}$$

(8)

$$\frac{1}{3.24} \ln \left[\frac{F_{max} \cdot C_E}{6.921(10^{-9})H_p} \right] / 2.541 = L_{cm}$$

(6) Guided Angler Fish (GAF). This paragraph (§300.65(c)(6)) governs the transfer of Area 2C and Area 3A halibut individual fishing quota (IFQ) to 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 an Area 2C or Area 3A IFQ permit account held by a quota share (QS) holder, as defined in §679.2 of this title, to a GAF permit held by a GAF permit holder.

(B) A GAF permit authorizes a charter vessel angler to retain GAF onboard a vessel in the area specified on a GAF permit (1) during the sport halibut fishing season promulgated by the Commission's annual management measures and published in the Federal Register as required in §300.62 of this chapter, and

(2) subject to the GAF use restrictions at paragraphs (c)(6)(iv)(A) through (D) of this section.

(C) On or after November 1 each year, NMFS will return unharvested GAF to the IFQ permit account from which the GAF was derived, subject to paragraph (c)(6)(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 from one person to another as:

(1) A transfer of IFQ to GAF, in which halibut IFQ pounds are transferred from an Area 2C or Area 3A IFQ permit account, converted to number(s) of GAF as specified in paragraph (c)(6)(ii)(F) of this section, and assigned to a GAF permit account for a management area (2C or 3A), corresponding to the IFQ permit account from which the GAF was derived,

(2) A transfer of GAF to IFQ, in which GAF in number(s) of fish are transferred from a GAF permit account in Area 2C or Area 3A, converted to IFQ pounds as specified in paragraph (c)(6)(ii)(F) of this section, and assigned to the IFQ permit account from which the GAF was derived, or

(3) The return of unharvested GAF by NMFS to the IFQ permit account from which it was derived, on or after November 1.

(B) Transfer procedure—(1) Application for Transfer Between IFQ and GAF. A transfer between IFQ and GAF prior to November 1 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. 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 account from which it was derived, on or after November 1.

(2) Application timing. The Regional Administrator will not approve an Application for Transfer Between IFQ and GAF before annual IFQ is issued for each year or after October 31 of each year.

(3) Notification of decision on application. (i) Persons who submit an Application for Transfer Between IFQ and GAF to the Regional Administrator for approval will receive notification of the Regional Administrator's decision to approve or disapprove the application.

(ii) NMFS will provide the reason(s) for disapproval of an Application for Transfer Between IFQ and GAF 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.

(4) IFQ and GAF accounts. (i) IFQ and GAF accounts affected by either a Regional Administrator approved Application for Transfer Between IFQ and GAF or a return of unharvested GAF to IFQ by NMFS on or after November 1 will change on the date of approval or return. 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) Application for Transfer Between IFQ to GAF. On approval of an Application for Transfer Between IFQ and GAF, NMFS will establish a new GAF account for the GAF recipient or modify the GAF account of the applicant if an appropriate account already exists, modify the IFQ permit account of the applicant, and issue the resulting new or modified GAF permit and the modified IFQ permit to the applicants.

(iii) On or after November 1, NMFS will convert unharvested GAF from a GAF permit account, as specified in paragraph (c)(6)(ii)(F)(2) of this section, return the resulting IFQ pounds to the IFQ permit account from which the GAF was derived, and close the GAF permit account to voluntary transfers for that year, unless prevented by regulations at 15 CFR part 904.

(C) Complete application. Applicants must submit a completed Application for Transfer Between GAF and IFQ to the Regional Administrator as instructed on 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 halibut quota share (QS), as defined in §679.2 of this title, in Area 2C or Area 3A, and

(ii) has been issued an annual IFQ Permit for Area 2C or Area 3A, as defined in §679.4(d)(1) of this title, resulting from that halibut QS.

(2) The person applying to receive or transfer GAF possesses a valid charter halibut permit, community charter halibut permit, or military charter halibut permit in the Commission management area (2C or 3A) that corresponds to the IFQ permit area from or to which the IFQ will be transferred.

(3) The person applying to receive GAF or IFQ currently exists at the time of approval of the transfer.

(4) Other pertinent information requested on the Application for Transfer Between IFQ and GAF has been supplied to the satisfaction of the Regional Administrator.

(5) For a transfer of IFQ to GAF, the following determinations also are required:

(i) The person applying to transfer IFQ holds an IFQ permit in the Commission regulatory area (2C or 3A) with at least the amount of IFQ to be transferred.

(ii) The transfer between IFQ and GAF would not cause the GAF permit issued to the GAF permit holder to exceed the GAF use limits in paragraphs (c)(6)(iv)(E)(1)(i) and (ii) of this section.

(iii) The transfer would not cause the person applying to transfer IFQ to exceed the GAF use limit in paragraph (c)(6)(iv)(E)(1)(iii) of this section.

(iv) There are 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.

(6) For a transfer of GAF to IFQ, unharvested GAF may be transferred only to the IFQ permit account from which it derived.

(7) If a Community Quota Entity (CQE), as defined in §679.2 of this title, is applying for a transfer between IFQ and GAF, the following determinations are also required for each eligible community represented by the CQE: (i) The CQE applying to transfer IFQ to GAF is eligible to hold IFQ on behalf of the eligible community in Area 2C or Area 3A designated in Table 21 to 50 CFR part 679, and

(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 paragraph §679.41(d)(1) of this title.

(iii) The COE applying to receive GAF from an Area 2C or Area 3A IFQ permit holder holds one or more charter halibut permits or community charter halibut permits for the corresponding area.

(iv) The COE applying to transfer between IFQ and GAF has submitted a complete annual report(s) as required by §679.5(1)(8) of this title.

(E) Transfer due to court order, operation of law or as part of a security agreement. NMFS may return GAF to the IFQ permit account from which it derived pursuant to a court order, operation of law or a security agreement.

(F) Conversion between IFQ and GAF—(1) General. Conversion between whole pounds of halibut IFQ and whole number(s) of GAF for Area 2C and Area 3A will use the estimated average weight of all halibut harvested by charter vessel anglers in Area 2C or Area 3A during the previous year, as provided by the Alaska Department of Fish and Game.

(2) Conversion calculation. The whole pounds of IFQ transferred to or from an IFQ permit holder (holder i) in Area 2C or Area 3A (area a) will be equal to the whole number(s) of GAF transferred to or from the GAF account of GAF permit holder (holder g) in the corresponding area (area a), multiplied by the estimated average weight of all halibut harvested by charter vessel anglers for that area (area a) during the previous year. NMFS will round up to the nearest whole pound when transferring IFQ to GAF and when transferring GAF to IFQ. Expressed algebraically, the conversion formula is:

$$\text{IFQ pounds}_{ia} = (\text{GAF}_{ga} \times \text{average weight}_a).$$

(3) The total number of pounds converted from unharvested GAF and transferred to the IFQ permit holder's account from which it derived cannot exceed the total number of 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 halibut in that area, subject to the limits in paragraphs (c)(6)(iv)(A) through (D) 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 linked to the GAF permit.

(2) A GAF permit authorizes a charter vessel angler to catch and retain GAF halibut in that area from the time of permit issuance until any of the following occurs:

(i) the number of GAF harvested is equal to the amount of unharvested GAF in the GAF permit account at the time of harvest.

(ii) the permit expires at 11:59 pm on October 31 of that year, Alaska local time.

(iii) the permit is modified by a NMFS-approved transfer, or

(iv) the permit is modified, revoked or suspended under 15 CFR part 904.

(3) A GAF permit is issued for use in a Commission 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 area. Regulations governing issuance, transfer and use of charter halibut permits are located in §300.67 of this chapter.

(4) A GAF permit is linked 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 area (2C or 3A).

(4) A legible copy of a GAF permit and the linked charter halibut permit, community charter halibut permit, or military charter halibut permit appropriate for the Commission area (2C or 3A) must be carried onboard the vessel used to harvest GAF halibut at all times that such fish are retained on board and must be presented for inspection on request of any authorized officer.

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

(7) GAF permit holders must allow an authorized officer to board a fishing vessel, or enter any other area of custody (i.e., any vessel, building, vehicle, live car, pound, pier, or dock facility where fish might be found) subject to such person's control, for the purpose of conducting any inspection, search, seizure, investigation, or arrest in connection with the enforcement of this section (§300.65(c)).

(8) GAF permit holders must allow an employee of the Alaska Department of Fish and Game to enter any area of custody (i.e., any vessel, building, vehicle, live car, pound, pier, or dock facility where fish might be found) subject to such person's control, for the purpose of scientific data collection.

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

(C) Transfer. GAF authorized by a GAF permit under this section (§300.65(c)(6)(iii)) are not transferable, except as provided under paragraph (c)(6)(ii) of this section.

(iv) GAF use restrictions. (A) A charter vessel angler may harvest GAF only onboard a vessel on which the operator has onboard a valid GAF permit and the valid charter halibut permit, community charter halibut permit, or military charter halibut permit linked to the GAF permit for the area of harvest.

(B) The total number of GAF onboard 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 as promulgated by the Commission's annual management measures and published in the *Federal Register* as required in §300.62 of this chapter.

(D) Retained GAF are not subject to the maximum size limit implemented by the CSP restriction implemented pursuant to paragraph (c)(5)(iii) of this section, if applicable.

(E) Each charter vessel angler retaining GAF must comply with the halibut possession requirements as promulgated by the Commission's annual management measures and published in the *Federal Register* as required in §300.62 of this chapter.

(E) Restrictions on GAF use. (1) Except as provided in paragraph (c)(iv)(F) of this section, during the halibut sport fishing season promulgated by the Commission's annual management measures and published in the *Federal Register* as required in §300.62 of this chapter, no more than (i) 400 GAF for an area may be assigned to a GAF permit that is linked to a charter halibut permit or community charter halibut permit endorsed for six (6) or fewer charter vessel anglers,

(ii) 600 GAF for an area may be assigned to a GAF permit issued that is linked to a charter halibut permit endorsed for more than six (6) charter vessel anglers; and

(iii) 1,500 pounds or ten (10) percent, whichever is greater, of the start year fishable IFQ pounds for an area, may be transferred from IFQ to GAF. Start year fishable pounds includes pounds from QS held, plus or minus the adjustment pursuant to §679.40(d) and (e) of this title.

(2) A person transferring IFQ to GAF, including a COE as defined in §679.2 of this title, is subject to halibut QS use caps in §679.42(f) and (h) of this title. IFQ transferred to GAF, expressed as pounds of halibut IFQ, is included in the computation of IFQ use caps for the person transferring IFQ to GAF.

(3) Except as specified in paragraph (c)(6)(iv)(E)(4) of this section, a person receiving GAF, including a COE as defined in §679.2 of this title, is not subject to halibut QS use caps in §679.42(f) and (h) of this title.

(4) A person receiving GAF from a COE is subject to §679.42(f)(6) of this title.

(F) Restrictions on GAF use for COEs. The GAF use restrictions in paragraph (c)(iv)(E) of this section do not apply if: (1) a COE transfers IFQ as GAF to a COE holding one or more charter halibut permits or community charter halibut permits, or

(2) a COE transfers IFQ as GAF to an eligible community resident, as defined for purposes of the Area 2C and Area 3A Catch Sharing Plan in §679.2 of this title, holding one or more charter halibut permits.

(d) *Charter vessels in Area 2C and Area 3A* —(1) *General requirements* —(i) *Logbook submission.* ~~Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheets must be submitted to the Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518-1599, and postmarked no more than seven calendar days after the end of a charter vessel fishing trip.~~ 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 in which the halibut were caught and retained. Logbook sheets for a charter vessel fishing trip during which halibut were caught and retained on February 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 employer of the charter vessel guide~~ person to whom the Alaska Department of Fish and Game issues the Saltwater Sport Fishing Charter Trip Logbook is responsible for ensuring that the charter vessel guide complies with the reporting requirements of this paragraph (d).

(iii) If halibut were caught and retained in IPHC Regulatory Area 2C and Area 3A during the same charter vessel fishing trip, then a separate Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheet must be completed and submitted for each regulatory area to record the halibut caught and retained within that

regulatory area. The completed logbook sheets for each area must indicate the primary statistical area in which the halibut were caught and retained.

(2) Retention and inspection of logbook. The person to whom the Alaska Department of Fish & Game issued the Saltwater Sport Fishing Charter Trip Logbook is required to (i) Retain the logbook 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.

~~(2) Charter vessels in Area 2C—(i) Daily bag limit.~~ The number of halibut caught and retained by each charter vessel angler in Area 2C is limited to no more than one halibut per calendar day.

~~(ii) Charter vessel guide and crew restriction.~~ A charter vessel guide, a charter vessel operator, and any crew member of a charter vessel must not catch and retain halibut during a charter fishing trip.

~~(iii) Line limit.~~ The number of lines used to fish for halibut onboard a vessel must not exceed six or the number of charter vessel anglers, whichever is less.

(3) Charter vessel guide and crew restriction in Area 2C and Area 3A. A charter vessel guide, a charter vessel operator, and any crew member of a charter vessel in Area 2C and in Area 3A must not catch and retain halibut during a charter fishing trip.

~~(iv)4) Recordkeeping and reporting requirements in Area 2C and Area 3A.~~ Each charter vessel angler and charter vessel guide onboard a vessel in Area 2C must comply with the following recordkeeping and reporting requirements (see paragraphs (d)(2)(iv)(A) and (B) of this section): —(i) General requirements. Each charter vessel angler and charter vessel guide onboard a vessel in Area 2C and in Area 3A must comply with the following recordkeeping and reporting requirements (see paragraphs (d)(4)(i) and (ii) of this section), except as specified in paragraph (d)(4)(ii)(C), by the end of the day or by the end of the charter vessel fishing trip, whichever comes first, and before any halibut are offloaded and/or charter vessel anglers disembark from the vessel.

(ii) Logbook reporting requirements. Each charter vessel angler and charter vessel guide onboard a vessel in Area 2C must comply with the following recordkeeping and reporting requirements (see paragraphs (d)(2)(iv)(A) and (B) of this section):

(A) Charter vessel angler signature requirement. ~~At the end of a charter vessel fishing trip, e~~Each charter vessel angler who retains halibut caught in Area 2C and/or in Area 3A must acknowledge that his or her information and the number of halibut retained (kept) are recorded correctly by signing the ~~back of the~~ Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheet on the

line that corresponds to the angler's information on the front of the logbook data sheet.

(B) *Charter vessel guide requirements.* For each charter vessel fishing trip If halibut were caught and retained in Area 2C and/or in Area 3A, during which halibut were caught and retained, the charter vessel guide must record the following information (see paragraphs ~~(d)(2)(iv)(B)(1)~~ through ~~(6)~~ (d)(4)(ii)(B)(1) through (8) of this section) in the Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook:

~~(1)~~ *Business owner license number.* The sport fishing operator business license number issued by the Alaska Department of Fish and Game to the charter vessel guide or the charter vessel guide's employer.

~~(2)~~ *Guide license number.* The Alaska Department of Fish and Game sport fishing guide license number held by charter vessel guide who certified the logbook data sheet.

~~(3)~~ *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 were 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.

(3) Guided Angler Fish (GAF) permit number. The NMFS GAF permit number(s) authorizing charter vessel anglers onboard the vessel to harvest GAF.

~~(4)~~ *Regulatory area fished.* Circle the regulatory area (Area 2C or Area 3A) where halibut were caught and retained during each charter vessel fishing trip. If halibut were caught and retained in Area 2C and Area 3A during the same charter vessel fishing trip, then a separate logbook data sheet must be used to record halibut caught and retained for each regulatory area.

~~(5)~~ *Angler sport fishing license number and printed name.* Before a charter vessel fishing trip begins, record for each charter vessel angler the Alaska Sport Fishing License number for the current year, resident permanent license number, or disabled veteran license number, and print the name of each paying and nonpaying charter vessel angler onboard that will fish for halibut. Record the name of each angler not required to have an Alaska Sport Fishing License or its equivalent.

~~(6)~~ *Number of halibut retained.* For each charter vessel angler, record the total number of halibut caught and retained during the charter vessel fishing trip.

(6) Number of retained GAF retained. For each charter vessel angler, record the number of GAF halibut retained during the charter vessel fishing trip.

(7) *Signature.* At the end of a charter vessel fishing trip, acknowledge that the recorded information is correct by signing the logbook data sheet.

(8) *Angler signature.* The charter vessel guide is responsible for ensuring that charter vessel anglers comply with the signature requirements at paragraph (d)(2)(iv)(A) (d)(4)(ii)(A) of this section.

(C) GAF electronic reporting confirmation number. The GAF permit holder is responsible for ensuring that by midnight on the day the GAF were retained, the confirmation number issued for a properly reported GAF landings report, as described in paragraph (d)(4)(iii) of this section, is entered on the logbook sheet on which those GAF were recorded.

~~(3) Recordkeeping and reporting requirements in Area 3A.~~ For each charter vessel fishing trip in Area 3A, the charter vessel guide must record the regulatory area (Area 2C or Area 3A) where halibut were caught and retained by circling the appropriate area in the Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook. If halibut were caught and retained in Area 2C and Area 3A during the same charter vessel fishing trip, then a separate logbook data sheet must be used to record halibut caught and retained for each regulatory area.

(iii) GAF reporting requirements—(A) General. (1) 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.

(2) A GAF permit holder must submit a GAF landings report by midnight of each day on which a charter vessel angler retained GAF authorized by a GAF permit that person holds.

(B) Electronic Reporting of GAF. A GAF permit holder must obtain at his or her own expense the technology required to support 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 GAF 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 (7) of this section) for each day on which a charter vessel angler retained GAF: (1) Logbook number from the Alaska Department of Fish and Game Saltwater Charter 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 number held by the charter vessel guide who certified the logbook data sheet.

(5) Number of GAF caught and retained under the GAF permit holder's permit number.

(6) Community charter halibut permit only: Community or Port where charter vessel fishing trip began (charter vessel anglers boarded the vessel).

(7) Community charter halibut permit only: Community or Port where charter vessel fishing trip ended (charter vessel anglers or fish were offloaded from the vessel).

(E) Properly reported landing —(1) All GAF onboard a vessel must be debited from the GAF permit holder's account under which the GAF was retained.

(2) A GAF landing confirmation number issued by the NMFS-approved electronic reporting system and recorded on the logbook sheet used to record the retained GAF, as required in paragraph (d)(4)(ii)(C) 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.

* * * * *

§ 300.66 Prohibitions.

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(h) ~~Retain on board the harvesting vessel halibut harvested while~~ Conduct subsistence fishing for halibut ~~with halibut harvested while commercial fishing or from sport fishing~~ for halibut, as defined at §300.61, from the same vessel on the same calendar day, 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 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 of this chapter; 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 of this chapter.

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

(~~k~~) 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.

(~~k~~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.

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

(~~m~~n) Exceed any of the harvest or gear limitations specified at §300.65(d).

(~~n~~o) Transfer subsistence halibut to charter vessel anglers.

(~~o~~p) Fail to comply with the requirements at §§300.65 and 300.67.

(~~p~~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.

(~~q~~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.

(~~r~~s) Be an operator of a vessel with one or more charter vessel anglers on board that are catching and retaining halibut without an original valid charter halibut permit for the regulatory area in which the vessel is operating.

(~~s~~t) Be an operator of a vessel with more charter vessel anglers on board catching and retaining halibut than the total angler endorsement number specified on the charter halibut permit or permits on board the vessel.

(~~t~~u) Be an operator of a vessel with more charter vessel anglers on board catching and retaining halibut than the angler endorsement number specified on the community charter halibut permit or permits on board the vessel.

(~~u~~v) Be an operator of a vessel in Area 2C and Area 3A during one charter vessel fishing trip.

(w) Be an operator of a vessel in Area 2C or Area 3A with one or more charter vessel anglers on board that are catching and retaining halibut without having on board the vessel a State of Alaska Department of Fish and Game Saltwater Charter Logbook that specifies the following:

- (1) The person named on the charter halibut permit or permits being used on board the vessel;
- (2) The charter halibut permit or permits number(s) being used on board the vessel; and
- (3) The name and State issued boat registration (AK number) or U.S. Coast Guard documentation number of the vessel.

(v) Be an operator of a vessel in Area 2C or Area 3A with one or more charter vessel anglers on board that are exceeding the bag and possession limits

§ 300.67 Charter halibut limited access program.

(i) *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 charter halibut permit is not linked to a GAF permit for which the GAF account contains unharvested GAF, as required in paragraphs (c)(iii)(A)(3) and (4) of this section;

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

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

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Table 1 to Subpart E of Part 300—Determination of Area 2C Annual Commercial Catch Limit

| <u>If the Area 2C annual combined catch limit for halibut is between:</u> | <u>and...</u> | <u>then the Area 2C annual commercial catch limit in pounds is equal to the annual combined catch limit multiplied by:</u> |
|---------------------------------------------------------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------|
| <u>0 lb</u> | <u>4,999,999 lb</u> | <u>82.7%</u> |
| <u>5,000,000 lb and greater</u> | | <u>84.9%</u> |

Table 2 to Subpart E of Part 300—Determination of Area 3A Annual Commercial Catch Limit

| <u>If the Area 3A annual combined catch limit for halibut is between:</u> | <u>and...</u> | <u>then the Area 3A annual commercial catch limit in pounds is equal to the annual combined catch limit multiplied by:</u> |
|---------------------------------------------------------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------|
| <u>0 lb</u> | <u>9,999,999 lb</u> | <u>84.6%</u> |
| <u>10,000,000 lb and greater</u> | | <u>86.0%</u> |

Table 3 to Subpart E of Part 300—Determination of Area 2C Annual Guided Sport Catch Limit

| <u>If the Area 2C annual combined catch limit for halibut is between:</u> | <u>and...</u> | <u>then the Area 2C annual guided sport catch limit in pounds is equal to the annual combined catch limit multiplied by:</u> |
|---------------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------|
| <u>0 lb</u> | <u>4,999,999 lb</u> | <u>17.3%</u> |
| <u>5,000,000 lb and greater</u> | | <u>15.1%</u> |

Table 4 to Subpart E of Part 300—Determination of Area 3A Annual Guided Sport Catch Limit

| | | |
|---------------------------------------------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------|
| <u>If the Area 3A annual combined catch limit for halibut is between:</u> | <u>and...</u> | <u>then the Area 3A annual guided sport catch limit in pounds is equal to the annual combined catch limit multiplied by:</u> |
| <u>0 lb</u> | <u>9,999,999 lb</u> | <u>15.4%</u> |
| <u>10,000,000 lb and greater</u> | | <u>14.0%</u> |

Table 5 to Subpart E of Part 300—Determination of Area 2C Charter Vessel Angler CSP Restrictions

| <u>If the Area 2C annual combined catch limit for halibut is between:</u> | <u>and:</u> | <u>then the default CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is limited to no more than:</u> | <u>Under the default CSP restriction, the projected harvest by charter vessel anglers as a percentage of the annual combined catch limit is intended to be between:</u> | <u>and:</u> | <u>If the projected harvest by charter vessel anglers using the default CSP restriction is:</u> | <u>then the effective CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is:</u> |
|---------------------------------------------------------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>0 lb</u> | <u>4,999,999 lb</u> | <u>one halibut of any size.</u> | <u>13.8%</u> | <u>20.8%.</u> | <u>less than 13.8% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| | | | | | <u>greater than or equal to 13.8% and less than or equal to 20.8% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| | | | | | <u>greater than 20.8% of the annual</u> | <u>limited to no more than one halibut of a maximum size L_{in} as determined in</u> |

| | | | | | | |
|---------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | <u>combined catch limit</u> | <u>§300.65((c)(5)(iii)(C).</u> |
| <u>5,000,000 lb</u> | <u>8,999,999 lb</u> | <u>one halibut of any size.</u> | <u>11.6%</u> | <u>18.6%.</u> | <u>less than 11.6% of the annual combined catch limit</u> | <u>determined in Table 7 to this Subpart E.</u> |
| | | | | | <u>greater than or equal to 11.6% and less than or equal to 18.6% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| | | | | | <u>greater than 18.6% of the annual combined catch limit</u> | <u>limited to no more than one halibut of a maximum size L_{in} as determined in §300.65((c)(5)(iii)(C).</u> |
| <u>9,000,000 lb</u> | <u>14,999,999 lb</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> | <u>11.6%</u> | <u>18.6%.</u> | <u>less than 11.6% of the annual combined catch limit</u> | <u>determined in Table 7 to this Subpart E.</u> |
| | | | | | <u>greater than or equal to 11.6% and less than or equal to</u> | <u>limited to no more than two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only</u> |

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| | | | | | <u>18.6% of the annual combined catch limit</u> | <u>one halibut in a calendar day, that halibut may be of any length.</u> |
| | | | | | <u>greater than 18.6% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| <u>14,000,000 lb and greater</u> | <u>two halibut of any size.</u> | <u>11.6%</u> | <u>18.6%.</u> | <u>less than 11.6% of the annual combined catch limit</u> | <u>limited to no more than two halibut of any size.</u> | |
| | | | | <u>greater than or equal to 11.6% and less than or equal to 18.6% of the annual combined catch limit</u> | <u>limited to no more than two halibut of any size.</u> | |
| | | | | <u>greater than 18.6% of the annual combined catch limit</u> | <u>limited to no more than two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> | |

Table 6 to Subpart E of Part 300—Determination of Area 3A Charter Vessel Angler CSP Restrictions

| <u>If the Area 3A annual combined catch limit for halibut is between:</u> | <u>and:</u> | <u>then the default CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is limited to no more than:</u> | <u>Under the default CSP restriction, the projected harvest by charter vessel anglers as a percentage of the annual combined catch limit is intended to be between:</u> | <u>and:</u> | <u>If the projected harvest by charter vessel anglers using the default CSP restriction is:</u> | <u>then the effective CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is:</u> |
|---------------------------------------------------------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>0 lb</u> | <u>9,999,999 lb</u> | <u>one halibut of any size.</u> | <u>11.9%</u> | <u>18.9%.</u> | <u>less than 11.9% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| | | | | | <u>between 11.9% and 18.9% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| | | | | | <u>greater than 18.9% of the annual combined catch limit</u> | <u>limited to no more than one halibut of a maximum size L_{in} as determined in §300.65((c)(5)(iii)(C).</u> |
| <u>10,000,000</u> | <u>19,999,999</u> | <u>one halibut of any size.</u> | <u>10.5%</u> | <u>17.5%.</u> | <u>less than</u> | <u>determined in Table 8 to this</u> |

| | | | | | | |
|----------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>lb</u> | <u>lb</u> | | | | 10.5% of the annual combined catch limit | <u>Subpart E.</u> |
| | | | | | between 10.5% and 17.5% of the annual combined catch limit | <u>limited to no more than one halibut of any size.</u> |
| | | | | | greater than 17.5% | <u>limited to no more than one halibut of a maximum size L_{in} as determined in §300.65((c)(5)(iii)(C).</u> |
| <u>20,000,000 lb</u> | <u>26,999,999 lb</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> | <u>10.5%</u> | <u>17.5%.</u> | <u>less than 10.5% of the annual combined catch limit</u> | <u>determined in Table 8 to this Subpart E.</u> |
| | | | | | <u>between 10.5% and 17.5% of the annual combined catch limit</u> | <u>limited to no more than two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> |
| | | | | | <u>greater than 17.5% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |

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|----------------------------------|---------------------------------|--------------|---------------|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>27,000,000 lb and greater</u> | <u>two halibut of any size.</u> | <u>10.5%</u> | <u>17.5%.</u> | <u>less than 10.5% of the annual combined catch limit</u> | <u>limited to no more than two halibut of any size.</u> |
| | | | | <u>between 10.5% and 17.5% of the annual combined catch limit</u> | <u>limited to no more than two halibut of any size.</u> |
| | | | | <u>greater than 17.5% of the annual combined catch limit</u> | <u>limited to no more than two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> |

Table 7 to Subpart E of Part 300—Determination of Area 2C Charter Vessel Angler CSP Restrictions (continued from Table 5)

| | | | | | | | |
|---------------------------------------------------------------------------|---------------------|--------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>If the Area 2C annual combined catch limit for halibut is between:</u> | <u>and:</u> | <u>and the projected harvest by charter vessel anglers using the default CSP restriction is:</u> | <u>then the second default CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is limited to no more than:</u> | <u>Under the second default CSP restriction, the projected harvest by charter vessel anglers as a percentage of the annual combined catch limit is intended to be between:</u> | <u>and:</u> | <u>If the projected harvest by charter vessel anglers using the second default CSP restriction is:</u> | <u>then the effective CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is:</u> |
| <u>5,000,000 lb</u> | <u>8,999,999 lb</u> | <u>less than 11.6% of the annual combined catch limit</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> | <u>11.6%</u> | <u>18.6%.</u> | <u>less than or equal to 18.6% of the annual combined catch limit</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> |
| | | | | | | <u>greater than 18.6% of the</u> | <u>one halibut of any size.</u> |

| | | | | | | | |
|---------------------|----------------------|-----------------------------------------------------------|---------------------------------|--------------|---------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <u>annual combined catch limit</u> | |
| <u>9,000,000 lb</u> | <u>14,999,999 lb</u> | <u>less than 11.6% of the annual combined catch limit</u> | <u>two halibut of any size.</u> | <u>11.6%</u> | <u>18.6%.</u> | <u>less than or equal to 18.6% of the annual combined catch limit</u> | <u>two halibut of any size.</u> |
| | | | | | | <u>greater than 18.6% of the annual combined catch limit</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> |

Table 8 to Subpart E of Part 300—Determination of Area 3A Charter Vessel Angler CSP Restrictions (continued from Table 6)

| | | | | | | | |
|---------------------------------------------------------------------------|----------------------|--------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>If the Area 3A annual combined catch limit for halibut is between:</u> | <u>and:</u> | <u>and the projected harvest by charter vessel anglers using the default CSP restriction is:</u> | <u>then the second default CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is limited to no more than:</u> | <u>Under the second default CSP restriction, the projected harvest by charter vessel anglers as a percentage of the annual combined catch limit is intended to be between:</u> | <u>and:</u> | <u>If the projected harvest by charter vessel anglers using the second default CSP restriction is:</u> | <u>then the effective CSP restriction is that the number of halibut caught and retained per calendar day by each charter vessel angler is:</u> |
| <u>10,000,000 lb</u> | <u>19,999,999 lb</u> | <u>less than 10.5% of the annual combined catch limit</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> | <u>10.5%</u> | <u>17.5%.</u> | <u>less than or equal to 17.5% of the annual combined catch limit</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> |
| | | | | | | <u>greater</u> | <u>one halibut of any</u> |

| | | | | | | | |
|----------------------|----------------------|-----------------------------------------------------------|---------------------------------|--------------|---------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <u>than 17.5% of the annual combined catch limit</u> | <u>size.</u> |
| <u>20,000,000 lb</u> | <u>26,999,999 lb</u> | <u>less than 10.5% of the annual combined catch limit</u> | <u>two halibut of any size.</u> | <u>10.5%</u> | <u>17.5%.</u> | <u>less than or equal to 17.5% of the annual combined catch limit</u> | <u>two halibut of any size.</u> |
| | | | | | | <u>greater than 17.5% of the annual combined catch limit</u> | <u>two halibut, but at least one halibut must have a head-on length of no more than 32 inches (81.3 cm) in length. If a charter vessel angler retains only one halibut in a calendar day, that halibut may be of any length.</u> |

This page is for information only

TITLE 50--Wildlife and Fisheries

CHAPTER VI--FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 679--FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

Subpart A--GENERAL

§679.2 Definitions.

Subpart D—INDIVIDUAL FISHING QUOTA MANAGEMENT MEASURES

§679.40 Sablefish and halibut QS.

§679.41 Transfer of quota shares and IFQ.

§679.42 Limitations on use of QS and IFQ.

§679.45 IFQ cost recovery program.

NMFS recommends the following changes to:

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

Subpart A—General

§ 679.2 Definitions.

Community quota entity (CQE) means a non-profit organization that:

- (1) Did not exist prior to April 10, 2002;
- (2) Represents at least one eligible community that is listed in Table 21 of this part; and,
- (3) Has been approved by the Regional Administrator to obtain by transfer and hold QS, and to lease IFQ resulting from the QS on behalf of an eligible community.

Eligible community resident means, for purposes of the IFQ Program, any individual who:

- (1) Is a citizen of the United States;
- (2) Has maintained a domicile in a rural community listed in Table 21 to this part for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country, except that residents of the Village of Seldovia shall be considered to be eligible community residents of the City of Seldovia for the purposes of eligibility to lease IFQ from a CQE; and
- (3) Is an IFQ crew member.

Eligible community resident means, for purposes of the Area 2C and Area 3A catch sharing plan (CSP) in §§300.65(c) of this title, any individual or non-individual entity who:

- (1) holds a charter halibut permit as defined in §300.61 of this title;
- (2) has been approved by the Regional Administrator to receive GAF, as defined in §300.61 of this title, from a CQE in a transfer between IFQ and GAF pursuant to §300.65(c)(6)(ii) of this title; and
- (3) begins or ends every charter vessel fishing trip, as defined in §300.61 of this title, authorized by the charter halibut permit issued to that person, and on which halibut are caught and retained, at a location(s) within the boundaries of the community represented by the CQE from which the GAF was received. The geographic boundaries of the eligible community will be those defined by the United States Census Bureau.

IFQ equivalent pound(s) means the weight amount, recorded in pounds, for an IFQ landing and calculated as round weight for sablefish and headed and gutted weight for halibut for an IFQ landing or for estimation of the fee liability of halibut landed as guided angler fish (GAF), as defined in § 300.61 of this title. Landed GAF are converted to IFQ equivalent pounds by IPHC regulatory area using the estimated average weight of halibut harvested by charter vessel anglers for Area 2C or Area 3A specified in §300.65(c)(6)(ii)(F) of this title.

IFQ fee liability means that amount of money for IFQ cost recovery, in U.S. dollars, owed to NMFS by an IFQ permit holder as determined by multiplying the appropriate standard ex-vessel value or actual ex-vessel value of his or her IFQ halibut or IFQ sablefish landing(s) by the appropriate IFQ fee percentage and the appropriate standard ex-vessel value of his or her landed GAF by the appropriate IFQ fee percentage.

IFQ standard ex-vessel value means the total U.S. dollar amount of IFQ and GAF halibut or IFQ sablefish landings as calculated by multiplying the number of landed IFQ equivalent pounds plus landed GAF in IFQ equivalent pounds by the appropriate IFQ standard price determined by the Regional Administrator.

§ 679.4 Permits.

(a) *Requirements.* Only persons who are U.S. citizens are authorized to receive or hold permits under this section, with the exception that an IFQ hired master permit or a CDQ hired master permit need not be held by a U.S. citizen.

(1) *What permits are available?* Various types of permits are issued for programs codified at 50 CFR parts 300 and 679. These permits are listed in the following table. The date of effectiveness for each permit is given along with certain reference paragraphs for further information.

| If program permit or card type is: | Permit is in effect from issue date through the end of: | For more information, see . . . |
|----------------------------------------------|----------------------------------------------------------------|----------------------------------------|
| (i) IFQ: | | |
| (A) Registered buyer | Until expiration date shown on permit | Paragraph (d)(3)(ii) of this section |
| (B) Halibut & sablefish permits | Specified fishing year | Paragraph (d)(1) of this section |
| (C) Halibut & sablefish hired master permits | Specified fishing year | Paragraph (d)(2) of this section |
| (ii) CDQ Halibut | | |
| (A) Halibut permit | Specified fishing year | Paragraph (e) of this section |

| | | |
|-----------------------------------------------|-----------------------------------------------------------------|-------------------------------|
| (B) Halibut hired master permit | Specified fishing year | Paragraph (e) of this section |
| (iii) AFA: | | |
| (A) Catcher/processor | Indefinite | Paragraph (l) of this section |
| (B) Catcher vessel | Indefinite | Paragraph (l) of this section |
| (C)Mothership | Indefinite | Paragraph (l) of this section |
| (D) Inshore processor | Indefinite | Paragraph (l) of this section |
| (E) Inshore cooperative | Calendar year | Paragraph (l) of this section |
| (F) Replacement vessel | Indefinite | Paragraph (l) of this section |
| (iv) Groundfish: | | |
| (A) Federal fisheries | Until expiration date shown on permit | Paragraph (b) of this section |
| (B) Federal processor | Until expiration date shown on permit | Paragraph (f) of this section |
| (v) Salmon permit | Indefinite | Paragraph (h) of this section |
| (vi) High Seas Fishing Compliance Act (HSFCA) | 5 years | §300.10 of this title |
| (vii) License Limitation Program (LLP): | | |
| (A) Groundfish license | Specified fishing year or interim (active until further notice) | Paragraph (k) of this section |
| (B) Crab license | Specified fishing year or interim (active until further notice) | Paragraph (k) of this section |
| (C) Scallop license | Indefinite | Paragraph (g) of this section |
| (viii) Exempted fisheries | 1 year or less | §679.6 |
| (ix) Research | 1 year or less | §600.745(a) of this |

| | | chapter |
|--------------------------------------------------|----------------------------|---------------------------|
| (x) Prohibited species donation program: | | |
| (A) Salmon | 3 years | §679.26 |
| (B) Halibut | 3 years | §679.26 |
| (xi) Special Subsistence Permits: | | |
| (A) Community Harvest Permit | 1 year | §300.65 of this title |
| (B) Ceremonial or Educational Permit | 30 days | §300.65 of this title |
| (xii) Rockfish Program: | | |
| (A) CQ | Specified fishing year | §679.81(e)(4) |
| (B) Rockfish Limited Access Fishery | Specified fishing year | §679.81(e)(5) |
| (C) Optout Fishery | Specified fishing year | §679.81(e)(6) |
| (D) Rockfish Entry Level Fishery | Specified fishing year | §679.81(e)(7) |
| (xiii) Amendment 80 Program: | | |
| (A) Amendment 80 QS permit | Indefinite | §679.90(b). |
| (B) CQ permit | Specified fishing year | §679.91(b). |
| (C) Amendment 80 limited access fishery | Specified fishing year | §679.91(b). |
| (xiv) Crab Rationalization Program permits | see §680.4 of this chapter | §680.4 of this chapter |
| (A) Crab Quota Share permit | Indefinite | §680.4(b) of this chapter |
| (B) Crab Processor Quota Share permit | Indefinite | §680.4(c) of this chapter |
| (C) Crab Individual Fishing Quota (IFQ) permit | Specified fishing year | §680.4(d) of this chapter |
| (D) Crab Individual Processor Quota (IPQ) permit | Specified fishing year | §680.4(e) of this chapter |
| (E) Crab IFQ hired master permit | Specified fishing year | §680.4(g) of this chapter |

| | | |
|------------------------------------------------------|----------------------------------------------|------------------------------|
| (F) Registered Crab receiver permit | Specified fishing year | §680.4(i) of this chapter |
| (G) Federal crab vessel permit | Specified fishing year | §680.4(k) of this chapter |
| (H) Crab harvesting cooperative IFQ permit | Specified fishing year | §680.21(b) of this chapter |
| <u>(xv) Permits for guided sport halibut fishery</u> | | |
| <u>(A) Charter halibut permit</u> | <u>Indefinite</u> | <u>§300.67 of this title</u> |
| <u>(B) Community charter halibut permit</u> | <u>Indefinite</u> | <u>§300.67 of this title</u> |
| <u>(C) Military charter halibut permit</u> | <u>Indefinite</u> | <u>§300.67 of this title</u> |
| <u>(D) Guided Angler Fish (GAF) permit</u> | <u>Until expiration date shown on permit</u> | <u>§300.65 of this title</u> |

(2) *Permit and logbook required by participant and fishery.* For the various types of permits issued, refer to §679.5 for recordkeeping and reporting requirements. For subsistence and GAF permits, refer to §300.65 of this title for recordkeeping and reporting requirements.

§ 679.40 Sablefish and halibut QS.

~~The Regional Administrator shall annually divide the TAC of halibut and sablefish that is apportioned to the fixed gear fishery pursuant to the annual management measures published in the Federal Register pursuant to §300.62 of chapter III of this title and §679.20, minus the CDQ reserve, among qualified halibut and sablefish quota share holders, respectively.~~

The Regional Administrator shall annually divide the annual commercial fishing catch limit of halibut as defined at §300.61 of this title and published in the Federal Register pursuant to §300.62 of this title, among qualified halibut quota share holders. The Regional Administrator shall annually divide the TAC of sablefish that is apportioned to the fixed gear fishery pursuant to §679.20 of this chapter, minus the CDQ reserve, among qualified sablefish quota share holders.

(c) *Calculation of annual IFQ allocation* —(1) *General*. The annual allocation of IFQ to any person (person p) in any IFQ regulatory area (area a) will be equal to the product of the TAC of halibut or sablefish by fixed gear for that area (after adjustment for purposes of the Western Alaska CDQ Program) and that person's QS divided by the QS pool for that area. Overages will be subtracted from a person's IFQ pursuant to paragraph (d) of this section.

(i) Expressed algebraically, the annual halibut IFQ allocation formula is as follows:

$$IFQ_{pa} = [(fixed\ gear\ TAC_{a} - CDQ\ reserve_{a}) \times (QS_{pa}/QS\ pool_{a})] - \text{overage of } IFQ_{pa}$$

(ii) Expressed algebraically, the annual sablefish IFQ allocation formula is as follows:

$$IFQ_{pa} = [(fixed\ gear\ TAC_{a} - CDQ\ reserve_{a}) \times (QS_{pa}/QS\ pool_{a})] - \text{overage of } IFQ_{pa}$$

* * * * *

(g) *External research tags for halibut and sablefish*. (1) Nothing contained in this part 679 shall prohibit any person at any time from retaining and landing a Pacific halibut or sablefish that bears at the time of capture an external research tag from any state, Federal, or international agency, provided that the halibut or sablefish is one of the following:

(i) A Pacific halibut landed pursuant to §300.62 and §300.65 through §300.67 of this title and to this part 679; or

(ii) A sablefish landed in accordance with the Tagged Groundfish Research Program, and in compliance with all sablefish requirements of this part 679.

(2) Halibut and sablefish bearing an external research tag from any state, Federal, or international agency, landed pursuant to paragraph (g)(1)(i) or (g)(1)(ii) of this section, and in accordance with §679.5(l), shall be excluded from IFQ, ~~or CDQ~~ or GAF, as defined in §300.61 of this title, deduction as follows:

(i) The fish shall not be calculated as part of a person's IFQ harvest of halibut or sablefish and shall not be debited against a person's halibut IFQ or a person's sablefish IFQ; ~~or~~

(ii) The fish shall not be calculated as part of the CDQ harvest of halibut or sablefish and shall not be debited against a CDQ group's halibut CDQ or a CDQ group's sablefish CDQ; or:

(iii) The fish shall not be calculated as part of a person's GAF harvest and shall not be debited against a person's GAF.

* * * * *

§ 679.41 Transfer of quota shares and IFQ.

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, transfer of QS or IFQ means any transaction requiring QS, or the use thereof in the form of IFQ, to pass from one person to another, permanently or for a fixed period of time.

(2) Transactions requiring IFQ permits to be issued in the name of a hired master employed by an individual or a corporation are not transfers of QS or IFQ.

(3) A transfer between IFQ and guided angler fish (GAF), as defined in §300.61 of this title, is governed by regulations at §300.65(c) of this title.

* * * * *

§ 679.42 Limitations on use of QS and IFQ.

* * * * *

(f) *Halibut QS use.* (1) Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person, individually or collectively, may use more than:

(i) *IFQ regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(iii) *IFQ regulatory area 4A, 4B, 4C, 4D, and 4E.* 495,044 units of halibut QS.

(2) No CQE may receive an amount of halibut QS on behalf of any single eligible community which is more than:

(i) *IFQ regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(3) No CQE may hold halibut QS in the IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E.

(4) A CQE representing an eligible community may receive by transfer or use QS only in the IFQ regulatory areas designated for that species and for that eligible community as described in Table 21 to this part.

(5) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in §§679.41(e)(3)(i) through (e)(3)(iii) for halibut in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all community quota entities shall increase by an additional 3 percent in each

IFQ regulatory area specified in §§679.41(e)(3)(i) through (e)(3)(iii). This limit shall increase up to a maximum limit of 21 percent of the total QS in each regulatory area specified in §§679.41(e)(3)(i) through (e)(3)(iii) for halibut.

(6) No individual that receives IFQ derived from halibut QS, including GAF as defined in §300.61 of this title, held by a CQE may hold, individually or collectively, more than 50,000 lb (22.7 mt) of IFQ halibut derived from any halibut QS source.

(7) A CQE receiving category B or C halibut QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community represented by the CQE.

(8) A person transferring IFQ to guided angler fish (GAF), as defined in §300.61 of this title, is subject to the use limitations in paragraphs (f) and (h) of this section. Regulations governing a transfer between IFQ and GAF are in §300.65(c) of this title.

* * * * *

(h) *Vessel limitations* —(1) *Halibut*. No vessel may be used, during any fishing year, to harvest more than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, except that:

(i) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ halibut from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE, except when the vessel is used to harvest GAF derived from QS held by a CQE.

* * * * *

§ 679.45 IFQ cost recovery program.

(a) *Cost recovery fees* —(1) *Responsibility*. An IFQ permit holder is responsible for cost recovery fees for landings of his or her IFQ halibut and sablefish, including any halibut landed as guided angler fish (GAF), as defined in §300.61 of this title, derived from his or her IFQ accounts. An IFQ permit holder must comply with the requirements of this section. ~~The person documented on the IFQ permit as the permit holder at the time of an IFQ landing must comply with the requirements of this section. Subsequent transfer of QS or IFQ does not affect the permit holder's liability for noncompliance with this section.~~

(2) *IFQ Fee Liability Determination*—(i) *General*. IFQ fee liability means a cost recovery liability based on the value of all landed IFQ and GAF derived from his or her IFQ permit(s).

~~(A) After each IFQ fishing~~ Each year, the Regional Administrator will issue each IFQ permit holder a summary of his or her IFQ pounds landed as IFQ and GAF during that IFQ fishing year for each permit as part of the IFQ Landing and Estimated Fee Liability page described at §679.5(1)(7)(ii)(C)(2).

~~(B) The summary will include details of IFQ and GAF landings and an estimated IFQ fee liability based on using the IFQ standard ex-vessel values of the for IFQ and GAF landings. The summary and estimated fee liability will include details of IFQ equivalent pounds landed by permit, port or port group, species, date, and IFQ standard prices. For fee purposes:~~

(1) Landings of GAF in IPHC Regulatory Area 2C or Area 3A (Area 2C or Area 3A) are converted to IFQ equivalent pounds and assessed at the Area 2C or Area 3A IFQ standard ex-vessel value.

(2) GAF that is returned to the IFQ permit holder's account pursuant to §300.65(c) of this title, and subsequently landed as IFQ during the IFQ fishing year, is included in the IFQ fee liability and subject to fee assessment as IFQ pounds.

(C) The IFQ permit holder must either accept NMFS's estimate of the IFQ fee liability or revise NMFS's estimate of the IFQ fee liability using the Fee Submission Form described at §679.5(1)(7)(ii), except that the standard ex-vessel value used to determine the fee liability for GAF is not subject to challenge. If the IFQ permit holder revises NMFS's estimate of his or her IFQ fee liability, NMFS may request in writing that the permit holder submit documentation establishing the factual basis for the revised calculation. If the IFQ permit holder fails to provide adequate documentation by the 30th day after the date of such request, NMFS will determine the IFQ permit holder's IFQ fee liability based on standard ex-vessel values.

(ii) Value assigned to GAF. The IFQ fee liability is computed from all pounds allocated to the IFQ permit holder that are landed, including IFQ landed as GAF.

(A) NMFS will determine the IFQ equivalent pounds of GAF landed in Area 2C or Area 3A that derived from the IFQ permit holder's account.

(B) The IFQ equivalent pounds of GAF landed in Area 2C or Area 3A are multiplied by the standard ex-vessel value computed for that area to determine the value of IFQ landed as GAF.

(iii) The value of IFQ landed as GAF is added to the value of the IFQ permit holder's landed IFQ, and the sum is multiplied by the annual IFQ fee percentage to estimate the IFQ permit holder's IFQ fee liability.

(3) Fee Collection. An IFQ permit holder with an IFQ and/or GAF landings is responsible for self-collecting his or her own fee during the calendar year in which the IFQ fish and/or GAF is harvested landed.

(4) *Payment* —(i) *Payment due date*. An IFQ permit holder must submit his or her IFQ fee liability payment(s) to NMFS at the address provided in this section at paragraph (a)(4)(iii) of this section not later than January 31 of the year following the calendar year in which the IFQ and/or GAF landings were made.

~~(ii) *Payment recipient*. Make payment payable to NMFS.~~

~~(iii) *Payment address*. Mail payment and related documents to:~~

~~Administrator, Alaska Region, NMFS,~~

~~Attn: RAM Program,~~

~~P.O. Box 21668,~~

~~Juneau, AK 99802-1668,~~

~~FAX: (907) 586-7354.~~

~~or submit electronically to NMFS via forms available from RAM or on the RAM area of the Alaska Region Home Page at <http://www.fakr.noaa.gov/ram>.~~

~~(iv) *Payment method*. IFQ permit holders must submit payment electronically by a NMFS-approved method via the Alaska Region Home Page at <http://alaskafisheries.noaa.gov>. Payment must be made in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank certified check, or credit card.~~

(b) *IFQ ex-vessel value determination and use* —(1) *General*. An IFQ permit holder must use either the IFQ actual ex-vessel value or the IFQ standard ex-vessel value when determining the IFQ fee liability based on ex-vessel value, except that GAF are assessed at the standard values derived by NMFS. An IFQ permit holder must base all IFQ fee liability calculations on the ex-vessel value that correlates to the landed IFQ fish that is recorded in IFQ equivalent pounds.

(2) *IFQ actual ex-vessel value*. An IFQ permit holder that uses actual ex-vessel value, as defined in §679.2, to determine IFQ fee liability for landed IFQ must document actual ex-vessel value for each IFQ permit. The actual ex-vessel value cannot be used to assign value to halibut landed as GAF.

(3) *IFO standard ex-vessel value*—(i) *Use of standard price*. An IFQ permit holder that uses standard ex-vessel value to determine the IFQ fee liability, as part of a revised IFQ fee liability submission, must use the corresponding standard price(s) as published in the *Federal Register*.

(ii) All landed GAF must be valued using the standard ex-vessel value for the year and for the management area of harvest, Area 2C or Area 3A.

~~(e) IFQ standard ex-vessel value determination and use—(1) Use of standard price.~~ An IFQ permit holder that uses standard ex-vessel value to determine the IFQ fee liability as part of a revised IFQ fee liability submission must use the corresponding standard price(s) as published in the Federal Register.

~~(2)(iii) Duty to publish list—(i) General.~~ Each year the Regional Administrator will publish a list of IFQ standard prices in the Federal Register during the last quarter of ~~each~~ the calendar year. The IFQ standard prices will be described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and sablefish landings made during the current calendar year.

~~(iii)(iv) Effective duration.~~ The IFQ standard prices will remain in effect until revised by the Regional Administrator by notification in the Federal Register based upon new information of the type set forth in this section. IFQ standard prices published in the Federal Register by NMFS shall apply to all landings made in the same calendar year as the IFQ standard price publication and shall replace any IFQ standard prices previously provided by NMFS that may have been in effect for that same calendar year.

~~(iii)(v) Determination.~~ NMFS will apply the standard price, aggregated to management Area 2C or Area 3A, to GAF landings. NMFS will calculate the IFQ standard prices to reflect, as closely as possible by month and port or port-group, the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings based on information provided in the IFQ Buyer Reports as described in §679.5(l)(7)(i). The Regional Administrator will base IFQ standard prices on the following types of information:

- (A) Landed pounds by IFQ species, port-group, and month;
- (B) Total ex-vessel value by IFQ species, port-group, and month; and
- (C) Price adjustments, including IFQ retro-payments.

~~(d) IFQ fee percentage—(1) Established percentage.~~ The annual IFQ fee percentage is the amount as determined by the factors and methodology described in paragraph ~~(d)~~(2) of this section. This amount will be announced by publication in the Federal Register in accordance with paragraph ~~(d)~~(3) of this section. This amount must not exceed 3 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

(2) Calculating the fee percentage value. Each year NMFS shall calculate and publish the fee percentage according to the following factors and methodology:

(i) Factors. NMFS must use the following factors to determine the fee percentage:

- (A) The ~~catch~~ IFQ and GAF landings to which the IFQ fee will apply;
- (B) The ex-vessel value of that ~~catch~~ landed IFQ and GAF; and

(C) The costs directly related to the management and enforcement of the IFQ program, which by extension includes GAF costs.

(ii) *Methodology.* NMFS must use the following equation to determine the fee percentage:

$$100 \times (DPC / V)$$

where:

“DPC” is the direct program costs for the IFQ fishery for the previous fiscal year, and

“V” is the ex-vessel value determined for IFQ landed as commercial catch or as GAF of the catch subject to the IFQ fee liability for the current year.

(3) *Publication* —(i) *General.* During or before the last quarter of each calendar year, NMFS shall publish the IFQ fee percentage in the *Federal Register*. NMFS shall base any IFQ fee liability calculations on the factors and methodology in paragraph ~~(e)~~(2) of this section.

(ii) *Effective period.* The calculated IFQ fee percentage shall remain in effect through the end of the calendar year in which it was determined.

(4) *Applicable percentage.* The IFQ permit holder must use the IFQ fee percentage in effect for the year in which the IFQ and GAF landings are at the time an IFQ landing is made to calculate his or her fee liability for such landed IFQ pounds and GAF. The IFQ permit holder must use the IFQ fee percentage in effect at the time an IFQ retro-payment is received by the IFQ permit holder to calculate his or her IFQ fee liability for the IFQ retro-payment.

~~(e)~~ *Non-payment of fee.* (1) If an IFQ permit holder does not submit a complete Fee Submission Form and corresponding payment by the due date described in §679.45(a)~~(2)~~(4) and ~~(3)~~, the Regional Administrator ~~may~~will:

~~(1)~~ Send IAD. ~~At any time thereafter s~~Send an IAD to the IFQ permit holder stating that the IFQ permit holder's estimated fee liability, as calculated by the Regional Administrator and sent to the IFQ permit holder pursuant to §679.45(a)(2), is the amount of IFQ fee liability due from the IFQ permit holder. An IFQ permit holder who receives an IAD may appeal the IAD, as described in paragraph (g) of this section.

~~(2)~~ Disapprove transfer. Disapprove any transfer of GAF, IFQ or QS to or from the IFQ permit holder in accordance with §300.65(d) of this title and §679.41(c)~~(8)~~(i), until the IFQ fee liability is reconciled.

(2) Upon final agency action determining that an IFQ permit holder has not paid his or her IFQ fee liability, as described in paragraph (g) of this section, any IFQ fishing permit held by the IFQ permit holder is not valid until all IFQ fee liabilities are paid.

(3) If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(~~f~~e) *Underpayment of IFQ fee.* (1) When an IFQ permit holder has incurred a fee liability and made a timely payment to NMFS of an amount less than the NMFS estimated IFQ fee liability, the Regional Administrator will review the IFQ Fee Submission Form and related documentation submitted by the IFQ permit holder. If the Regional Administrator determines that the IFQ permit holder has not paid a sufficient amount, the Regional Administrator ~~may~~ will:

(i) *Disapprove transfer.* ~~Disapprove any transfer of GAF, IFQ or QS to or from the IFQ permit holder in accordance with §300.65(d) of this title and §679.41(c)(4), until the IFQ fee liability is reconciled.~~

(ii) *Notify permit holder.* ~~The Regional Administrator will n~~Notify the IFQ permit holder by letter that an insufficient amount has been paid and that the IFQ permit holder has 30 days from the date of the letter to either pay the amount determined to be due or provide additional documentation to prove that the amount paid was the correct amount.

(2) After the expiration of the 30-day period, ~~The Regional Administrator will evaluate any additional documentation submitted by an IFQ permit holder in support of his or her payment. If the Regional Administrator determines that the additional documentation does not meet the IFQ permit holder's burden of proving his or her payment is correct, the Regional Administrator will send the permit holder an IAD indicating that the permit holder did not meet the burden of proof to change the IFQ fee liability as calculated by the Regional Administrator based upon the IFQ standard ex-vessel value. (2) After expiration of the 30-day period, the Regional Administrator will issue an IAD and notify the IFQ permit holder. The IAD will set out the facts and indicate the deficiencies in the documentation submitted by the permit holder. An IFQ permit holder who receives an IAD may appeal the IAD, as described in paragraph (g) of this section.~~

~~An IFQ permit holder who receives an IAD may appeal pursuant to §679.43. In an appeal of an IAD made under this section, the IAD permit holder has the burden of proving his or her claim.~~

(3) If the permit holder fails to file an appeal of the IAD pursuant to §679.43, the IAD will become the final agency action.

(4) If the IAD is appealed and the final agency action is a determination that additional sums are due from the IFQ permit holder, the IFQ permit holder must pay any IFQ fee amount determined to be due not later than 30 days from the issuance of the final agency action.

(5) ~~Once a fee liability determination becomes final, any IFQ fishing permit held by the IFQ permit holder will be deemed not valid until all IFQ fee liabilities have been paid. Upon final agency action determining that an IFQ permit holder has not paid his or her IFQ fee liability, any IFQ fishing permit held by the IFQ permit holder is not valid until all IFQ fee liabilities are paid.~~

(6) If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(g) *Over payment.* Upon issuance of final agency action, any amount submitted to NMFS in excess of the IFQ fee liability determined to be due by the final agency action will be returned to the IFQ permit holder unless the permit holder requests the agency to credit the excess amount against the IFQ permit holder's future IFQ fee liability.

(h) *Appeals and requests for reconsideration.* An IFQ permit holder who receives an IAD may either appeal the IAD pursuant to §679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake a reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates a reconsideration, the 60-day period for appeal under §679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an IFQ permit holder fails to file an appeal of the IAD pursuant to §679.43, the IAD will become the final agency action. In any appeal or reconsideration of an IAD is made under this section, an IFQ permit holder has the burden of proving his or her claim.

(i) *Annual report.* NMFS will publish annually a report describing the status of the IFQ Cost Recovery Program.

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Attachment 1 - October 2008 Council motion for Area 2C/3A Catch Sharing Plan

DRAFT North Pacific Fishery Management Council Motion on Area 2C/3A Catch Sharing Plan

Agenda Item C-1(b) – Halibut Charter Catch Sharing Plan

Motion to establish a halibut charter allocation and management plan based on bag limits

The purpose of the proposed action is to create a catch sharing plan that establishes a clear allocation, with sector accountability, between charter and setline sectors in Areas 2C and 3A. The Council requests that the IPHC annually set a combined charter and setline catch limit to which the allocation percentage for each area will be applied to establish the domestic harvest targets for each sector. This action also establishes the management actions for the charter sector at identified combined charter and setline catch amounts.

The Council recognizes that management measures are imprecise therefore a small variance can be expected to occur around the allocation. The Council's expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

Element 1 – Initial allocation and bag limits.

Area 2C

In 2C, when the combined charter and setline catch limit is less than 5 million pounds, the charter allocation will be 17.3% of the combined charter and setline catch limit. When the combined charter and setline catch limit is 5 million pounds and above the allocation will be 15.1%. Management variance not to exceed 3.5 percentage points (plus or minus) may occur around this allocation. The Council's expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

Trigger 1: When the combined charter and setline catch limit is below 5 Mlb, the halibut charter fishery will be managed under a 1 halibut daily bag limit. The allocation for the charter sector will be 17.3% of the combined charter and commercial catch limit. The charter sector's expected catch may vary between 13.8% and 20.8%. However, if the charter harvest for an upcoming season is projected to exceed 20.8% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected harvest level to be lower than 17.3% of the combined charter and setline catch limit, and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Comment [r1]: §300.65(c)(1) on page 8 of draft regulations

Comment [r2]: §300.65(c)(3) and (4) on page 8

Comment [r3]: §300.65(c)(5) on page 9

Comment [r4]: Tables 5 and 6 on pages 32 and 35

Comment [r5]: Table 3 on page 30

Comment [r6]: Table 3 on page 30

Comment [r7]: Table 5 on page 32

Comment [r8]: Table 5 on page 32

Comment [r9]: Table 3 on page 30

Comment [r10]: Table 5 on page 32

Comment [r11]: Table 5 on page 32 and §300.65(c)(5)(iii)(C) on page 11

Comment [r12]: Table 5 on page 32

Trigger 2: When the combined charter and setline catch limit is ≥ 5 Mlb and < 9 Mlb, the halibut charter fishery shall be managed under a 1 halibut daily bag limit. The charter sector's allocation will be 15.1% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 11.6% and 18.6%. However, if the charter harvest for an upcoming season is projected to exceed 18.6% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected harvest level to 15.1% of the combined charter and setline catch limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Comment [r13]: Table 5 on page 32

Comment [r14]: Table 3 on page 30

Comment [r15]: Table 5 on page 33

Comment [r16]: Table 5 on page 33 and §300.65(c)(5)(iii)(C) on page 11

Comment [r17]: Table 7 on page 38

Trigger 3: When the combined charter and setline catch limit is ≥ 9 Mlb and < 14 Mlb, the halibut charter fishery shall be managed under a 2 halibut daily bag limit (only one of which may be longer than 32 inches). The charter sector's allocation will be 15.1% of the combined charter and commercial catch limit. The charter sector's expected catch may vary between 11.6% and 18.6%. However, if the charter harvest for an upcoming season is projected to exceed 18.6% of the combined charter and setline catch limit, then the charter fishery will revert back to a 1 halibut daily bag limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Comment [r18]: Table 5 on page 33

Comment [r19]: Table 3 on page 30

Comment [r20]: Table 5 on page 33

Comment [r21]: Table 5 on page 34

Comment [r22]: Table 7 on page 39

Trigger 4: When the combined charter and setline catch limit is ≥ 14 Mlb, the halibut charter fishery will be managed under a 2 halibut daily bag limit. The charter sector's allocation will be 15.1% of the combined charter and setline catch limit. The charter sector's expected catch may range between 11.6% and 18.6%. However, if the charter harvest for an upcoming season is projected to exceed 18.6% of the combined charter and commercial catch limit, the charter fishery will revert back to a 2 halibut daily bag limit, only one of which may be longer than 32 inches.

Comment [r23]: Table 5 on page 34

Comment [r24]: Table 3 on page 30

Comment [r25]: Table 5 on page 34

Comment [r26]: Table 5 on page 34

Area 3A

In 3A, when the combined charter and setline catch limit is less than 10 million pounds, the charter allocation will be 15.4% of the combined charter and setline catch limit. When the combined charter and setline catch limit is 10 million pounds and above, the allocation will be 14.0%. Management variance not to exceed 3.5 percentage points (plus or minus) may occur around this allocation. The Council's expectation is that the variances will balance over time to ensure IPHC conservation and management objectives are achieved.

Comment [r27]: Table 4 on page 31

Comment [r28]: Table 6 on page 35

Trigger 1: When the combined charter and setline catch limit is < 10 Mlb, the halibut charter fishery will be managed under a 1 halibut daily bag limit. The charter sector's allocation will be 15.4% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 11.9% and 18.9% of the combined charter and setline catch. However, if the charter harvest for an upcoming season is projected to exceed 18.9% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected charter harvest below 15.4% of the combined charter and setline harvest and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is

Comment [r29]: Table 6 on page 35

Comment [r30]: Table 4 on page 31

Comment [r31]: Table 6 on page 35

Comment [r32]: Table 6 on page 35 and §300.65(c)(5)(iii)(C) on page 11

lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Comment [r33]: Table 6 on page 35

Trigger 2: When the combined charter and setline catch limit is \geq 10 Mlb and $<$ 20 Mlb, the halibut charter fishery will be managed under a 1 halibut daily bag limit. The charter sector's allocation will be 14.0% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 10.5% and 17.5% of the combined charter and setline catch limit. However, if the charter harvest for an upcoming season is projected to exceed 17.5% of the combined charter and setline catch limit, then a maximum size limit will be implemented to reduce the projected charter harvest level to 14% of the combined charter and setline catch limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Comment [r34]: Table 6 on page 35

Comment [r35]: Table 4 on page 31

Comment [r36]: Table 6 on page 35

Comment [r37]: Table 6 on page 36 and §300.65(c)(5)(iii)(C) on page 11

Comment [r38]: Table 8 on page 40

Trigger 3: When the combined charter and setline catch limit is \geq 20 Mlb and $<$ 27 Mlb, the halibut charter fishery will be managed under a 2 halibut daily bag limit (only one of which may be longer than 32 inches). The charter sector's allocation will be 14.0% of the combined charter and setline catch limit. The charter sector's expected catch may vary between 10.5% and 17.5% of the combined charter and setline catch limit. However, if the charter harvest for an upcoming season is projected to exceed 17.5% of the combined charter and setline catch limit, then the charter fishery will revert back to a 1 halibut daily bag limit and if the projected charter harvest results in a catch rate (percentage of projected charter harvest divided by the combined commercial and charter catch limit for that IPHC Area) that is lower than the lowest charter harvest percentage in that trigger range, then the charter harvest shall be managed under the daily bag limit of the next higher trigger, so long as the projected charter harvest percentage of the combined commercial harvest catch limit falls within the percentage range included under that trigger.

Comment [r39]: Table 6 on page 36

Comment [r40]: Table 4 on page 31

Comment [r41]: Table 6 on page 36

Comment [r42]: Table 6 on page 36

Comment [r43]: Table 8 on page 41

Trigger 4: When the combined charter and setline catch limit is \geq 27 Mlb, the halibut charter fishery will be managed under a 2 halibut daily bag limit. The charter sector's allocation will be 14.0% of the combined charter and setline catch limit. The charter sectors expected harvest may range between 10.5% and 17.5% of the combined charter and setline catch limits. However, if the charter harvest for an upcoming season is projected to exceed 17.5% of the combined charter and setline catch limit, the charter fishery will revert back to a 2 halibut daily bag limit, only one of which may be longer than 32 inches.

Comment [r44]: Table 6 on page 37

Comment [r45]: Table 4 on page 31

Comment [r46]: Table 6 on page 37

Comment [r47]: Table 6 on page 37

In Areas 2C and 3A, there is no retention of halibut by skipper and crew while paying clients are on board.

Comment [r48]: §300.65(d)(3) on page 20

Element 2 – Annual regulatory cycle/timeline.

It is not the Council's intent to revisit or readjust bag limits; such bag limit changes will be triggered by changes in combined charter and setline catch limits established annually by the IPHC. Bag limits will be implemented by the IPHC based upon their determination of the combined charter and setline catch limits and the bag limit parameters described above.

Comment [r49]: §300.65(c)(5)(i) and (ii) on page 9

Element 4 – Timeline—DELETE FROM ANALYSIS

Element 5 – Supplemental, individual use of commercial IFQ to allow charter limited entry permit holders to lease commercial IFQ, in order to provide additional anglers with harvesting opportunities, not to exceed limits in place for unguided anglers.

A. Leasing commercial IFQ for conversion to Guided Angler Fish (GAF).

1 A LEP (Limited Entry Permit) holder may lease IFQ for conversion to GAF for use on the LEP.

2 Commercial halibut QS holders may lease up to 1500 pounds or 10 percent (whichever is greater) of their annual IFQ to LEP holders (including themselves) for use as GAF on LEPs. If an IFQ holder chooses to lease to a CQE, then the same limitations apply as if they were leasing to an individual charter operator—1500 lbs or 10% whichever is greater—the 100% has no application here. With regard to CQE leasing: any quota which a CQE holds, regardless of its origin, could be leased up to 100% to eligible residents of the CQE community. For example, a CQE may hold quota share derived from purchase, lease from another qualified CQE, or leased from an individual, and then lease out up to 100% of the quota it holds.

3 No more than 400 GAF may be assigned to an LEP endorsed for 6 or fewer clients.

Suboption: No more than 600 GAF may be assigned to an LEP endorsed for more than 6 clients.

B. LEP holders harvesting GAF while participating in the guided sport halibut fishery are exempt from landing and use restrictions associated with commercial IFQ fishery, but subject to the landing and use provisions detailed below.

C. GAF would be issued in numbers of fish. The conversion between annual IFQ and GAF would be based on average weight of halibut landed in each region's charter halibut fishery (2C or 3A) during the previous year as determined by ADF&G. The long-term plan may require further conversion to some other form (e.g., angler days).

D. Subleasing of GAF would be prohibited.

E. Conversion of GAF back to commercial sector.

Unused GAF may revert back to pounds of IFQ and be subject to the underage provisions applicable to their underlying commercial QS either automatically on November 1 of each year or upon the request of the GAF holder if such request is made to NMFS in writing prior to November 1 of each year.

F. Guided angler fish derived from commercial QS may not be used to harvest fish in excess of the non-guided sport bag limit on any given day.

G. Charter operators landing GAF on private property (e.g., lodges) and motherships would be required to allow ADF&G samplers/enforcement personnel access to the point of landing.

H. Commercial and charter fishing may not be conducted from the same vessel on the same day.

Comment [r50]: §300.65(c)(6)(i) on page 12

Comment [r51]: §300.65(c)(6)(iv)(C) on page 18

Comment [r52]: See issue 6 in letter and §300.65(c)(6)(iii)(A)(1) and (4) on pages 17 and 18

Comment [r53]: §300.65(c)(6)(iv)(E)(1)(iii) on page 18

Comment [r54]: See issue 3 in letter and §300.65(c)(6)(iv)(F) on page 19

Comment [r55]: §300.65(c)(6)(iv)(E)(1)(i) on page 18

Comment [r56]: §300.65(c)(6)(iv)(E)(1)(ii) on page 18

Comment [r57]: §300.65(c)(6)(iv)(E)(3) on page 19

Comment [r58]: See references for provisions J through H below

Comment [r59]: §300.65(c)(6)(ii)(F) on page 16

Comment [r60]: §300.65(c)(6)(iii)(C) on page 18

Comment [r61]: §300.65(c)(6)(i)(C) on page 13

Comment [r62]: §300.65(c)(6)(ii)(B)(1) on page 13

Comment [r63]: §300.65(c)(6)(iv)(C) on page 18

Comment [r64]: §300.65(c)(6)(iii)(A)(7) and (8) on page 17

Comment [r65]: §300.66(i) on page 24

rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the *Federal Register*. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 7, 2010.

Lois Rossi,
Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.368 is amended as follows:

- i. In paragraph (a)(2), revise the introductory text;
- ii. In paragraph (a)(2), in the table, remove the commodities Garlic, bulb and Shallot, bulb; revise the commodities Onion, bulb; Onion, green; and Vegetable, root, except sugar beet, subgroup 1B; and alphabetically add the following commodities;
- iii. In paragraphs (c)(2) and (d)(2), revise the introductory text.

The amendments read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) * * *

(2) Tolerances are established for residues of S-metolachlor, including its metabolites and degradates, in or on the commodity(s), as defined. Compliance with the tolerance levels specified in the following table below is to be determined by measuring only the sum of free and bound S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites, determined as the derivatives, 2-(2-ethyl-6-methylphenyl)amino-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, calculated as the stoichiometric equivalent of S-metolachlor, in or on the commodity.

| Commodity | Parts per million |
|----------------------------------------------------------------|-------------------|
| Brassica, leafy greens, subgroup 5B | 1.8 |
| Bushberry subgroup 13-07B | 0.15 |
| Caneberry subgroup 13-07A | 0.10 |
| Carrot, roots | 0.40 |
| Cucumber | 0.13 |
| Melon, subgroup 9A | 0.10 |
| Okra | 0.10 |
| Onion, bulb, subgroup 3-07A | 0.10 |
| Onion, green, subgroup 3-07B | 2.0 |
| Sesame, seed | 0.13 |
| Sorghum, sweet, stalk | 4.0 |
| Turnip, greens | 1.8 |
| Vegetable, root, except sugar beet, subgroup 1B, except carrot | 0.30 |

* * * * *

(c) * * *
(2) Tolerances with regional registration are established for residues of S-metolachlor, including its metabolites and degradates, in or on the commodities identified in the following table below. Compliance with the tolerance levels specified in the following table below is to be determined by measuring only the sum

of free and bound S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites, determined as the derivatives, 2-(2-ethyl-6-methylphenyl)amino-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, calculated as the stoichiometric equivalent of S-metolachlor, in or on the commodity.

* * * * *

(d) * * *

(2) Tolerances are established for the indirect or inadvertent residues of S-metolachlor, including its metabolites and degradates, in or on the commodities identified in the following table below. Compliance with the tolerance levels specified in the following table below is to be determined by measuring only the sum of free and bound S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites, determined as the derivatives, 2-(2-ethyl-6-methylphenyl)amino-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, calculated as the stoichiometric equivalent of S-metolachlor, in or on the commodity.

* * * * *

[FR Doc. 2010-23130 Filed 9-16-10; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 100503209-0430-02]

RIN 0648-AY85

Pacific Halibut Fisheries; Limited Access for Guided Sport Charter Vessels in Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations amending the limited access program for charter vessels in the guided sport fishery for Pacific halibut in the waters of International Pacific Halibut Commission Regulatory Area 2C (Southeast Alaska) and Area 3A (Central Gulf of Alaska). These regulations revise the method of assigning angler endorsements to charter halibut permits to more closely align each endorsement

with the greatest number of charter vessel anglers reported for each vessel that a charter business used to qualify for a charter halibut permit. This action is necessary to achieve the halibut fishery management goals of the North Pacific Fishery Management Council.

DATES: Effective October 18, 2010.

ADDRESSES: Electronic copies of the Categorical Exclusion, the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>. The Environmental Assessment, RIR, and FRFA for the charter halibut limited access program are available from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Rachel Baker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). Regulations developed by the IPHC are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The most recent IPHC regulations were published March 18, 2010 (75 FR 13024). IPHC regulations affecting sport fishing for halibut and charter vessels in IPHC Areas 2C and 3A may be found in sections 3, 25, and 28 of the March 18 final rule.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary is directed to consult with the Secretary of the

department in which the U.S. Coast Guard is operating.

Section 773c(c) of the Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Such Council-developed regulations may be implemented by NMFS only after approval by the Secretary. The Council has exercised this authority most notably in the development of its commercial fishery Individual Fishing Quota Program, codified at 50 CFR part 679, subsistence halibut fishery management measures, codified at 50 CFR 300.65, and the limited access program for charter vessels in the guided sport fishery, codified at 50 CFR 300.67. This action is consistent with the Council's authority under section 773(c) of the Halibut Act.

Charter Halibut Limited Access Program

In March 2007, the Council recommended a limited access program for charter vessels in IPHC Areas 2C and 3A. The intent of the program was to curtail growth of fishing capacity in the charter sector by limiting the number of charter vessels that may participate in the guided sport fishery for halibut in Areas 2C and 3A. NMFS published a final rule implementing the program on January 5, 2010 (75 FR 554). Under the program, NMFS will issue a charter halibut permit to a licensed charter fishing business owner based on his or her past participation in the charter halibut fishery. Portions of the limited access program final rule that related to eligibility criteria, the permit application process, and other administrative procedures became effective on February 4, 2010. The requirement to have a charter halibut permit on board a charter vessel fishing for halibut will become effective on February 1, 2011.

Qualifications for Charter Halibut Permit

An applicant must demonstrate participation in the charter halibut fishery during a historic qualifying period and during a recent participation period to receive an initial allocation of a charter halibut permit. The two historic qualifying periods are the sport fishing seasons established by the IPHC in 2004 and 2005 (February 1 through December 31). Applicants need to demonstrate participation only in one of these years—2004 or 2005. The recent participation period is the sport fishing season established by the IPHC in 2008

(February 1 through December 31). This year was selected as the recent participation period because, at the time of program implementation, it was the most recent year for which NMFS had a complete record of saltwater charter vessel logbook data from the Alaska Department of Fish and Game (ADF&G).

The basic unit of participation for receiving a charter halibut permit is a logbook fishing trip. A logbook fishing trip is an event that was reported to ADF&G in a saltwater charter vessel logbook within the requisite time limit in effect when the trip was made.

The minimum participation qualifications include documentation of at least five logbook fishing trips during one of the qualifying years—2004 or 2005—and at least five logbook fishing trips during 2008. Meeting the minimum participation qualifications could qualify an applicant for a non-transferable charter halibut permit. The minimum participation qualifications for a transferable charter halibut permit include documentation of at least 15 logbook fishing trips during one of the qualifying years—2004 or 2005—and at least 15 logbook fishing trips during 2008.

Angler Endorsements

Each charter halibut permit will have an angler endorsement number. The angler endorsement number on the permit is the maximum number of charter vessel anglers that may catch and retain halibut onboard the vessel during a charter vessel fishing trip. The term "charter vessel angler" is defined by regulation at 50 CFR 300.61 to include all persons, paying or non-paying, who use the services of the charter vessel guide onboard the vessel. The angler endorsement assigned to a charter halibut permit limits the number of persons onboard that may catch and retain halibut.

Under the final rule implementing the limited access program (75 FR 554, January 5, 2010), the angler endorsement assigned to a charter halibut permit for all qualified businesses would be equal to the greatest number of anglers reported for any vessel the business used for at least one logbook fishing trip in the qualifying period (2004 and 2005). The minimum angler endorsement would be four. All permits issued to an applicant would have the same angler endorsement.

In February 2010, the Council reviewed the method described in the January 5, 2010, final rule for assigning angler endorsements to the second and subsequent charter halibut permits issued to business owners receiving

more than one permit for an area. The Council noted that in some cases, the greatest number of charter vessel anglers reported for one vessel could be greater than the number of anglers reported on other vessels the business used to qualify for charter halibut permits. For example, if an applicant used three vessels to qualify for three permits, and reported a maximum of six charter vessel anglers for the first vessel's trips, a maximum of four charter vessel anglers for the second vessel, and a maximum of three charter vessel anglers for the third vessel in the qualifying period, under the limited access program final rule the applicant would be issued three charter halibut permits, each with an angler endorsement of six. The Council was concerned about this method of assigning angler endorsements because the total number of angler endorsements the applicant would receive on all permits combined could be greater than the total number of charter vessel anglers the business reported for all of the vessels it used in the qualifying period. The Council also was concerned that the method of assigning angler endorsements under the January 5, 2010, final rule could result in an increase in fishing capacity the Council did not intend. The total number of angler endorsements that would be assigned to permits under the final rule potentially could enable a greater number of charter vessel anglers to catch and retain halibut under the limited access program than qualifying charter operators reported during the qualifying period.

The Council initiated this action to more closely align angler endorsements assigned to the second and subsequent permits issued to a business owner with the permit recipient's vessel-specific activity during the qualifying period. Using the previous example in which the applicant would receive three charter halibut permits, under this action, each permit's angler endorsement would be derived from the number of charter vessel anglers reported for each vessel the applicant used in the qualifying period, with a minimum endorsement of four. The applicant would receive one permit with an angler endorsement of six, and two permits with an angler endorsement of four. The Council reviewed the RIR/IRFA (see ADDRESSES) prepared for this action in April 2010, and selected a preferred alternative to revise the method of assigning angler endorsements to charter halibut permits issued to businesses receiving more than one permit for each area, Area 2C or Area 3A.

Angler Endorsements Under This Action

For applicants that qualify for more than one charter halibut permit, NMFS will determine the greatest number of charter vessel anglers the applicant reported for each vessel the applicant used in the qualifying period (2004 and 2005) for an area. Each of these numbers will equal a vessel-specific angler endorsement number that will be assigned to a transferable or non-transferable charter halibut permit issued to the applicant for that area. NMFS will assign a vessel-specific angler endorsement of four if the applicant's greatest number of reported anglers was fewer than four on that vessel in the qualifying period. A vessel-specific angler endorsement number will be used only once to assign an angler endorsement to a charter halibut permit for an area.

For each applicant that is issued more than one charter halibut permit for an area, NMFS will assign the vessel-specific angler endorsement numbers for that area to a permit in descending order, from the largest to the smallest number, beginning with transferable permits, if any. The greatest vessel-specific angler endorsement number derived from any vessel the applicant used in that area in the qualifying period will be assigned to the first permit the applicant receives for that area. Once this vessel-specific angler endorsement number is assigned to a charter halibut permit, that vessel-specific number will not be assigned to any additional charter halibut permits issued to the applicant for that area. The next greatest vessel-specific angler endorsement number will be assigned to the second permit the applicant receives for that area, and this process of assigning endorsement numbers to permits will continue until all permits an applicant receives in that area are assigned an angler endorsement. If the applicant receives charter halibut permits for both Area 2C and Area 3A, this process will be used to assign the vessel-specific angler endorsement to a charter halibut permit for each area.

Effects of This Action

The following briefly describes the effects of revising the method used to assign angler endorsements to charter halibut permits. Additional discussion of the rationale for and effects of this action is provided in the preamble to the proposed rule published on July 6, 2010 (75 FR 38758), and is not repeated here.

This action affects the number of angler endorsements that are assigned to

charter halibut permits initially issued to applicants that receive more than one permit in an area. It will not affect the number of transferable and non-transferable charter halibut permits that are initially issued by NMFS under the limited access program prior to the start of the 2011 fishing season. The RIR prepared for this action (see ADDRESSES) estimates that approximately 89 qualified charter businesses would receive more than one charter halibut permit in Area 2C, which is approximately 39 percent of the 229 charter businesses that apparently qualify for one or more permit in that area. In Area 3A, approximately 69 apparently qualified charter businesses qualify for more than one charter halibut permit in Area 3A, which is approximately 24 percent of the 291 charter businesses that apparently qualify for one or more permits in that area. This final rule will result in approximately 2,618 angler endorsements assigned to 501 permits in Area 2C. This will be a reduction of approximately 13 percent from the 3,001 angler endorsements estimated to be assigned to charter halibut permits under the method used to assign angler endorsements under the former regulations. In Area 3A, this final rule will result in approximately 3,122 angler endorsements assigned to 410 permits. This will be a reduction of approximately 11 percent from the 3,524 endorsements estimated to be assigned to permits under the former regulations.

This action will reduce the angler endorsement numbers assigned to some charter halibut permits, while leaving other angler endorsement numbers unchanged from the status quo. A permit with fewer angler endorsements will authorize fewer charter vessel anglers to catch and retain halibut on a fishing trip. In general, this could reduce the revenue the charter halibut permit holder receives from using that permit. Transferable charter halibut permits with a reduced number of angler endorsements resulting from this action also likely will transfer for a lower value. Therefore, this action likely will adversely impact a charter halibut permit applicant receiving one or more charter halibut permits with a reduced number of angler endorsements relative to the status quo. However, as described in the RIR/FRFA (see ADDRESSES) prepared for this action, these impacts on affected operators are likely not significant. Charter vessel operators that receive a reduced number of angler endorsements under this action could mitigate the effect of this reduction by

increasing the average number of anglers on a charter vessel fishing trip, or by increasing the average number of charter vessel fishing trips associated with an individual permit. Changes in the average number of anglers on an individual charter vessel fishing trip likely would not significantly change the operator's costs and revenues for the trip, and on balance, are unlikely to have a significant economic impact on an individual charter vessel operator. Additionally, although applicants that are initially issued transferable charter halibut permits with a reduced number of angler endorsements resulting from this action likely would receive a lower price for the permit upon transfer, future holders of these charter halibut permits should not be affected. While these future permit holders may be able to generate less gross revenue from using the permit than they otherwise would have from a greater number of angler endorsements, they also should have to pay less for the permit. Overall, the reduced permit value likely will be balanced by the reduced purchase costs of affected permits.

Although this action will have distributional impacts on individual charter business owners, revising the method of assigning angler endorsements to charter halibut permits likely will not impact current charter industry capacity and the sector's ability to meet angler demand. The RIR (see ADDRESSES) determined that the number of angler endorsements that will be issued under this action likely will provide sufficient charter capacity to meet current angler demand, and even potentially some increase in demand. Similarly, this action is not expected to have a large impact on angler demand for charter vessel trips or the harvest of halibut by charter vessel anglers because of the action's limited impact on capacity in the charter vessel sector.

The Council intended for NMFS to revise angler endorsements before initially issuing charter halibut permits prior to the 2011 charter fishing season. This final rule will increase administrative costs for NMFS because it will require an appeals process (see Implementation of the This Action section below), in addition to the process established for charter halibut permits under the limited access program final rule (75 FR 554, January 5, 2010). This appeals process will result in NMFS initially issuing charter halibut permits closer to the anticipated start of the 2011 charter season on February 1 than it intended under the status quo. This later permit issuance schedule could create some uncertainty for affected charter halibut permit

applicants with respect to planning for the 2011 season, particularly for those applicants who already have indicated they accepted the angler endorsement numbers assigned to their permits under the previous regulations.

Implementation of This Action

To implement this action, NMFS will create an official record of charter business participation in Areas 2C and 3A during the qualifying period and the recent participation period. The official record will be based on data from ADF&G, and will link each logbook fishing trip to an ADF&G Business Owner License and to the person—individual, corporation, partnership, or other entity—that obtained the license. Thus, the official record will include information from ADF&G on the person(s) who obtained ADF&G Business Owner Licenses in the qualifying period and the recent participation period; the logbook fishing trips in those years that met the State of Alaska's legal requirements; the Business Owner License that authorized each logbook fishing trip; and the vessel that made each logbook fishing trip. This is the same method that NMFS used to create an official record of charter business participation under the January 5, 2010, final rule implementing the limited access program. The official record also will include the angler endorsement assigned to each charter halibut permit using the method implemented by this final rule.

NMFS will notify all affected business owners of the revised angler endorsement(s) assigned to the charter halibut permit(s) they will be issued after the effective date of the rule. Affected business owners will have 30 days to challenge NMFS' determination. Charter business owners are allowed to submit documentation or further evidence in support of their claim during this 30-day evidentiary period. If NMFS accepts the business owner's documentation as sufficient to change the agency determination, NMFS will change the official record and issue a charter halibut permit with a revised angler endorsement accordingly. If NMFS does not agree that the further evidence supports the participant's claim, NMFS will issue an initial administrative determination (IAD) denying the participant's claim, and issue the participant's charter halibut permit(s) consistent with the official record. The IAD will describe why NMFS is initially denying some or all of an applicant's claim and will provide instructions on how to appeal the IAD. In such cases, the applicant may not transfer any of the issued permits, even

if a permit is otherwise transferable, until NMFS takes Final Agency Action on the applicant's claims. Unless the applicant appeals the IAD, the IAD becomes Final Agency Action 30 days after the IAD is issued.

Charter business owners will be able to appeal an IAD through the NOAA Office of Administrative Appeals (OAA). The OAA is a separate unit within the office of the Regional Administrator for the Alaska Region of NMFS. The OAA is charged with developing a record and preparing a formal decision on all appeals. The OAA decision is subject to review by the Regional Administrator. If the Regional Administrator does not intervene, the OAA decision becomes the Final Agency Action 30 days after the decision is issued. If the Regional Administrator affirms, reverses, or modifies the OAA decision within 30 days from the date the decision is issued, the Regional Administrator's decision is the Final Agency Action. An applicant who is aggrieved by the Final Agency Action may then appeal to the U.S. District Court. Regulations at 50 CFR 679.43 provide a regulatory description of the existing appeals process. NMFS will issue interim permits to applicants who filed timely applications and whose appeal is accepted by NOAA. These interim permits would be effective until Final Agency Action.

Proposed Rule

NMFS published a proposed rule to revise the method of assigning angler endorsements to charter halibut permits on July 6, 2010 (75 FR 38758). The comment period on the proposed rule ended on August 5, 2010. NMFS received five comments from two individuals and two organizations regarding the proposed rule. One comment was not directly related to the action. Two comments discussed specific technical aspects of the regulation, one comment addressed the impact of the regulation on affected entities, and one comment contained suggestions to NMFS for improving the process of developing fisheries management regulations. These comments did not raise new issues or concerns that have not been addressed in the RIR/FRFA prepared to support this action, the preamble to the proposed rule, or the EA/RIR/FRFA prepared to support the charter halibut limited access program (see ADDRESSES).

Response to Public Comments

Comment 1: The commenter raises general concerns about NMFS' management of fisheries, asserting that

fishery policies have not benefited American citizens. The commenter also asserts that NMFS is biased and should not be allowed to manage fisheries.

Response: This comment is not specifically related to the proposed rule. The comment recommends broad changes to fisheries management and provides opinions of the Federal Government's general management of marine resources that are outside of the scope of this action. The comment did not raise new relevant issues or concerns that have not been addressed in the RIR/FRFA prepared to support this action or the preamble to the proposed rule.

Comment 2: We understand that under the final rule implementing the limited access program that some angler endorsements included skipper and crew participation recorded in the logbooks. The skipper and crew were providing services to charter vessel anglers and should not be counted toward the history of the vessel for determining angler endorsements.

Response: NMFS used the "total clients" field in the logbook data received from ADF&G to determine the angler endorsement on a charter halibut permit under the former regulations. NMFS will continue to use the "total clients" field to determine the number of angler endorsements assigned to a charter halibut permit under this final rule. The 2004 and 2005 logbooks contained a "total crew" field for charter operators to record the number of crew fishing, and the logbook instructions directed operators not to combine client and crew information. NMFS did not use the "total crew" field for determining angler endorsements.

Comment 3: Two commenters supported the intent of the proposed rule to change the method of assigning angler endorsements under the former regulations. However, the commenters suggested that NMFS should change the method of assigning angler endorsements prior to initially issuing charter halibut permits to ensure that an angler endorsement number does not exceed the number of passengers that were allowed by U.S. Coast Guard (USCG) regulations on the vessel used to qualify for the charter halibut permit during the qualifying period (2004 and 2005).

One of the commenters also suggested that NMFS should not assign an applicant's greatest vessel-specific angler endorsement number to charter halibut permits beginning with transferable permits as described in the proposed rule. This commenter also indicated that these suggested changes should be reflected in the final rule for

this action and implemented before permits are initially issued.

Response: No changes are made to the proposed rule. The March 2007 Council motion for the charter halibut permit program directed NMFS to use ADF&G logbook data to determine the angler endorsement number assigned to a charter halibut permit. The Council recommended that the angler endorsement number be equal to the number of charter vessel anglers the applicant reported on a logbook fishing trip in 2004 or 2005, subject to a minimum endorsement of four. The EA/RIR/FRFA prepared for the charter halibut permit program (see ADDRESSES) discusses this issue in section 2.5.12.4. This analysis, along with the final rule implementing the charter halibut limited access program (75 FR 554, January 5, 2010), and the RIR/FRFA prepared for this action (see ADDRESSES), also noted that the angler endorsement on a charter halibut permit would not supersede USCG licensing or other safety rules or regulations.

The proposed rule for this action is consistent with the Council's recommendation to use ADF&G logbook data as evidence of applicant participation for purposes of implementing the limited access program, including assigning angler endorsements to charter halibut permits. In the final rule implementing the limited access program (75 FR 554, January 5, 2010), NMFS also implemented the Council's recommendation that charter halibut permit applicants sign an affidavit attesting that all legal requirements were met. During the charter halibut permit application period (February 4, 2010, through April 5, 2010), NMFS required applicants to attest by signature on the permit application that "[t]he applicant complied with all legal requirements that pertained to the bottomfish logbook fishing trips in 2004 and 2005 and the halibut logbook fishing trips in 2008 that were reported under the applicant's ADF&G Business License."

Finally, at the April 2010 Council meeting, NMFS described its proposed method for assigning angler endorsements under this action to the Council. Specifically, NMFS proposed to assign an applicant's greatest vessel-specific angler endorsement number to charter halibut permits in descending order, from the largest to the smallest number, beginning with the first transferable permit the applicant would receive. NMFS proposed to assign the next greatest vessel-specific angler endorsement to the second transferable permit the applicant would receive, and continue this process until all

transferable and non-transferable permits for an applicant were assigned an angler endorsement. The method also was described in section 1.6.3 of the RIR/IRFA (see ADDRESSES) prepared for this action.

Comment 4: The proposed rule states this action would adversely impact applicants who receive a reduced number of angler endorsements. Although this reduced number of angler endorsements is a reduction when compared to the status quo, i.e., the number of angler endorsements an applicant would receive under the current regulations, it is not an actual reduction when compared to historical practices.

Response: NMFS agrees that the impact of a reduced number of angler endorsements on charter halibut permits issued to affected applicants under this action, as discussed in the proposed rule (75 FR 38758, July 6, 2010) and the RIR/FRFA (see ADDRESSES), is relative to the status quo. NMFS notes that under both the status quo and this final rule, an angler endorsement number is determined by the applicant's past participation in the charter halibut fishery as reported in ADF&G logbooks, as recommended by the Council.

The proposed rule and the RIR/IRFA noted that this action likely would not have a significant adverse economic impact on applicants receiving a reduced number of angler endorsements, relative to the status quo. First, charter vessel operators receiving a reduced number of angler endorsements under this action may receive less revenue per charter vessel fishing trip relative to the status quo, because fewer anglers would be authorized to catch and retain halibut on each trip. Second, transferable permits with a reduced number of angler endorsements likely will transfer for a lower value relative to the status quo. The proposed rule and the RIR/IRFA also discussed that these impacts likely would not be significant because affected charter vessel operators could mitigate the reduction in angler endorsements by increasing the average number of anglers on a charter vessel fishing trip, or by increasing the average number of charter vessel fishing trips associated with an individual permit, without significantly affecting operating costs or revenues. Additionally, although applicants that are initially issued transferable charter halibut permits with a reduced number of angler endorsements resulting from this action likely would receive a lower price for the permit upon transfer, future holders of these charter halibut permits should not be affected. While

these future permit holders may generate less gross revenue from using the permit than they otherwise would have from a greater number of angler endorsements, they also should have to pay less for the permit. Overall, the reduced permit value likely will be balanced by the reduced purchase costs of affected permits.

Comment 5: One commenter suggested that NMFS implement an effective peer review process for developing proposed and final rules and implementing fishery management programs such as the charter halibut permit program. This review process should include a comparison of the rule to the requirements specified in the Council motion. This process also should include review of regulations by subject matter experts such as Council staff, ADF&G staff, and Council advisory committees.

Response: NMFS agrees that a robust review process is an important component of developing effective fisheries management regulations. NMFS, Alaska Region worked with the Council during the development of this action and considers the Council's recommendations during all stages of a rule's development. NMFS, Alaska Region also considers input by other relevant agency staff, affected stakeholders, and the public when promulgating a final rule. NMFS appreciates the commenter's suggestion for peer review of proposed and final rules and will consider how it might be incorporated in the existing process.

Changes From the Proposed Rule

NMFS did not make any changes from the proposed rule, published on July 6, 2010 (75 FR 38758), to the final rule.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the Council, and the Secretary. Section 773c(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters, as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 12962

This final rule is consistent with Executive Order 12962 as amended September 26, 2008, which requires federal agencies to ensure that recreational fishing is managed as a sustainable activity, and is consistent with existing law.

Regulatory Flexibility Act

A FRFA was prepared as required by section 603 of the Regulatory Flexibility Act. The FRFA describes the economic impact this final rule will have on small entities. The RIR/FRFA prepared for this final rule is available from NMFS (see ADDRESSES). The FRFA for this action explains the need for, and objectives of, the rule; summarizes the public comments on the initial regulatory flexibility analysis and agency responses; describes and estimates the number of small entities to which the rule will apply; describes projected reporting, recordkeeping, and other compliance requirements of the rule; and describes the steps the agency has taken to minimize the significant economic impact on small entities, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. The need for and objectives of this action; a summary of the comments and responses; a description of the action, its purpose, and its legal basis; and a statement of the factual, policy, and legal reasons for selecting the alternative implemented by this action are described elsewhere in this preamble and are not repeated here.

The proposed rule was published in the *Federal Register* on July 6, 2010 (75 FR 38758). An IRFA was prepared and described in the classification section of the preamble to the rule. The public comment period ended on August 5, 2010. NMFS received five comments from two individuals and two organizations. Although none of the comments directly addressed the IRFA, Comment 4 discussed the economic impact of this regulation on affected entities.

The entities directly regulated by this action are guided charter businesses that qualify to receive more than one charter halibut permit in IPHC Areas 2C and 3A. NMFS estimates that under the status quo, 89 firms qualify to receive more than one charter halibut permit in Area 2C, and 69 firms qualify to receive more than one charter halibut permit in Area 3A. While quantitative information

on individual charter business revenues is lacking, almost all of these firms are believed to be small entities under the terms of the Regulatory Flexibility Act. The only exceptions may be some lodge-based operations in Southeast Alaska.

The Small Business Administration (SBA) specifies that for marinas and charter/party boats, a small business is one with annual receipts less than \$6.0 million. The largest of these charter operations, which are lodges, may be considered large entities under SBA standards, but that cannot be confirmed because NMFS does not collect economic data on lodges. All other charter operations likely are small entities based on SBA criteria, because they would be expected to have gross revenues of less than \$6.0 million on an annual basis.

The RIR/FRFA (see ADDRESSES) prepared for this action did not identify any new projected reporting, recordkeeping, and other compliance requirements on directly regulated entities. Under this final rule, NMFS will notify affected applicants of the change to the angler endorsement assigned to a charter halibut permit that will be issued to an applicant.

NMFS has not identified other Federal rules that may duplicate, overlap, or conflict with this final rule.

The objective of this action is to more closely align angler endorsements assigned to the second and subsequent charter halibut permits issued to a business with the actual greatest number of anglers reported for each vessel that a business used to qualify for charter halibut permits. The Council's preferred alternative for this action, as implemented by this final rule, will reduce the total number of angler endorsements assigned to charter halibut permits from the number of endorsements that would be assigned under the status quo alternative.

As noted above, all or most of the entities that are directly impacted by this regulation are small entities. This action likely will not have a significant adverse impact on some of these entities relative to the status quo alternative. Generally, a reduction in the number of angler endorsements assigned to a charter halibut permit reduces the potential for profit from that permit, because a permit with fewer endorsements will authorize fewer charter vessel anglers on any given fishing trip. However, the RIR/FRFA (see ADDRESSES) prepared for this action notes that individual charter halibut permits could be used more or less intensively by charter vessel operators to meet angler demand. Charter vessel operators that receive a reduced number

of angler endorsements under this action could lessen the effect of this reduction by increasing the average number of anglers on a charter vessel fishing trip, or by increasing the average number of charter vessel fishing trips associated with an individual permit. Changes in the average number of anglers on an individual charter vessel fishing trip likely would produce relatively modest changes in the operator's costs and revenues for the trip. On balance, these changes are not likely to have a significant economic impact on an individual charter vessel operator.

The Council and NMFS considered two alternatives for this action. Alternative 1 was the status quo alternative, which was rejected because it did not achieve the Council's objectives for determining the number of angler endorsements assigned to charter halibut permits. Alternative 2 was the Council and NMFS' preferred alternative. The Council and NMFS considered three options for Alternative 2. Option 1 would have determined a vessel-specific angler endorsement for businesses receiving more than one charter halibut permit for all vessels used in one year of the qualifying period, rather than considering all vessel activity in both 2004 and 2005. Option 2 would have used the same one-year restriction for determining angler endorsements, but applied the action to all businesses that would qualify to receive charter halibut permits, rather than limiting the action only to charter businesses that would qualify to receive more than one charter halibut permit. The Council and NMFS rejected Options 1 and 2 because they would result in changes to the status quo method of assigning angler endorsements to the first charter halibut permit issued to affected businesses, in addition to changing the status quo method of assigning angler endorsements to the second and subsequent charter halibut permit issued to affected businesses. In recommending the preferred alternative (Alternative 2, Option 3), which is the alternative implemented by the rule, the Council clarified that it intended to revise the status quo method of assigning an angler endorsement only to the second and subsequent charter halibut permits received by a business receiving more than one permit. The Council did not intend to revise the status quo method of assigning an angler endorsement to the first charter halibut permit received by any qualifying business. Therefore, the preferred alternative, Alternative 2, Option 3, as

implemented by this final rule, accomplishes the distributional objectives of the Council with the least adverse impact on directly regulated entities.

Data on cost structure, affiliation, and operational procedures and strategies in the halibut charter vessel sector are unavailable, and NMFS is unable to quantify the economic impacts of this action on affected small entities for any of the options analyzed. The qualitative analysis in the RIR/FRFA (see **ADDRESSES**) estimates that none of the options considered under this action are expected to have a significant impact on small entities. While there may be some costs imposed on small entities through impacts on permit flexibility and implementation expenses, these impacts are likely to be small, because of the limited impact of this action on the operational efficiency of an individual charter operator.

Collection of Information

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by the Office of Management and Budget (OMB) under Control Number 0648-0592. Public reporting burden estimate per response for the charter halibut permit application is two hours. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to OIRA_Submission@omb.eop.gov, or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: September 13, 2010.

John Oliver,
Deputy Assistant Administrator for
Operations, National Marine Fisheries
Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 300, subpart E as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

■ 2. In § 300.67:

■ a. Redesignate paragraphs (e)(1) and (e)(2) as paragraphs (e)(5) and (e)(6), respectively;

■ b. Revise paragraph (e) introductory text;

■ c. Add paragraphs (e)(1) through (e)(4); and

■ d. Revise newly redesignated paragraph (e)(5) to read as follows:

§ 300.67 Charter halibut limited access program.

* * * * *

(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 vessel 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.

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