



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

September 24, 2010

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Chairman Olson:

We would like to review with the North Pacific Fishery Management Council (Council) the draft regulations for the halibut catch sharing plan (CSP) for International Pacific Halibut Commission (IPHC) regulatory Area 2C (Southeast Alaska) and Area 3A (Southcentral Alaska) to ensure they are consistent with Council intent. The Council's proposed CSP has three components: (1) a combined catch limit annually specified by the IPHC that is allocated between the commercial and charter halibut fisheries using percentage allocations proposed by the Council; (2) annual management measures (CSP restrictions) for the charter halibut fishery that are intended to maintain harvest within the range targeted by the Council for the charter allocation and specified annually by the IPHC using a nondiscretionary process proposed by the Council; and (3) the opportunity for commercial halibut individual fishing quota (IFQ) holders to lease (transfer on an annual basis) halibut IFQ to charter halibut permit holders as Guided Angler Fish (GAF).

The purpose of the review is to highlight those areas in the regulations where it was necessary for NMFS to make assumptions about Council intent for purposes of implementation and enforcement of the CSP. This letter will summarize those issues for the Council and provide a rationale for the assumptions made in the draft CSP regulations. We have enclosed a draft copy of the regulations for Council review that shows the potential revisions to current regulations. At the Council meeting, NMFS staff will be prepared to provide an overview of the draft CSP regulations and the issues raised in this letter. Please note that although we developed the draft CSP regulations with input from staff of the Council, Alaska Department of Fish and Game, IPHC and NOAA General Counsel, these regulations may undergo further refinement as we prepare the CSP proposed rule for agency review.

1. Effective CSP restriction when projected charter harvest is below allowable range specified by the Council

The Council recommended that the CSP restrictions for charter vessel anglers be determined each year following the IPHC's specification of a combined catch limit for Area 2C and Area 3A. The Council's preferred alternative establishes allocations to the commercial and charter sectors at identified levels of halibut abundance and the CSP restrictions for the charter sector, as determined by projections of associated charter halibut removals. Attachment 1 presents the suite



of CSP allocations and bag limit and size limit restrictions at designated tiers of halibut abundance.

In situations where the projected charter halibut harvest falls below the lowest level of the allowable range around the charter sector allocation in the appropriate tier, the Council motion states that:

“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.”

NMFS assumed that if projected charter halibut harvest under the default CSP restriction is below the lowest level of the allowable range, a second projection of charter harvest would be prepared assuming that the CSP restriction is the default CSP restriction specified under the next higher trigger (i.e., the next less restrictive CSP restriction). If that projected harvest is equal to or less than the highest value of the allowable range for the next higher trigger, the effective CSP restriction for the year would be the default CSP restriction of the next higher trigger. If the projected harvest is greater than the highest value of the allowable range for the next higher trigger, the effective CSP restriction would be the default CSP restriction of the initial trigger, even though projected charter harvest under that CSP restriction was below the allowable range (*see Attachment 1 to this letter and Tables 5 and 6 on pages 32 and 35 of the enclosed draft regulations*).

In Attachment 1, for example, if the appropriate halibut abundance tier for Area 2C is tier 3, the allowable projected charter harvest ranges from 11.6% to 18.6% of the annual combined catch limit, and the default CSP restriction is that charter vessel anglers may retain two halibut, and one halibut must be less than 32 inches in length. If the projection of charter halibut harvest under the default CSP restriction is 11.0%, a second projection would be prepared using the default CSP restriction under the “next higher trigger,” which is that charter vessel anglers may retain two halibut of any size. If the second projection of charter halibut harvest under a two halibut of any size daily bag limit is less than or equal to 18.6% of the combined catch limit, the two halibut of any size daily bag limit would be the effective CSP restriction for that year. If the second projection of charter halibut harvest under a two halibut daily bag limit is greater than 18.6% of the combined catch limit, the effective CSP restriction would be the default CSP restriction under tier 3; charter vessel anglers may retain two halibut, and one halibut must be less than 32" in length.

2. Line limit in Area 2C

The Council motion was silent on whether the Area 2C line limit currently in regulation¹ should be retained under the CSP. NMFS assumed the Council intended to remove the Area 2C line limit from federal regulations for three reasons. First, the CSP restrictions identified by the

¹ Current regulations at 50 CFR 300.65(d)(2)(iii) restrict the number of lines used to fish for halibut onboard a vessel in Area 2C to six or the number of charter vessel anglers, whichever is less.

Council to control harvest to specified management objectives did not include line limits. Second, the six-line limit does not directly restrict halibut retention by charter vessel anglers, which is the focus of CSP restrictions under the Council's preferred alternative. Instead, the draft CSP regulations would remove existing harvest restrictions such as the Area 2C one halibut daily bag limit, and specify that the effective CSP restrictions would be determined by the CSP, as presented in Attachment 1. Following that rationale, NMFS assumed that the CSP restrictions presented in Attachment 1 also would replace the existing Area 2C line limit.

Third, the original objective for the federal line limit regulations to help control charter angler fishing effort has largely been achieved by the new angler endorsement on charter halibut permits established under the charter vessel limited access program. Similarly, United States Coast Guard safety regulations also limit the number of passengers for hire that may be onboard most charter vessels.

3. Rules for Community Quota Entities (CQEs) transferring IFQ to GAF or receiving GAF

The Council motion stated:

“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.”

The Regulatory Impact Review prepared for the CSP and reviewed by the Council at the time of final action in October 2008 stated (page 102):

“A CQE is allowed to lease 100 percent of the halibut they hold to eligible residents in their communities. This means a CQE may convert 100 percent of its annual IFQ to GAF for use on its halibut community harvest permit, may lease 100 percent of its IFQ out as GAF to another CQE, may lease 100 percent of its IFQ to community residents (subject to current holding limitations), or may lease GAF to its own community residents that hold community charter halibut permits. Therefore, the only limitation on CQE leases is that no individual that receives IFQ (or GAF derived from that IFQ) may hold, individually or collectively, more than 50,000 lb of halibut IFQ and GAF derived from the IFQ, combined.”

NMFS drafted the final rule to comply with the description in the analysis regarding the Council's intent for the instances in which CQEs transferring IFQ to GAF or receiving GAF from an IFQ permit holder would be exempt from the transfer limits the Council specified for GAF² (see §300.65(c)(6)(iv)(F) on page 19). Attachment 2 presents the draft CSP rules for transfers between IFQ and GAF for CQEs.

² Commercial halibut QS holders may lease up to 1,500 pounds or 10 percent (whichever is greater) of their annual IFQ to charter halibut permit holders (including themselves) for use as GAF on charter halibut permits. No more than 400 GAF may be assigned to a GAF permit linked to a charter halibut permit endorsed for 6 or fewer charter vessel anglers, and no more than 600 GAF may be assigned to a GAF permit linked to a charter halibut

In summary:

A CQE would be exempt from the IFQ to GAF transfer limits when the CQE transfers IFQ as GAF to:

- (a) itself for use with a charter halibut permit³ or a community charter halibut permit⁴ it holds,
- (b) an eligible community resident holding a charter halibut permit, or
- (c) another CQE for use with a charter halibut permit or a community charter halibut permit held by the CQE receiving GAF.

A CQE would not be exempt from the IFQ to GAF transfer limits when the CQE:

- (a) receives GAF from an IFQ permit holder that is not a CQE, or
- (b) transfers GAF to a charter halibut permit holder that is not an eligible resident of the community represented by the CQE.

All IFQ to GAF transfers involving a CQE would be subject to the IFQ program use cap at 50 CFR 679.42(f)(6), which specifies that “No individual that receives IFQ derived from halibut QS 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 (*see §300.65(c)(6)(iv)(E)(4) on page 19*).

The draft regulations at §300.65(c)(6)(iv)(F)(2) (*see page 19*) also reflect a discussion in the October 2008 draft Regulatory Impact Review (pages 102 and 103) about the definition of “eligible community resident” for purposes of GAF transfers:

“The term “resident” needs to be clarified in this context because businesses are expected to hold CHPs. For a business to be considered a resident of a community it could either be required to be headquartered in the community or operate in that community. One purpose of this provision is to increase economic activity in these remote communities that do not have a “fully” developed halibut charter industry. Requiring that the charter activity takes place in the community will help insure the community derives economic

permit endorsed for more than 6 charter vessel anglers (*see §300.65(c)(6)(iv)(E) on page 18*). NMFS will evaluate these limits individually and collectively, consistent with the application of use caps in the IFQ program.

³ Current regulations at 50 CFR 300.67(k)(4)(i) and (ii) authorize eligible CQEs to hold charter halibut permits, in addition to community charter halibut permits that will be issued at no cost. Eligible CQEs in Area 2C may hold a maximum of four charter halibut permits and four community charter halibut permits, for a total of eight. Eligible CQEs in Area 3A may hold a maximum of seven charter halibut permits and seven community charter halibut permits, for a total of fourteen.

⁴ Current regulations at 50 CFR 300.67(k)(5) require that every charter vessel fishing trip authorized by a community charter halibut permit must begin or end within the boundaries of the community represented by the CQE holding the permit. The regulations do not require that an eligible community resident of the CQE community use the community charter halibut permit.

benefit from those operations. Therefore, it is assumed that “resident” means that the CHP holder must operate their business out of the community.”

The draft regulations revise the definition of eligible community resident for purposes of IFQ to GAF transfers under the Area 2C and Area 3A CSP (*see page 43*). A person (either an individual or a non-individual entity) holding a charter halibut permit would have to either begin or end a charter vessel fishing trip authorized by their charter halibut permit within the boundaries of the community represented by the CQE to qualify as an eligible community resident of that CQE for purposes of IFQ to GAF transfers⁵. If a CQE transfers IFQ as GAF to an eligible community resident, the transfer would not be subject to the IFQ to GAF transfer limits.

4. Retention of logbooks for two years

The draft regulations add a new requirement at §300.65(d)(2) for the person to whom the Alaska Department of Fish & Game issues a Saltwater Sport Fishing Charter Trip Logbook (*see page 20*). That person would be required to retain the logbooks for their charter operation for two years following the end of the fishing season and make the logbooks available for inspection by an authorized officer. This additional requirement is necessary for enforcement of the CSP and other regulations pertaining to charter operators and charter vessel anglers, such as GAF use.

The logbook is an official record of the fishing activity that occurred during all fishing trips. In addition to having the logbooks onboard a vessel during a charter vessel fishing trip (will be required under limited access program at §300.66(w), *see page 26*), retention of logbooks for a period of time is necessary to facilitate investigations of complaints or possible violations that are received after the fishing activity occurs.

5. Prohibition on conducting commercial and charter fishing from the same vessel on the same day

The Council motion stated:

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

The draft CSP regulations include this prohibition at §300.66(i) (*see page 24*). The draft regulations also include a prohibition at §300.66(h) (*see page 24*) on charter and subsistence fishing from the same vessel on the same day, based on Council and NMFS staff understanding that the Council’s recommendation implied this prohibition.

⁵ The analysis did not define “operate their business out of the community,” so NMFS applied the same requirement for using community charter halibut permits (see footnote 4) to the definition of eligible community resident for purposes of IFQ to GAF transfers involving CQEs.

Secondary issues initially highlighted in the October 2008 implementation plan

6. GAF permit issuance and use

The Council motion stated:

“A LEP (Limited Entry Permit) holder may lease IFQ for conversion to GAF **for use on the LEP**” (emphasis added).

The October 2008 CSP implementation plan indicated that charter halibut permit holders receiving GAF would be issued a separate GAF permit. Designating GAF on a charter halibut permit could negatively impact charter operations. If GAF were designated on the charter halibut permit, NMFS would have to reissue the charter halibut permit to reflect the modified GAF balance for each GAF transfer. This would require a charter halibut permit holder to return their charter halibut permit to NMFS for each GAF transfer. Under the charter halibut permit program, charter operators will be required to have onboard the vessel the original copy of the charter halibut permit they are using to authorize the charter vessel fishing trip (*see §300.66(s) on page 25*). This requirement enables enforcement of the charter halibut permit program to ensure that each operator has a valid charter halibut permit onboard the vessel. The transit time required for returning a charter halibut permit to NMFS, modifying the permit for a GAF transfer, and returning the permit to the permit holder could disrupt the business operations of the charter halibut permit holder.

Under the draft CSP regulations, charter operators engaging in GAF transfers would receive a GAF permit, which would be linked to only one charter halibut permit (*see §300.65(c)(iii)(A)(4) on page 17*) for the rest of that year. The draft regulations require a person to identify the charter halibut permit his or her GAF permit would be linked to when applying for a transfer of IFQ to GAF. This is effectively the same as designating GAF on a charter halibut permit.

7. Conversion of IFQ to GAF

The Council motion stated:

“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 draft regulations include this recommendation at §300.65(c)(6)(ii)(F) (*see page 16*). The whole pounds of IFQ transferred to or from an IFQ permit holder in Area 2C or Area 3A would be equal to the whole number(s) of GAF transferred to or from the GAF account of GAF permit holder in the corresponding area, multiplied by the estimated average weight of halibut harvested by charter vessel anglers for that area. NMFS would not transfer fractions of pounds, but would round up to the nearest whole pound when transferring IFQ to GAF and when transferring GAF to IFQ.

8. Daily electronic reporting of GAF

The draft regulations require GAF permit holders to report retained GAF by midnight of the day on which it is retained using a NMFS-approved electronic reporting system (*see §300.65(d)(4)(iii)(A) on page 22*). As noted in the October 2008 CSP implementation plan, real time reporting of GAF landings and other GAF account and permit information is essential to support participant access to current account balances for account management. GAF permit holders also would be required to report GAF in Alaska Department of Fish & Game logbooks onboard the vessel (*see §300.65(d)(4)(ii)(B)(6) on page 22*).

Management personnel need real-time account information to manage permit accounts, conduct transfers, assess fees and generate accurate public data reports that track harvest. Enforcement personnel need real-time account information to monitor GAF use and monitor compliance with authorized GAF harvests and other program rules.

9. Return of GAF to IFQ permit holder

The Council motion stated:

“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.” (emphasis added)

As discussed in the October 2008 CSP implementation plan, the draft CSP regulations require that the GAF permit holder and the IFQ permit holder from which they received GAF complete an application to transfer (return) GAF to IFQ (*see §300.65(c)(6)(ii)(A) and (B) on page 13*). A transfer of IFQ to GAF is voluntary, thus NMFS interpreted the Council’s motion to recommend that a voluntary transfer (return) of unharvested GAF to IFQ could take place prior to November 1, at which time any unharvested GAF would automatically be returned by NMFS to the IFQ permit holder.

To reflect the voluntary nature of transfers between IFQ and GAF prior to November 1, the draft regulations require that both parties engaging in a GAF transfer (either a transfer of IFQ to GAF or a voluntary return of GAF to IFQ) complete and sign a transfer application for submittal to NMFS.

10. Cost recovery fees for GAF

The October 2008 CSP implementation plan stated:

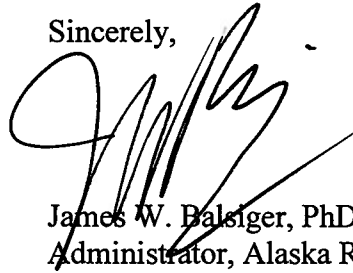
“The commercial IFQ holder would be responsible for all cost recovery fees in IFQ pounds harvested for his/her IFQ permit(s) and also for pounds transferred and harvested as GAF which originated from his/her IFQ account(s).”

The draft regulations implement this approach at §679.45 (*see page 50*). As discussed in the CSP implementation plan, the draft regulations specify that NMFS would determine the cost recovery liability for IFQ permit holders based on the value of all landed IFQ and GAF derived from his or her IFQ permits. NMFS would convert landings of GAF in Area 2C or Area 3A to IFQ equivalent pounds (*see issue 7 above*) and multiply the IFQ equivalent pounds by the standard ex-vessel value computed for that area to determine the value of IFQ landed as GAF. The value of IFQ landed as GAF would be added to the value of the IFQ permit holder's landed IFQ, and the sum would be multiplied by the IFQ fee percentage to estimate the person's IFQ fee liability.

The standard ex-value applied to GAF landings would be calculated based on the actual ex-vessel values of IFQ halibut landings based on information provided in the IFQ Buyer Reports price, and the draft regulations specify that the standard ex-vessel value cannot be challenged by the IFQ permit holder.

I appreciate the opportunity to review the draft regulations for the halibut CSP with the Council. NMFS staff will be available to answer any questions the Council may have regarding the proposed regulatory approach for implementing the Council's motion on the halibut CSP.

Sincerely,



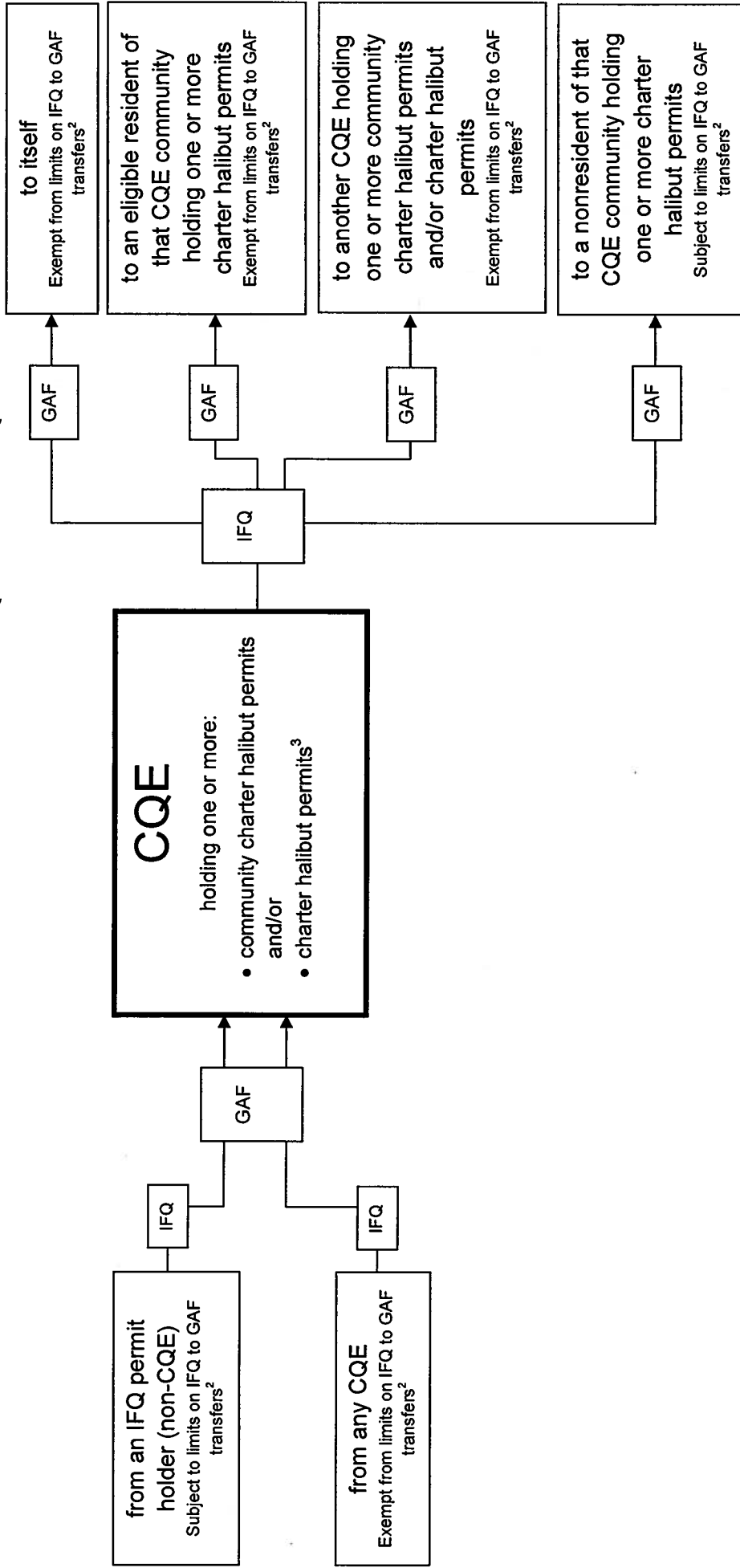
James W. Balsiger, PhD
Administrator, Alaska Region

Attachments

Attachment 1 - CSP allocations and bag limit and size limit restrictions

| Preferred Alternative: Area 2C | | | | |
|--|---|--|--|---|
| Annual Combined Catch Limit (million lb) | Allocation | Charter Fishery Bag & Size Limit Regulations | | |
| | | Default CSP restriction: If charter harvest within allocation range | Next lower trigger CSP restriction: If charter harvest projected to exceed allocation range | Next higher trigger CSP restriction: If charter harvest projected to be below allocation range |
| Tier 1 <5 | Comm alloc = 82.7% Charter alloc = 17.3% Charter range = 13.8-20.8% | One fish | Maximum size limit imposed that brings harvest to <17.3% | One fish |
| Tier 2 ≥5 - <9 | Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6% | One fish | Maximum size limit imposed that brings harvest to <15.1% | Two fish, but one must be less than 32" in length |
| Tier 3 ≥9 - <14 | Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6% | Two fish, one must be less than 32" in length | One fish | Two Fish |
| Tier 4 ≥14 | Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6% | Two Fish | Two fish, but one must be less than 32" in length | Two Fish |
| Preferred Alternative: Area 3A | | | | |
| Annual Combined Catch Limit (million lb) | Allocation | Charter Fishery Bag & Size Limit Regulations | | |
| | | Default CSP restriction: If charter harvest within allocation range | Next lower trigger CSP restriction: If charter harvest projected to exceed allocation range | Next higher trigger CSP restriction: If charter harvest projected to be below allocation range |
| Tier 1 <10 | Comm alloc = 84.6% Charter alloc = 15.4% Charter range = 11.9-18.9% | One fish | Maximum size limit imposed that brings harvest to <15.4% | One fish |
| Tier 2 ≥10 but <20 | Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5% | One fish | Maximum size limit imposed that brings harvest to <14.0% | Two fish, but one must be less than 32" in length |
| Tier 3 ≥20 but <27 | Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5% | Two fish, one must be less than 32" in length | One fish | Two Fish |
| Tier 4 ≥27 | Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5% | Two Fish | Two fish, but one must be less than 32" in length | Two Fish |

Attachment 2 -- Draft rules for transfers between IFQ and GAF for CQEs¹



¹ All IFQ to GAF transfers involving a CQE would be subject to an individual use cap under the IFQ program at 50 CFR 679.42(f)(6), which specifies that "No individual that receives IFQ derived from halibut QS 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."

² IFQ to GAF transfer limits: Commercial halibut QS holders may lease up to 1,500 pounds or 10 percent (whichever is greater) of their annual IFQ to charter halibut permit holders (including themselves) for use as GAF on charter halibut permits. No more than 400 GAF may be assigned to a charter halibut permit linked to a GAF permit endorsed for 6 or fewer charter vessel anglers, and no more than 600 GAF may be assigned to a GAF permit linked to a charter halibut permit endorsed for more than 6 charter vessel anglers. Community charter halibut permits will be endorsed for 6 charter vessel anglers. IFQ to GAF transfer limits will be evaluated "individually and collectively".

³ Current regulations at 50 CFR 300.67(k)(4)(i) and (ii) authorize eligible CQEs to hold charter halibut permits, in addition to community charter halibut permits that will be issued at no cost. Eligible CQEs in Area 2C may hold a maximum of four charter halibut permits and four community charter halibut permits, for a total of eight. Eligible CQEs in Area 3A may hold a maximum of seven charter halibut permits and seven community charter halibut permits, for a total of fourteen. Current regulations at 50 CFR 300.67(k)(5) require that every charter vessel fishing trip authorized by a community charter halibut permit must begin or end within the boundaries of the community represented by the CQE holding the permit. The regulations do not require that an eligible community resident of the CQE community use the community charter halibut permit.

This page is for information only

TITLE 50--Wildlife and Fisheries

CHAPTER III--INTERNATIONAL FISHING AND RELATED ACTIVITIES

SUBCHAPTER K--CONTINENTAL SHELF

PART 300--INTERNATIONAL FISHERIES REGULATIONS

Subpart E--PACIFIC HALIBUT FISHERIES

- §300.60 Purpose and scope.
- §300.61 Definitions.
- §300.62 Annual management measures.
- §300.63 Catch sharing plan and domestic management measures in Area 2A.
- §300.64 Fishing by U.S. treaty Indian tribes.
- §300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.
(a) General description
(b) Catch sharing plan for Area 4
(c) Guideline harvest level (**to be replaced by Area 2C and Area 3A catch sharing plan**)
(d) Charter vessels in Area 2C and Area 3A (angler restrictions and reporting and recordkeeping)
(e) LAMP for Sitka Sound
(f) Sitka Pinnacles Marine Reserve
(g) Subsistence fishing in and off Alaska
(h) Limitations on subsistence fishing
(i) Subsistence registration
(j) Community harvest permit
(k) Ceremonial Permit and Educational Permit
(l) Appeals
- §300.66 Prohibitions.
- §300.67 Charter halibut limited access program.

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)

$$P_{max} = \frac{6.921(10^{-9})L_{in}^{3.24}H_p}{C_L}$$

(3)

$$\frac{P_{max} \cdot C_L}{H_p} = 6.921(10^{-9})L_{in}^{3.24}$$

(4)

$$\frac{F_{max} \cdot C_L}{6.921(10^{-8})H_p} = L_{cm}^{3.24}$$

(5)

$$\ln \left[\frac{F_{max} \cdot C_L}{6.921(10^{-8})H_p} \right] = 3.24 \ln L_{cm}$$

(6)

$$\frac{1}{3.24} \ln \left[\frac{F_{max} \cdot C_L}{6.921(10^{-8})H_p} \right] = \ln L_{cm}$$

(7)

$$e^{\frac{1}{3.24} \ln \left[\frac{F_{max} \cdot C_L}{6.921(10^{-8})H_p} \right]} = L_{cm}$$

(8)

$$e^{\frac{1}{3.24} \ln \left[\frac{F_{max} \cdot C_L}{6.921(10^{-8})H_p} \right] / 2.541} = L_{cm}$$

(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 CQE 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 CQE applying to transfer between IFQ and GAF has submitted a complete annual report(s) as required by §679.5(l)(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:

$IFQ_{pounds_{ia}} = (GAF_{ga} \times average\ weight_a).$

(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) 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.~~

~~(4) *Guided Angler Fish (GAF) permit number.* The NMFS GAF permit number(s) authorizing charter vessel anglers onboard the vessel to harvest GAF.~~

~~(5) *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.~~

~~(6) *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.~~

~~(7) *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.

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§ 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.

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

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

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

community or by rural residents residing within ten statute miles of the rural location listed on the person's SHARC application; or

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

(~~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~~y) 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

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§ 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.

* * * * *

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> |

| | | | | | | |
|----------------------------------|---------------------------------|--------------|---------------|--|--|--|
| | | | | | <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> | | | | <u>10.5% of the annual combined catch limit</u> | <u>Subpart E.</u> |
| | | | | | <u>between 10.5% and 17.5% of the annual combined catch limit</u> | <u>limited to no more than one halibut of any size.</u> |
| | | | | | <u>greater than 17.5%</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>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> |

| | | | | | |
|----------------------------------|---------------------------------|--------------|---------------|---|--|
| <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(l)(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(l)(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 ~~or the IFQ actual 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) *IFQ 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.

~~(c) 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:

$$100 \times (\text{DPC} / \text{V})$$

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)~~(24)~~~~and (3)~~, the Regional Administrator ~~may~~will:

~~(4)~~ *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.

~~(fe)~~ *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. ~~d~~ 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~~otify 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, ~~F~~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.

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

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.

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

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.

Comment [r5]: Table 3 on page 30

Comment [r6]: Table 3 on page 30

Comment [r7]: Table 5 on page 32

Trigger 1: When the combined charter and setline catch limit is below 5 Milb, 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 [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 ≥ 10 Mlbs 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 ≥ 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 ≥ 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.

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

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

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.

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

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.

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

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

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

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

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

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.

Comment [r57]: §300.65(c)(6)(iv)(E)(2) on page 19

Comment [r58]: See references for provisions D through H 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).

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

D. Subleasing of GAF would be prohibited.

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

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.

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

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

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.

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

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.

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

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

Comment [r65]: §300.66(i) on page 24