

Natural Resource Management Plan (INRMP);

(10) Whether areas which are managed for the conservation of the species should not be included in critical habitat because such areas do not meet the definition of critical habitat contained in section 3(5)(A)(i) of the Act;

(11) Whether areas covered by an approved conservation plan (e.g., Habitat Conservation Plans, Conservation Agreements, Safe Harbor Agreements) should be excluded from critical habitat and if so, by what mechanism; and

(12) Whether areas should be excluded under section 4(b)(2) of the Act because critical habitat designation will impact other types of existing or future conservation partnerships that are beneficial to the species.

In addition, we are seeking comments or suggestions on the associated draft economic analyses of the proposed critical habitat designations and non-designations for plant species from Kauai, Niihau, and Molokai. The draft economic analyses can be obtained from the Pacific Islands Office (see

ADDRESSES section). We will solicit public review and comment on the associated draft economic analyses of the proposed critical habitat designations and non-designations for plant species from Maui and Kahoolawe, Northwestern Hawaiian Islands, Oahu, and the island of Hawaii in subsequent **Federal Register** notices.

Reopening of the comment periods simultaneously will provide the public an opportunity to evaluate and comment on all of the areas proposed as critical habitat for each species, particularly the species located on more than one island. The comment periods for the proposed critical habitat designations for plant species known historically from Kauai and Niihau, Maui and Kahoolawe, Molokai, Northwestern Hawaiian Islands, island of Hawaii, and Oahu now close on September 30, 2002. The comment period for the proposed critical habitat designation for plant species known historically from Lanai closes on August 30, 2002 (67 FR 46450). Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Christa Russell (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 15, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600 and 679

[Docket No. 020801186-2186-01; I.D. 053102D]

RIN 0648-AQ09

Pacific Halibut Fisheries; Subsistence Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to authorize a subsistence fishery for Pacific halibut in waters off Alaska. These regulations are necessary to allow qualified persons to practice the long-term customary and traditional harvest of Pacific halibut for food in a non-commercial manner. This action is intended to meet the conservation and management requirements of the Northern Pacific Halibut Act of 1982 (Halibut Act) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received at the following address not later than September 25, 2002.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel-Durall. Hand or courier deliveries of comments may be sent to NMFS, Alaska Region, 709 West 9th Street, Room 453, Juneau, AK 99801. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer). Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the environmental assessment/regulatory impact review (EA/RIR) prepared for this action are available from NMFS at the above

address or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7172 or jay.ginter@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Management of the Pacific halibut (hereafter halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the "Convention between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada, on March 2, 1953, and amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. This Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Halibut Act. Generally, fishery management regulations governing the halibut fisheries are developed by the IPHC and recommended to the U.S. Secretary of State. When approved, these regulations are published by NMFS in the **Federal Register** as annual management measures. For 2002, the annual management measures were published March 20, 2002 (67 FR 12885).

The Halibut Act also provides for the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations, in its geographic area of concern that would apply to nationals or vessels of the U.S. (Halibut Act, section 773(c)). Such an action by the Council is limited only to those regulations that are in addition to and not in conflict with IPHC regulations, and they must be approved and implemented by the U.S. Secretary of Commerce (Secretary). Any allocation of halibut fishing privileges must be fair and equitable and consistent with other applicable Federal law. This is the authority under which the Council acted in October 2000, to adopt a subsistence halibut policy.

The Council does not have a "fishery management plan" (FMP) for the halibut fishery. Hence, halibut fishery management regulations developed by the Council do not follow the FMP or FMP amendment procedures set out in the Magnuson-Stevens Act. Instead, a regulatory amendment process is followed. This process requires submission of the Council recommendation to the Secretary as a

proposed rule for publication in the **Federal Register** along with supporting analyses as required by other applicable law.

Subsistence fishing and hunting are well known in Alaska as customary and traditional practices of Alaska Natives and non-Natives, especially in rural areas with limited alternative food resources. As a means of survival long before the present time, subsistence harvesting is inextricably woven into the cultural fabric of Alaska Natives and the rural lifestyle. Current regulations that govern fishing for halibut in Convention waters off Alaska, however, do not recognize subsistence harvesting of halibut. The purpose of this action is to provide regulations that would authorize a subsistence fishery for halibut in Convention waters off Alaska. These regulations are designed to allow persons who have customarily and traditionally used halibut for food in the past to continue that practice. Formal recognition of the halibut subsistence fishery also is expected to improve information for stock assessment purposes through the collection of better data than are now available to estimate the subsistence harvest of halibut.

Beginning in 1996, the Council began to receive requests from various Alaska Native tribal organizations to recognize in regulations the established customary and traditional practices associated with the subsistence take of halibut. These organizations included the Central Council of Tlingit and Haida Indian Tribes of Alaska, the Coastal Villages Fishing Cooperative, and the Aleutian Pribilof Islands Association. These organizations requested formal subsistence regulations to resolve enforcement problems related to fishing practices for subsistence purposes.

In December 1996, the Council formed the Halibut Subsistence Committee (Committee), made up of seven members representing various Alaska Native tribes and chaired by a Council member. The Committee was tasked with developing recommendations for recognizing subsistence halibut fishing. The Committee met in January 1997 and provided its recommendations to the Council in February 1997. Based on those recommendations, the Council initiated development of an EA/RIR for a subsistence halibut fishery.

In April 1997, the Council approved a draft EA/RIR and in June 1997 took final action on one aspect of the subsistence halibut program. The provision recommended by the Council allowed persons participating in the Community Development Quota (CDQ) Program in IPHC Regulatory Area (Area)

4E to retain undersized halibut (less than 32 inches or 81.2 cm) for subsistence purposes. This recommendation was approved by the Secretary and implemented in 1998. The Council deferred action on all other aspects of the subsistence halibut program until the Alaska State Legislature considered changes to the Alaska State Constitution to make it consistent with U.S. Federal law relating to management of fish and game on Federal public lands in Alaska.

NMFS requested that the Council reschedule final action on a subsistence halibut management program after the Alaska State Legislature decided not to act by October 1999, as requested by Alaska's Congressional Delegation. In February 2000, the Council revised alternatives in the draft EA/RIR and scheduled initial review of the action in April 2000 and final action in June 2000.

The Council changed some of the alternatives at its April 2000 meeting. The Council decided to submit the revised alternatives to the Committee for review and delayed final action until October 2000. The Committee reviewed the revised alternatives in September 2000 and informed the Council that it believed that the alternatives considered in the EA/RIR were adequate. In October 2000, the Council took final action on its preferred alternative for the subsistence halibut program. Further information on alternatives considered and rejected can be found in the EA/RIR for this action (see **ADDRESSES**).

Specific Elements of the Halibut Subsistence Fishery

Definition Of Subsistence

As stated earlier, the main purpose of this action is to authorize a subsistence fishery for halibut in Convention waters off Alaska. Generally, subsistence means the act of maintaining life. Therefore, subsistence could refer to the collection or use of edible and non-edible items for basic food, shelter, or clothing. In the context of this action, however, subsistence refers to the act of collecting wild foods, i.e., halibut, for sustenance and cultural tradition by rural residents of Alaska or by members of Alaska Native tribes (defined in **Definition Of Eligibility**, below). Therefore, as used throughout this action, "subsistence halibut" is proposed to mean "halibut caught by a rural resident of Alaska or by 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" (see proposed definitions at § 300.61).

More specifically, the Council determined that subsistence halibut regulations were needed to authorize the long-term customary and traditional practices of fishing for halibut for food in a non-commercial manner for non-economic consumption by families. The Council then defined "subsistence" as "non-commercial, long-term, customary and traditional use of halibut." This definition is broad enough to capture the concepts of sustenance and cultural tradition while it limits behavior through the use of the term "non-commercial." Non-commercial fishing means that halibut caught in the subsistence fishery cannot be sold or otherwise marketed for commercial purposes. However, the Council recommended including a provision that authorizes the customary trade of subsistence halibut for non-commercial monetary (maximum annual limit of \$400 per person) and non-monetary exchange. The specific details of customary trade of subsistence halibut are discussed below.

Definition Of Eligibility

The Council reviewed several options for eligibility. The Council considered various concerns, including the cultural, traditional, and material needs of Alaska Natives and non-Natives. Developing eligibility criteria for a subsistence halibut fishery was a difficult determination for the Council, and the Council reviewed several different methods to determine eligibility before recommending its preferred alternative. Among these methods were criteria established by the Federal Subsistence Board (FSB), the Alaska Board of Fisheries (ABF), and the Alaska National Interest Lands Conservation Act (ANILCA).

Eventually, the Council crafted its own criteria for eligibility to fit the specific needs of the halibut subsistence program using the State of Alaska criteria for determining rural areas in which a subsistence lifestyle may be practiced (see Alaska Statute 16.05.258(c)) and FSB criteria derived from ANILCA. Persons eligible to conduct subsistence halibut fishing under the Council's recommended criteria are: (1) residents of rural places with customary and traditional uses of halibut and (2) all identified members of federally recognized Alaska Native tribes with a finding of customary and traditional uses of halibut. Tables provided in § 300.65(f) of the proposed rule list rural places with customary and traditional uses of halibut and list federally recognized Alaska Native tribes with a finding of customary and traditional uses of halibut. A person

must be a resident of a rural place listed in the table at 50 CFR 300.65(f)(1) or an identified member of a federally recognized Alaska Native tribe in the table at 50 CFR 300.65(f)(2) to be eligible to harvest subsistence halibut. The Council developed these lists based on findings of customary and traditional uses of halibut by the ABF or the FSB. Residents or identified members who believe that their rural place or federally recognized Alaska Native tribe was inadvertently left out of the tables or who are seeking eligibility for the first time, are encouraged to petition the appropriate body for a customary and traditional uses designation before petitioning the Council for inclusion in the tables.

Authorized Areas For Subsistence Halibut Harvest

The Council also provided recommendations about where eligible persons would be able to harvest subsistence halibut. Generally, eligible persons could harvest subsistence halibut in all Convention waters in and off Alaska except for areas designated as non-subsistence areas. Four non-subsistence areas would be defined in regulations at 50 CFR 300.65(g)(3). These are: (1) the Ketchikan non-subsistence area, (2) the Juneau non-subsistence area, (3) the Valdez non-subsistence area, and (4) the Anchorage/Matsu/Kenai non-subsistence area.

However, an exception to that general rule would apply to an eligible person who is an Alaska Native tribal member, who resides in an urban area, and whose tribal headquarters is located in a rural area with a customary and traditional uses designation. Such a person could only harvest subsistence halibut in the IPHC regulatory area where his or her tribal headquarters is located. The appropriate IPHC regulatory area for each tribal headquarters is given in the table at 50 CFR 300.65(f)(2).

Legal Gear For Harvesting Subsistence Halibut

The Council recommended that legal gear for harvesting subsistence halibut be limited to set and hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jig and hand-troll gear.

The Council's use of the term set gear refers to "setline gear," which is defined at 50 CFR 300.61. "Setline gear" means one or more stationary, buoyed, and anchored lines with hooks attached. "Longline gear," "Handline gear," "Jig gear," and "Hand troll gear" are defined at 50 CFR 679.2. "Longline gear" means hook-and-line, jig, troll, and handline or

the taking of fish by means of such a device. "Handline gear" means a hand-held line, with one or more hooks attached, that may only be operated manually. "Jig gear" means a single, non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device. Hand troll gear means one or more lines, with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically powered device or attachment.

"Rod and reel" and "spear" are defined at 50 CFR 600.10. "Rod and reel" means a hand-held (including rod holder) fishing rod with a manually or electrically operated reel attached. "Spear" means a sharp, pointed, or barbed instrument on a shaft. Spears can be operated manually or shot from a gun or sling.

Current regulations at 50 CFR 600.725(v) allow only hook and line gear for harvesting Pacific halibut. This action proposes to revise 50 CFR 600.725(v) to allow the use of setline gear, longline gear, rod and reels, and spears to harvest subsistence halibut.

The Council recommended the use of setline gear, longline gear, rod and reels, and spears based on public testimony and recommendations from its Halibut Subsistence Working Group that such gears have been and are used to harvest subsistence halibut. The Council recommended a limit "of not more than 30 hooks," after deliberations on sufficient gear to accommodate persons who subsistence fish as a proxy for others who depend on subsistence resources. The EA/RIR analyzed four possible limits: 2 hooks, 10 hooks, 30 hooks, and 60 hooks. The Council recommended a 30-hook limit because it determined that a 2-hook limit and a 10-hook limit would not provide proxy fishermen with sufficient gear to harvest subsistence halibut for an extended group or family, and 60 hooks would be too much gear for subsistence purposes and could lead to waste. The hook limit was considered together with daily bag limits, which the Council recommended should be 20 halibut per day (see Daily Bag Limit below). Allowing more than 30 hooks increases the chance that more halibut could be caught than allowed under the daily bag limit. For example, under a 30-hook limit, the ratio of halibut to hooks would have to exceed 67 percent to exceed the daily bag limit; however, under a 60-hook limit, the ratio of halibut to hooks would only have to be 33 percent.

Setline gear that is buoyed and used for subsistence fishing would be

required to be marked with the name and address of the subsistence fisher(s) using the gear. This requirement is consistent with other state and Federal subsistence regulations and is designed to facilitate enforcement of hook limits and return lost gear to the person(s) whose name and address are marked on the buoy.

Customary Trade Of Subsistence Halibut

The Council recommended to allow limited customary trade of subsistence halibut. Customary trade means the non-commercial exchange of subsistence halibut for money or anything other than items of significant value. Customary trade for money would be limited to \$400 annually. The Council was silent on whether the \$400 annual limit should apply to each person who harvests subsistence halibut or some other unit, e.g., household. However, the relatively nominal level of this monetary limit indicates that the possibility that someone would choose to fish for subsistence halibut for profit is extremely remote. Therefore, this proposed rule would apply the \$400 annual limit to each person who harvests subsistence halibut, which is the least restrictive interpretation of the Council's recommendation. The secondary sale of subsistence halibut by anyone other than the person who caught it would be prohibited.

During its deliberations on this issue, the Council suggested that subsistence halibut should be prohibited from the premises of commercial fish buying operations. Although the Council was very clear in its intent that customary trade of subsistence halibut should be allowed, the Council was also mindful of how easily subsistence halibut could be moved into the commercial sector. The Council intended to prevent the movement of subsistence halibut into the commercial sector by recommending that subsistence halibut be prohibited from the premises of commercial fish buying operations. The Council also recognized, however, that two existing practices should be allowed as exceptions to the general rule of no subsistence halibut on the premises of commercial fish buying operations. First, the existing practice of landing small halibut less than 32 inches (in) (81.2 centimeters (cm)) in length caught with CDQ halibut in Area 4E will be allowed to continue and expanded to Area 4D. In these areas, a person may retain halibut less than 32 in (81.2 cm) as subsistence halibut with commercial CDQ halibut provided that the total annual halibut catch of that person is landed at a port within Area 4E or Area

4D. This provision was implemented in 2002 by the IPHC in section 7 of its regulations published as the annual management measures for the Pacific halibut fishery on March 20, 2002 (67 FR 12885).

Second, a commercial fish buyer who is eligible to harvest subsistence halibut would be allowed to participate in the customary trade of subsistence halibut. NMFS recognizes that implementation of this prohibition may affect current practices, such as use of commercial premises to process subsistence products. Therefore, NMFS especially requests comments on how best to give effect to the Council's intent to prevent movement of subsistence halibut into the commercial sector without preventing current practices or the ability of eligible persons to freely participate in the subsistence halibut program.

Daily Bag Limit

The daily harvest limit for subsistence halibut outside of Areas 4C, 4D, and 4E, is up to 20 halibut per eligible subsistence fisherman. Although harvesting for subsistence purposes generally is self-limiting (i.e., limited by the amount that could be consumed or shared as food), the Council determined that a daily harvest limit should be established for equity among subsistence users and among all halibut user groups (i.e., commercial, recreational, and subsistence). No limit would be established, however, for Areas 4C, 4D, and 4E for two safety reasons. First, the annual time period available for subsistence halibut fishing in Areas 4C, 4D, and 4E is reduced because of sea ice coverage. Second, once the sea ice has melted, the potential to fish for subsistence halibut is further reduced because of frequent rough seas and inclement weather.

Registration

A system of registering eligible subsistence fishermen is proposed primarily to focus the collection of subsistence harvest information on those persons who are actually participating in the subsistence fishery. The exact number of persons who would be eligible to conduct fishing for subsistence halibut under this action is unknown but is estimated in the EA/RIR to be roughly 89,000. Previous subsistence harvest surveys suggest, however, that only about 10 percent of the eligible population actually would fish for subsistence halibut. A survey of a representative number of the entire population of eligible subsistence fishermen would therefore result in "no harvest" for 9 out of 10 persons

sampled. Hence, a more efficient and more accurate estimate of the total annual subsistence halibut harvest would result from surveying most (at least 80 percent) of those eligible persons who actually harvest subsistence halibut. By registering to conduct fishing for subsistence halibut, subsistence fishermen would provide NMFS with the basic information necessary to conduct a harvest survey.

NMFS considered alternative methods for estimating total annual subsistence halibut harvests in light of existing commercial, sport, and subsistence harvest assessment programs conducted by the State of Alaska and Federal governments. Also taken into account were the need for precision in estimating the subsistence harvest, predicted to be roughly 1 percent or less of the total fishing mortality of halibut, and the relative cost of collecting subsistence harvest information from a widely dispersed population. Finally, in selecting a registration and survey system for assessing subsistence harvests, NMFS considered the relative likelihood of cooperation by subsistence halibut fishermen in providing accurate information about their harvests under a variety of mandatory log book or other reporting schemes before selecting the proposed registration and survey approach.

A secondary purpose of the registration system is to distinguish between those persons who would be eligible to fish for subsistence halibut and those who would not be eligible. As explained above, a person could be eligible by being either a resident of a rural community or place listed in § 300.65(f)(1) of the proposed rule or a member of a federally recognized Alaska Native tribe listed in § 300.65(f)(2) of the proposed rule. All other persons, regardless of Native tribal affiliation, would not be eligible.

The registration system would be managed by the Restricted Access Management (RAM) Program Office of the Alaska Region, NMFS. The RAM Program manager would confirm the eligibility of registration applicants based on the information provided on an application form. If eligible, an applicant would receive from RAM a subsistence halibut registration certificate (SHARC). Depending on the basis of a person's eligibility, the SHARC he or she receives would expire either in 2 years, for a rural resident registration, or in 4 years, for an Alaska Native tribal registration. Maintaining a valid registration for more than one year would reduce the burden on eligible persons compared to applying for an annual SHARC.

NMFS recognizes that the risk of not having an annual SHARC application is that a non-Native rural resident could move to an urban area of Alaska or out of the State and yet retain an ability to fish for subsistence halibut until his or her SHARC expired. A member of an Alaska Native tribe, however, would retain subsistence halibut fishing eligibility regardless of his or her residency in a rural place. Nevertheless, for the information collection purposes of the registration system, NMFS would remove such an eligible person from the registration list if he or she ceased being actually engaged in subsistence halibut fishing by evidence of no registration renewal. Hence, the expiration or renewal period for a SHARC issued to a member of an Alaska Native tribe could be longer than that issued to a rural resident.

Complying with this proposed registration system by obtaining a SHARC before conducting subsistence fishing for halibut would be mandatory. The objective of NMFS in making this a mandatory requirement, however, is not to prevent otherwise eligible persons from harvesting subsistence halibut. Instead, the purpose is, as explained above, to collect information on participation and harvests in the subsistence halibut fishery and to distinguish between eligible and non-eligible persons during the fishing season.

The information collected on an application for a SHARC would be minimized to include basic identity and address information. Applications for a rural resident registration would differ from that for an Alaska Native tribal registration, however, in that the former would require the applicant to certify that he or she is a "rural resident," as that term is defined in the proposed rule text. The latter would require the applicant to certify that he or she is a member of an "Alaska Native tribe," as that term is defined in the proposed rule text (see § 300.61). The Alaska Region, NMFS, would seek to arrange cooperative agreements with state and local governments, Alaska Native tribal governments, or other entities to assist eligible subsistence halibut fishermen with registration procedures.

Further, NMFS would be conducting the harvest assessment survey, for which the registration system is designed, primarily through cooperative agreement with the State of Alaska Department of Fish and Game, Alaska Native tribes, or other experienced research institution. The proposed survey instrument would be designed to minimize the reporting burden on subsistence halibut fishermen while

retrieving essential information. The survey would collect information on the number and amount (in pounds) of halibut harvested as subsistence halibut, where the subsistence halibut was harvested (the IPHC regulatory area), the type of fishing gear used, and the catch of lingcod or rockfish while fishing for subsistence halibut, and would distinguish halibut harvested for subsistence from halibut harvested while sport fishing. Participation in this survey would be voluntary. A mandatory reporting system was considered and rejected by NMFS because it would lead to penalties for not reporting or misreporting harvest information, which ultimately would undermine the monitoring system. A voluntary system, however, can be designed to estimate the harvests of persons who choose not to participate in the survey as is done by the State of

Alaska in its state-wide harvest survey of recreational fishing harvests.

NMFS is particularly interested in public comment on the proposed registration system and harvest assessment survey, especially because implementation of the subsistence halibut management program was not fully addressed by the Council at the time it adopted its recommended subsistence halibut policy.

Restructuring of Regulations

Most of the Council-developed regulations implemented under the Halibut Act authority discussed above are codified at 50 CFR 300 Subpart E. For example, the catch sharing plans for IPHC regulatory Areas 2A and 4, and other management programs off Alaska are described at § 300.63. Fishing by U.S. treaty Indian tribes in IPHC regulatory Area 2A is described at § 330.64 and prohibitions are given at

§ 300.65. Regulations implementing the Individual Fishing Quota and CDQ programs in and off Alaska, however, are codified at 50 CFR part 679.

NMFS proposes to better distinguish the provisions affecting IPHC regulatory Area 2A from those affecting the other IPHC areas in and off Alaska by codifying them in separate sections. This action would leave all the provisions affecting IPHC regulatory Area 2A where they are now in §§ 300.63 and 300.64. The introductory paragraph in § 300.63 would be revised, however, to clarify this structural change. To complete this proposed change, the “Alaska” provisions currently in § 300.63 would be moved to a revised § 300.65 and a new prohibitions section would be added at § 300.66. Specifically, the proposed changes to the structure of § 300.63 are as follows:

| Current section and paragraph | Proposed new location | Would there be a change in the text? |
|--|--|--|
| Section 300.63(a) Catch Sharing Plan for Area 2A. | Section 300.63(b). | No, but a new introductory paragraph (a) would be added. |
| Section 300.63(b) Catch Sharing Plan for Area 4. | Section 300.65(b). | No, but a new introductory paragraph (a) would be added. |
| Section 300.63(c) “Short” halibut retention provision in Area 4E. | Section 300.65(c). | Yes, to reflect an allowance for “short” halibut to be retained as subsistence fish with CDQ halibut in areas 4D and 4E. |
| Section 300.63(d) The LAMP for Sitka Sound. Section 300.63(e) Sitka Pinnacles Marine Reserve. | Section 300.65(d). Section 300.65(e). | No. No, but the heading would be simplified. |

To avoid confusion in the amendatory language of each instruction, the full text of each paragraph that would be moved along with proposed revisions is repeated in this proposed rule. No substantive changes are proposed, however, in paragraphs (a), (b), (d), or (e) in existing § 300.63. The proposed change for these paragraphs is primarily a structural relocation of them within the CFR. The only substantive change related to the proposed subsistence halibut action would occur in existing § 300.63(c). The remaining proposed subsistence halibut rules would begin at new § 300.65(f) and § 300.66.

Classification

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless

that collection of information displays a currently valid OMB Control Number.

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 10 minutes per response for each registration, 30 minutes per response for each survey, and 15 minutes to mark each gear buoy, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS, Alaska Region and to the Office of Information and Regulatory Affairs (see ADDRESSES).

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows: The proposed rule would provide regulations that would

authorize a subsistence fishery for halibut in waters off Alaska that are managed under an international agreement between Canada and the United States-->Convention between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea." These regulations are designed to allow persons who have customarily and traditionally used halibut for food in the past to continue that practice. Formal recognition of the halibut subsistence fishery also is expected to improve information for stock assessment purposes through the collection of better data than are now available to estimate the subsistence harvest of halibut.

This proposed rule would not have a significant economic impact on a substantial number of small entities because it would only regulate individuals. It does not regulate or directly impact small entities as defined in the Regulatory Flexibility Act. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects

50 CFR Part 300

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements, Treaties.

50 CFR Part 600

Fisheries, Fishing.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: August 14, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 300, 600, and 679 are proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS, SUBPART E—PACIFIC HALIBUT FISHERIES

1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

2. In § 300.61, new definitions for "Alaska Native tribe," "Commission," "Commission regulatory area," "Customary trade," "Rural," "Rural resident," "Subsistence," and "Subsistence halibut" would be added in alphabetical order and existing definitions for "Commercial fishing,"

"IFQ halibut," and "Sport fishing" would be revised to read as follows:

§ 300.61 Definitions.

* * * * *

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(f)(2) of this part.

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.

* * * * *

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 money or anything other than items of significant value.

* * * * *

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.

Rural means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a community or area of Alaska 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, and that is listed in § 300.65(f)(1) of this part.

* * * * *

Rural resident means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a person domiciled in a rural community listed in the table in section 300.65(f)(1) of this part and who has maintained a domicile in a rural community listed in the table in § 300.65(f)(1) of 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 state, territory, or country.

Sport fishing means:

(a) in regulatory Area 2A, all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing; and

(b) in regulatory Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, all fishing other than commercial fishing and subsistence fishing.

* * * * *

Subsistence means, with respect to Commission regulatory areas 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.

* * * * *

3. Section 300.63 is revised to read as follows:

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

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

(b) The catch sharing plan for Area 2A provides a framework that shall be applied to the annual Area 2A total allowable catch (TAC) adopted by the Commission, and shall be implemented through domestic and Commission regulations, which will be published in the *Federal Register* each year before March 15. The Area 2A CSP allocates halibut among the treaty Indian fishery, segments of the non-Indian commercial fishery, and segments of the recreational fishery.

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

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

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

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

4. Section 300.65 is redesignated as § 300.66 and a new § 300.65 is added to read as follows:

§ 300.65 Catch sharing plan and domestic management measures in Commission regulatory areas 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 among Area 4 subareas, and will be implemented by the Commission in annual management measures published pursuant to 50 CFR 300.62.

(c) A person authorized to conduct subsistence fishing under paragraph (f) of this section may retain subsistence halibut that are taken with setline gear in Commission regulatory Areas 4D or 4E and that are smaller than the size limit specified in the annual management measures published pursuant to 50 CFR 300.62, provided that:

(1) The total annual halibut harvest of that person is landed in regulatory Areas 4D or 4E; and

(2) No person may sell such halibut outside of the limits prescribed for customary and traditional exchange of subsistence halibut prescribed at 50 CFR 300.66.

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

(1) For purposes of this section, Sitka Sound means (see Figure 1):

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

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

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

(C) That is enclosed on the south and west by a line from Cape Edgecumbe at 57°59'54" N. lat., 135°51'27" W. long. to Vasilief Rock at 56°48'56" N. lat., 135°32'30" W. long., and

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

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

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

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

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

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

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

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

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

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

(4) No charter vessel, as defined at 50 CFR 300.61, shall engage in sport fishing, as defined at 50 CFR 300.61(b), for halibut within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(i) No charter vessel shall retain halibut caught while engaged in sport fishing, as defined at 50 CFR 300.61(b), for other species, within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(ii) Notwithstanding paragraphs (d)(4) and (d)(4)(i) of this section, halibut harvested outside Sitka Sound, as defined in (d)(1)(ii) of this section, may be retained onboard a charter vessel engaged in sport fishing, as defined in 50 CFR 300.61(b), for other species within Sitka Sound, as defined in paragraph (d)(1)(ii) of this section, from June 1 through August 31.

(e) Sitka Pinnacles Marine Reserve.

(1) For purposes of this paragraph (e), the Sitka Pinnacles Marine Reserve means an area totaling 2.5 square nm off Cape Edgecumbe, defined by straight lines connecting the following points in a counterclockwise manner:

56°55.5' N lat., 135°54.0' W long;

56°57.0' N lat., 135°54.0' W long;

56°57.0' N lat., 135°57.0' W long;

56°55.5' N lat., 135°57.0' W long.

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

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

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

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

HALIBUT REGULATORY AREA 2C

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

| HALIBUT REGULATORY AREA 2C—Continued | | HALIBUT REGULATORY AREA 4C | | HALIBUT REGULATORY AREA 4E—Continued | |
|--------------------------------------|-------------------------|-------------------------------|-------------------------|--------------------------------------|---|
| Rural Community | Organized Entity | Rural Community | Organized Entity | Rural Community | Organized Entity |
| Wrangell | Municipality | St. George | Municipality | Stebbins | Municipality |
| | | St. Paul | Municipality | Teller | Municipality |
| HALIBUT REGULATORY AREA 3A | | | | | |
| Rural Community | Organized Entity | HALIBUT REGULATORY AREA 4D | | HALIBUT REGULATORY AREA 4E | |
| Akhiok | Municipality | Gambell | Municipality | Rural Community | Organized Entity |
| Chenega Bay | Census Designated Place | Savoonga | Municipality | Alakanuk | Municipality |
| Cordova | Municipality | Diomede (Inalik) | Municipality | Aleknegik | Municipality |
| Karluk | Census Designated Place | | | Bethel | Municipality |
| Kodiak City | Municipality | | | Brevig Mission | Municipality |
| Larsen Bay | Municipality | | | Chefornak | Municipality |
| Nanwalek | Census Designated Place | | | Chevak | Municipality |
| Old Harbor | Municipality | | | Clark's Point | Municipality |
| Ouzinkie | Municipality | | | Council | Census Designated Place |
| Port Graham | Census Designated Place | | | Dillingham | Municipality |
| Port Lions | Municipality | | | Eek | Municipality |
| Seldovia | Municipality | | | Egegik | Municipality |
| Tatitlek | Census Designated Place | | | Elim | Municipality |
| Yakutat | Municipality | | | Emmonak | Municipality |
| HALIBUT REGULATORY AREA 3B | | | | | |
| Rural Community | Organized Entity | | | | |
| Chignik Bay | Municipality | Kipnuk | Census Designated Place | Place with Tribal Headquarters | Organized Tribal Entity |
| Chignik Lagoon | Census Designated Place | Kongiganak | Census Designated Place | Angoon | Angoon Community Association |
| Chignik Lake | Census Designated Place | Kotlik | Municipality | Craig | Craig Community Association |
| Cold Bay | Municipality | Koyuk | Municipality | Haines | Chilkoot Indian Association |
| False Pass | Municipality | Kwigillingok | Census Designated Place | Hoonah | Hoonah Indian Association |
| Ivanof Bay | Census Designated Place | Levelock | Census Designated Place | Hydaburg | Hydaburg Cooperative Association |
| King Cove | Municipality | Manokotak | Municipality | Juneau | Aukquan Traditional Council |
| Nelson Lagoon | Census Designated Place | Mekoryak | Municipality | | Central Council Tlingit and Haida Indian Tribes |
| Perryville | Census Designated Place | Naknek | Census Designated Place | | Douglas Indian Association |
| Sand Point | Municipality | Napakiak | Municipality | Kake | Organized Village of Kake |
| HALIBUT REGULATORY AREA 4A | | | | | |
| Rural Community | Organized Entity | | | | |
| Akutan | Municipality | Nightmute | Municipality | Kasaan | Organized Village of Kasaan |
| Nikolski | Census Designated Place | Nome | Municipality | Ketchikan | Ketchikan Indian Corporation |
| Unalaska | Municipality | Oscarville | Census Designated Place | Klawock | Klawock Cooperative Association |
| HALIBUT REGULATORY AREA 4B | | | | | |
| Rural Community | Organized Entity | | | | |
| Adak | Census Designated Place | Pilot Point | Municipality | Klukwan | Chilkat Indian Village |
| Atka | Municipality | Platinum | Municipality | Metlakatla | Metlakatla Indian Community, Annette Island Reserve |
| | | Port Heiden | Municipality | Petersburg | Petersburg Indian Association |
| | | Quinhagak | Municipality | Saxman | Organized Village of Saxman |
| | | Scammon Bay | Municipality | Sitka | Sitka Tribe of Alaska |
| | | Shaktoolik | Municipality | Skagway | Skagway Village |
| | | Sheldon Point (Nunam Iqua). . | Municipality | Wrangell | Wrangell Cooperative Association |
| | | Shishmaref | Municipality | | |
| | | Solomon | Census Designated Place | | |
| | | South Naknek | Census Designated Place | | |
| | | St. Michael | Municipality | | |

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

HALIBUT REGULATORY AREA 2C

| Place with Tribal Headquarters | Organized Tribal Entity |
|--------------------------------|---|
| Angoon | Angoon Community Association |
| Craig | Craig Community Association |
| Haines | Chilkoot Indian Association |
| Hoonah | Hoonah Indian Association |
| Hydaburg | Hydaburg Cooperative Association |
| Juneau | Aukquan Traditional Council |
| | Central Council Tlingit and Haida Indian Tribes |
| | Douglas Indian Association |
| Kake | Organized Village of Kake |
| Kasaan | Organized Village of Kasaan |
| Ketchikan | Ketchikan Indian Corporation |
| Klawock | Klawock Cooperative Association |
| Klukwan | Chilkat Indian Village |
| Metlakatla | Metlakatla Indian Community, Annette Island Reserve |
| Petersburg | Petersburg Indian Association |
| Saxman | Organized Village of Saxman |
| Sitka | Sitka Tribe of Alaska |
| Skagway | Skagway Village |
| Wrangell | Wrangell Cooperative Association |

| HALIBUT REGULATORY AREA 3A | | HALIBUT REGULATORY AREA 4B | | HALIBUT REGULATORY AREA 4E—Continued | | | |
|---|---------------------------------------|-----------------------------------|---|--------------------------------------|-----------------------------------|--|--|
| Place with Tribal Headquarters | Organized Tribal Entity | Place with Tribal Headquarters | Organized Tribal Entity | Place with Tribal Headquarters | Organized Tribal Entity | | |
| Akhiok | Native Village of Akhiok | Atka | Native Village of Atka | Kotlik | Native Village of Hamilton | | |
| Chenega Bay | Native Village of Chanega | HALIBUT REGULATORY AREA 4C | | | | | |
| Cordova | Native Village of Eyak | Place with Tribal Headquarters | Organized Tribal Entity | Koyuk | Native Village of Koyuk | | |
| Karluk | Native Village of Karluk | St. George | Pribilof Islands Aleut Communities of St. Paul Island and St. George Island | Kwigillingok | Native Village of Kwigillingok | | |
| Kenai-Soldotna | Kenaitze Indian Tribe | St. Paul | Native Village of Afognak | Levelock | Levelock Village | | |
| Village of Salamatoff | Lesnoi Village (Woody Island) | Shoonaq' Tribe of Kodiak | Native Village of Shoonaq' Tribe of Kodiak | Manokotak | Manokotak Village | | |
| Kodiak City | Native Village of Larsen Bay | HALIBUT REGULATORY AREA 4D | | | | | |
| Native Village of Nanwalek | Nanwalek | Place with Tribal Headquarters | Organized Tribal Entity | Mekoryak | Native Village of Mekoryak | | |
| Ninilchik | Ninilchik Village | Gambell | Native Village of Gambell | Naknek | Naknek Native Village | | |
| Old Harbor | Village of Old Harbor | Savoonga | Native Village of Savoonga | Napakiak | Native Village of Napakiak | | |
| Ouzinkie | Native Village of Ouzinkie | Diomede (Inalik) | Native Village of Diomede (Inalik) | Napaskiak | Native Village of Napaskiak | | |
| Port Graham | Native Village of Port Graham | HALIBUT REGULATORY AREA 4E | | | | | |
| Port Lions | Native Village of Port Lions | Place with Tribal Headquarters | Organized Tribal Entity | Nome | King Island Native Community | | |
| Seldovia | Seldovia Village Tribe | Alakanuk | Village of Alakanuk | Oscarville | Nome Eskimo Community | | |
| Tatitlek | Native Village of Tatitlek | Aleknagik | Native Village of Aleknagik | Pilot Point | Oscarville Traditional Village | | |
| Yakutat | Yakutat Tlingit Tribe | Bethel | Orutsaramuit Native Village | Platinum | Native Village of Pilot Point | | |
| HALIBUT REGULATORY AREA 3B | | | | | | | |
| Place with Tribal Headquarters | Organized Tribal Entity | Brevig Mission | Native Village of Brevig Mission | Port Heiden | Platinum Traditional Village | | |
| Chignik Bay | Native Village of Chignik | Chefornak | Village of Chefornak | Quinhagak | Native Village of Port Heiden | | |
| Chignik Lagoon | Native Village of Chignik Lagoon | Chevak | Chevak Native Village | Scammon Bay | Native Village of Kwinhagak | | |
| Chignik Lake | Chignik Lake Village | Clark's Point | Village of Clark's Point | Shaktoolik | Native Village of Scammon Bay | | |
| False Pass | Native Village of False Pass | Council | Native Village of Council | Sheldon Point (Nuna Iqua). | Native Village of Shaktoolik | | |
| Ivanof Bay | Ivanoff Bay Village | Dillingham | Native Village of Dillingham | Shishmaref | Native Village of Sheldon's Point | | |
| King Cove | Agdaagux Tribe of King Cove | Eek | Native Village of Eek | Solomon | Native Village of Shishmaref | | |
| Native Village of Belkofski | Native Village of Nelson Lagoon | Egegik | Egegik Village | South Naknek | Village of Solomon | | |
| Nelson Lagoon | Native Village of Nelson Lagoon | Elim | Village of Kanatak | St. Michael | South Naknek Village | | |
| Perryville | Native Village of Perryville | Emmonak | Native Village of Elim | Stebbins | Native Village of St. Michael | | |
| Sand Point | Pauloff Harbor Village | Golovin | Chuloonawick Native Village | Teller | Stebbins Community Association | | |
| Native Village of Unga Qagan Toyagungin | Tribe of Sand Point Village | Goodnews Bay | Emmonak Village | Togiak | Native Village of Teller | | |
| Akutan | Native Village of Akutan | Hooper Bay | Chinik Eskimo Community | Toksook Bay | Traditional Village of Igloo | | |
| Nikolski | Native Village of Nikolski | King Salmon | Native Village of Goodnews Bay | Tuntutuliak | Togiak | | |
| Unalaska | Qawalingin Tribe of Unalaska | Kipnuk | Native Village of Hooper Bay | Tununak | Native Village of Toksook Bay | | |
| | | Kongiganak | Native Village of Paimiut | Twin Hills | Native Village of Tuntutuliak | | |
| | | | King Salmon Tribal Council | Ugashik | Native Village of Tununak | | |
| | | | Native Village of Kipnuk | Unalakeet | Twin Hills Village | | |
| | | | Native Village of Kongiganak | Wales | Ugashik Village | | |
| | | | | White Mountain | Native Village of Una-lakeet | | |
| | | | | | Native Village of Wales | | |
| | | | | | Native Village of White Mountain | | |

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

(1) Subsistence fishing is limited to setline gear and hand-held gear:

(i) Of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging, and hand-troll gear.

(ii) All setline gear marker buoys carried on board or used by any vessel regulated under this part shall be marked with the following: First initial, last name, and address (street, city, and state).

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

(2) The daily retention of subsistence halibut in rural areas is limited to no more than 20 fish per person eligible to conduct subsistence fishing for halibut under paragraph (g) of this section, except that no daily retention limit applies in Areas 4C, 4D, and 4E.

(3) Subsistence fishing may be conducted in any Commission regulatory area that is in and off Alaska except for the following four non-rural areas defined as follows:

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

(ii) *Juneau non-subsistence marine waters area in Commission regulatory Area 2C (see Figure 3)* is defined as those waters of Stephens Passage and contiguous waters north of the latitude of Midway Island Light (57°50.21' N.

lat.), including the waters of Taku Inlet, Port Snettisham, Saginaw Channel, and Favorite Channel, and those waters of Lynn Canal and contiguous waters south of the latitude of the northernmost entrance of Berners Bay (58°43.07' N. lat.), including the waters of Berners Bay and Echo Cove, and those waters of Chatham Strait and contiguous waters north of the latitude of Point Marsden (58°03.42' N. lat.), and east of a line from Point Couverden at 58°11.38' N. lat., 135°03.40' W. long., to Point Augusta at 58°02.38' N. lat., 134°57.11' W. long.:

(iii) *Anchorage/Matsu/Kenai non-subsistence marine waters area in Commission regulatory Area 3A (see Figure 4)* is defined as all waters of Alaska enclosed by a line extending east from Cape Douglas (58°51.10' N. lat.), and a line extending south from Cape Fairfield (148°50.25' W. long.), except those waters north of Point Bede which are west of a line from the easternmost point of Jakolof Bay (151°32.00' W. long.) north to the westernmost point of Hesketh Island (59°30.04' N. lat., 151°31.09' W. long.), including Jakolof Bay and south of a line west from Hesketh Island (59°30.04' N. lat. extending to the boundary of the territorial sea); the waters south of Point Bede which are west of the easternmost point of Rocky Bay (from the mainland along 151°18.41' W. long. to the intersection with the territorial sea); and includes those waters within mean lower low tide from a point 1 mile south of the southern edge of the Chuitna River (61°05.00' N. lat., 151°01.00' W. long.) south to the easternmost tip of Granite Point (61°01.00' N. lat., 151°23.00' W. long.); and

(iv) *Valdez non-subsistence marine waters area Commission regulatory Area 3A (see Figure 5)* is defined as the waters of Port Valdez and Valdez Arm located north of 61°02.24' N. lat., and east of 146°43.80' W. long.

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

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

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

(iii) For purposes of this paragraph, "area of tribal membership" means rural areas of the Commission regulatory area in which the Alaska Native tribal headquarters is located.

(h) *Subsistence registration.* A person must register as a subsistence halibut fisherman and possess a valid subsistence halibut registration certificate in his or her name issued by NMFS before he or she begins subsistence fishing for halibut in any Commission regulatory area in and off Alaska.

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

(2) A person may register as a subsistence halibut fisherman with a cooperating Alaska Native tribal government or other entity designated by NMFS, or directly with the Alaska Region, NMFS, by submitting the following information to the:

Restricted Access Management (RAM) Program

NMFS, Alaska Region
P.O. Box 21668
Juneau, AK 99802-1668

(i) For a Rural Resident Registration, the person must submit his or her full name, date of birth, mailing address (number and street, city and state, zip code), community of residence (the rural community or residence from 50 CFR 300.65(f)(1) that qualifies the fisher as eligible to fish for subsistence halibut), daytime telephone number, certification that he or she is a "rural resident" as that term is defined at § 300.61 of this part, and signature and date of signature.

(ii) For an Alaska Native Tribal Registration, the person must submit his or her full name, date of birth, mailing address (number and street, city and state, zip code), Alaska Native tribe (the name of the Alaska Native Tribe from 50 CFR 300.65(f)(2) that qualifies the fisher as eligible to fish for subsistence halibut), daytime telephone number,

certification that he or she is a member of an "Alaska Native tribe" as that term is defined at § 300.61 of this part, and signature and date of signature.

(3) The Administrator, Alaska Region, NMFS, or an authorized representative, may conduct periodic surveys of persons who hold valid subsistence halibut registration certificates to estimate the annual harvest of subsistence halibut and related catch and effort information. For purposes of this paragraph, an authorized representative of NMFS may include employees of, or contract workers for, the State of Alaska or a Federal agency or an Alaska Native tribal government representative as may be prescribed by cooperative agreement with NMFS. Responding to a subsistence halibut harvest survey will be voluntary, and may include providing information on:

- (i) The subsistence fisher's identity including his or her full name, date of birth, mailing address (number and street, city and state, zip code), community of residence, daytime phone number, and tribal identity (if appropriate);
- (ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the year, and if so, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks usually used, the Commission regulatory area from which the halibut were harvested, and the number of ling cod and rockfish

caught while subsistence fishing for halibut; and

(iii) Any sport halibut harvest including whether the participant sport fished for halibut during the year and the number and weight (in pounds) of halibut harvested while sport fishing.

5. Newly redesignated § 300.66 is revised to read as follows:

§ 300.66 Prohibitions.

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

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

(b) Fish for halibut except in accordance with the catch sharing plans and domestic management measures implemented under 50 CFR 300.63 and 50 CFR 300.65.

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

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

(e) Fish for subsistence halibut in and off Alaska unless the person is qualified to do so under 50 CFR 300.65(f), and possess a valid subsistence halibut registration certificate pursuant to 50 CFR 300.65(h).

(f) Fish for subsistence halibut in and off Alaska with gear other than that

described at 50 CFR 300.65(g)(1) and retain more halibut than specified at 50 CFR 300.65(g)(2).

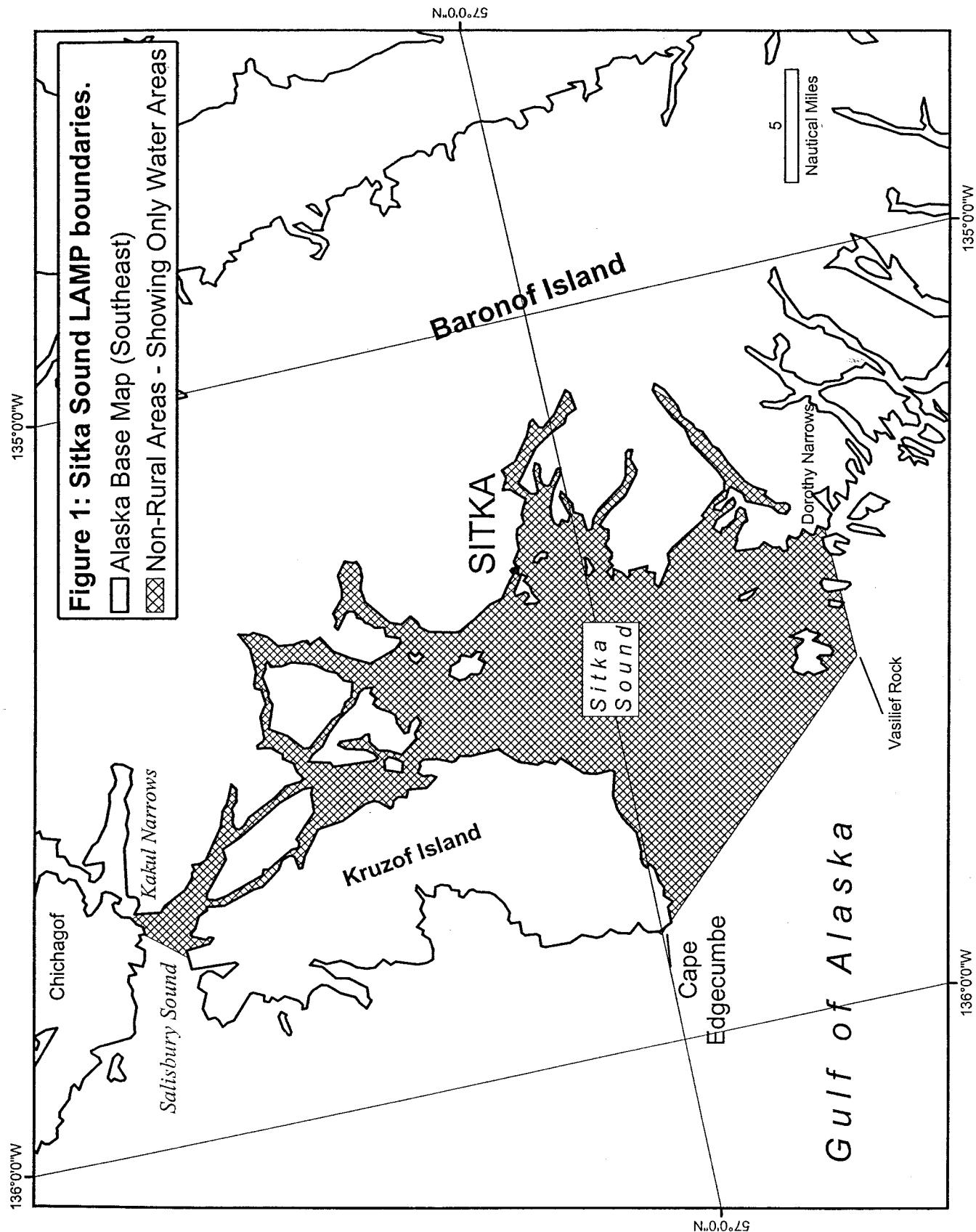
(g) Fish for subsistence halibut in and off Alaska in a non-rural area specified at 50 CFR 300.65(g)(3).

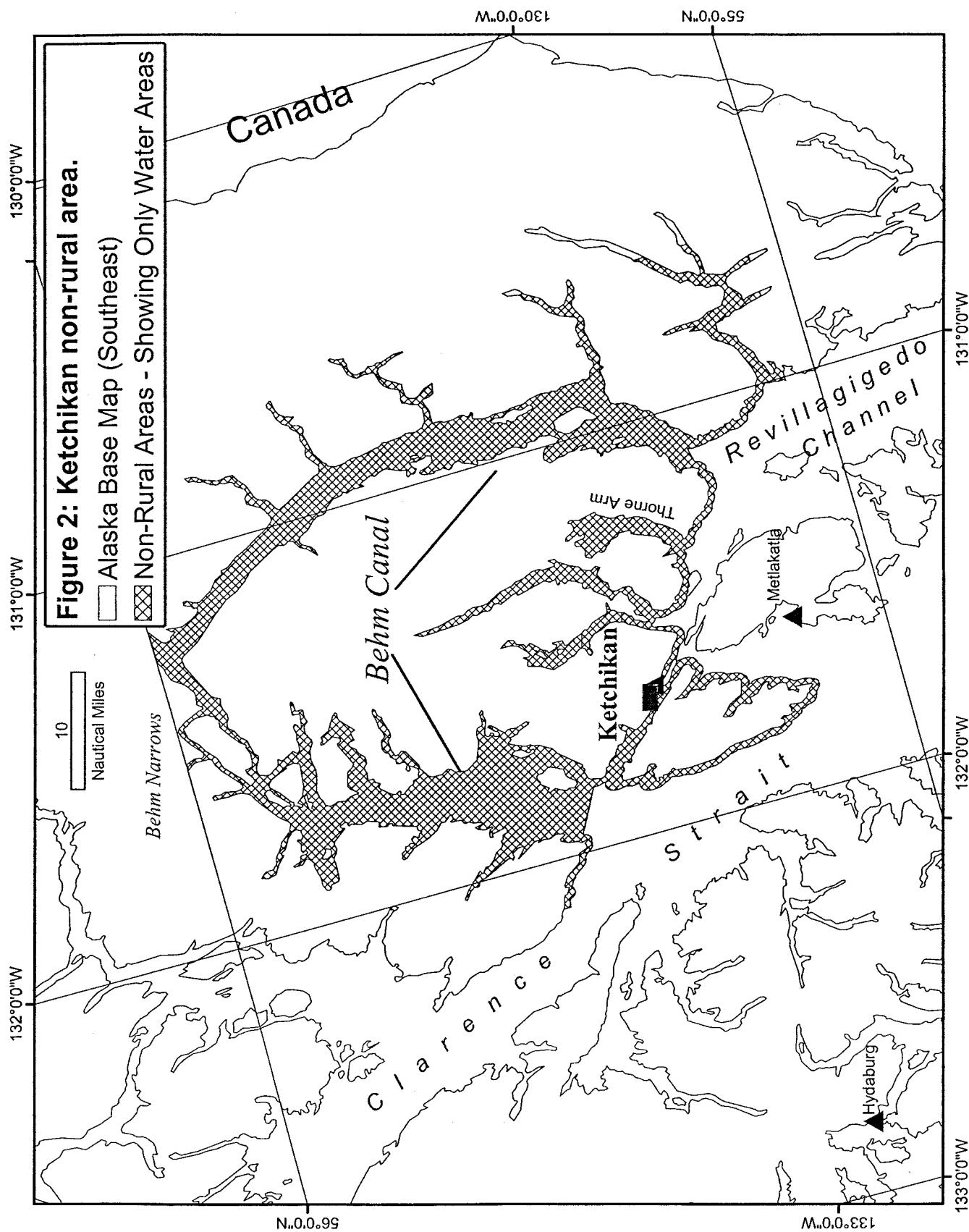
(h) Retain on board the harvesting vessel halibut harvested from subsistence fishing with halibut harvested from commercial fishing or from sport fishing, as defined at 50 CFR 300.61(b), except that persons who land their total annual harvest of halibut in Commission regulatory Area 4D or 4E may retain, with harvests of CDQ halibut, 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 50 CFR 300.62.

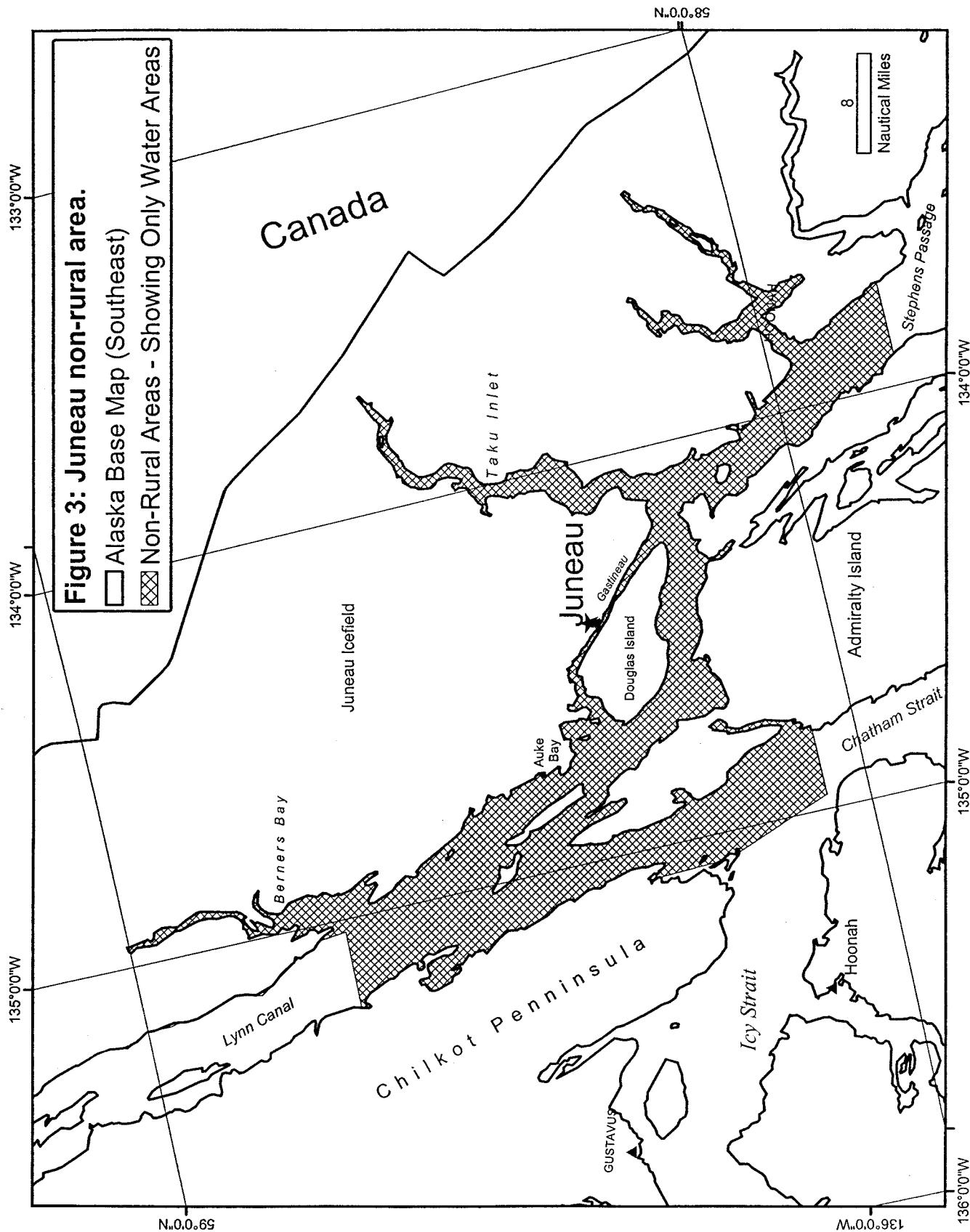
(i) Retain subsistence halibut that were harvested using a charter vessel.

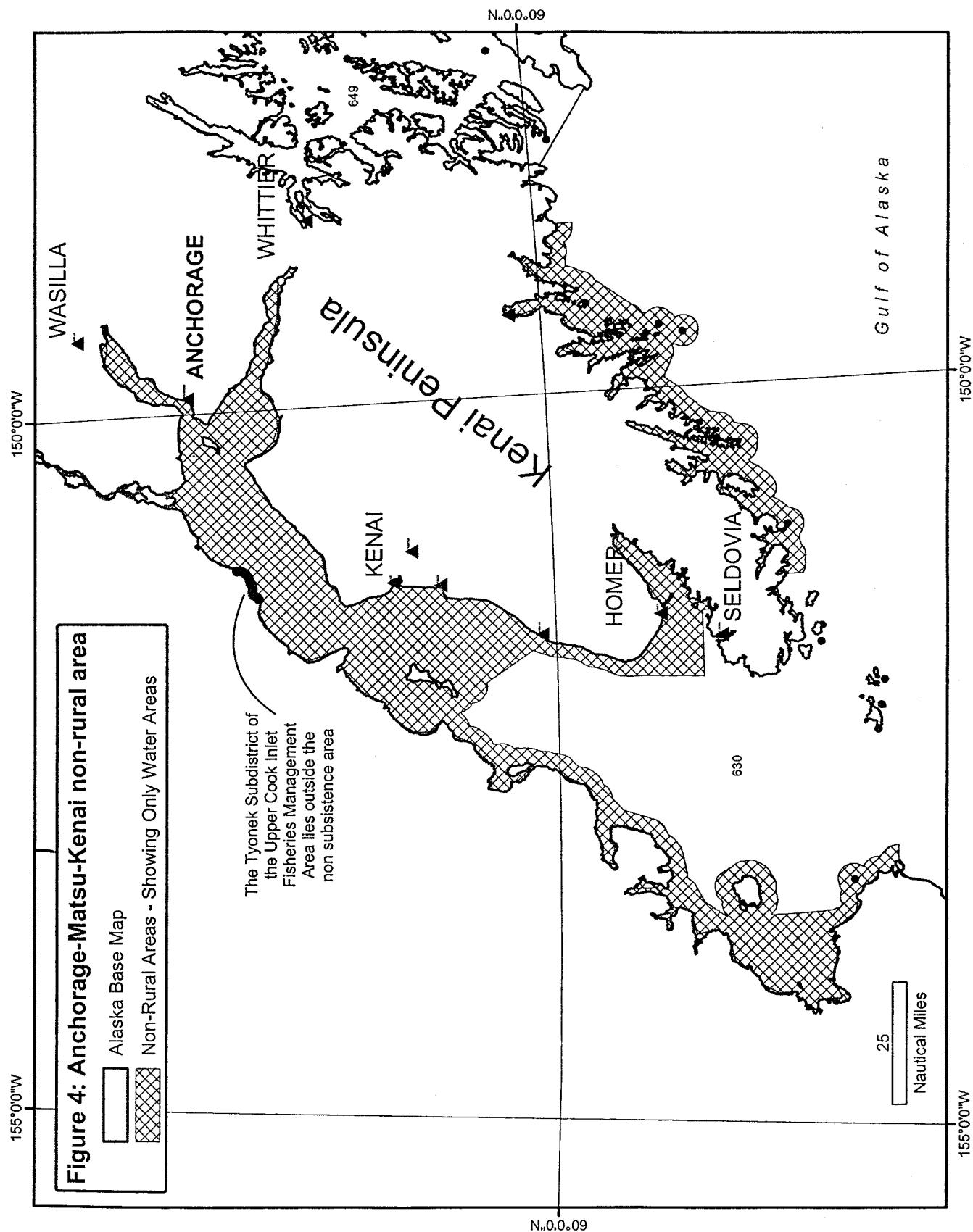
(j) Retain or possess subsistence halibut for commercial purposes, cause subsistence halibut to be sold, bartered or otherwise enter commerce or solicit exchange of subsistence halibut for commercial purposes, except that a person qualified to conduct subsistence fishing for halibut under 50 CFR 300.65(f), and who holds a subsistence halibut registration certificate in the person's name under 50 CFR 300.65(h), may engage in the customary trade of subsistence halibut through monetary exchange of no more than \$400 per year.

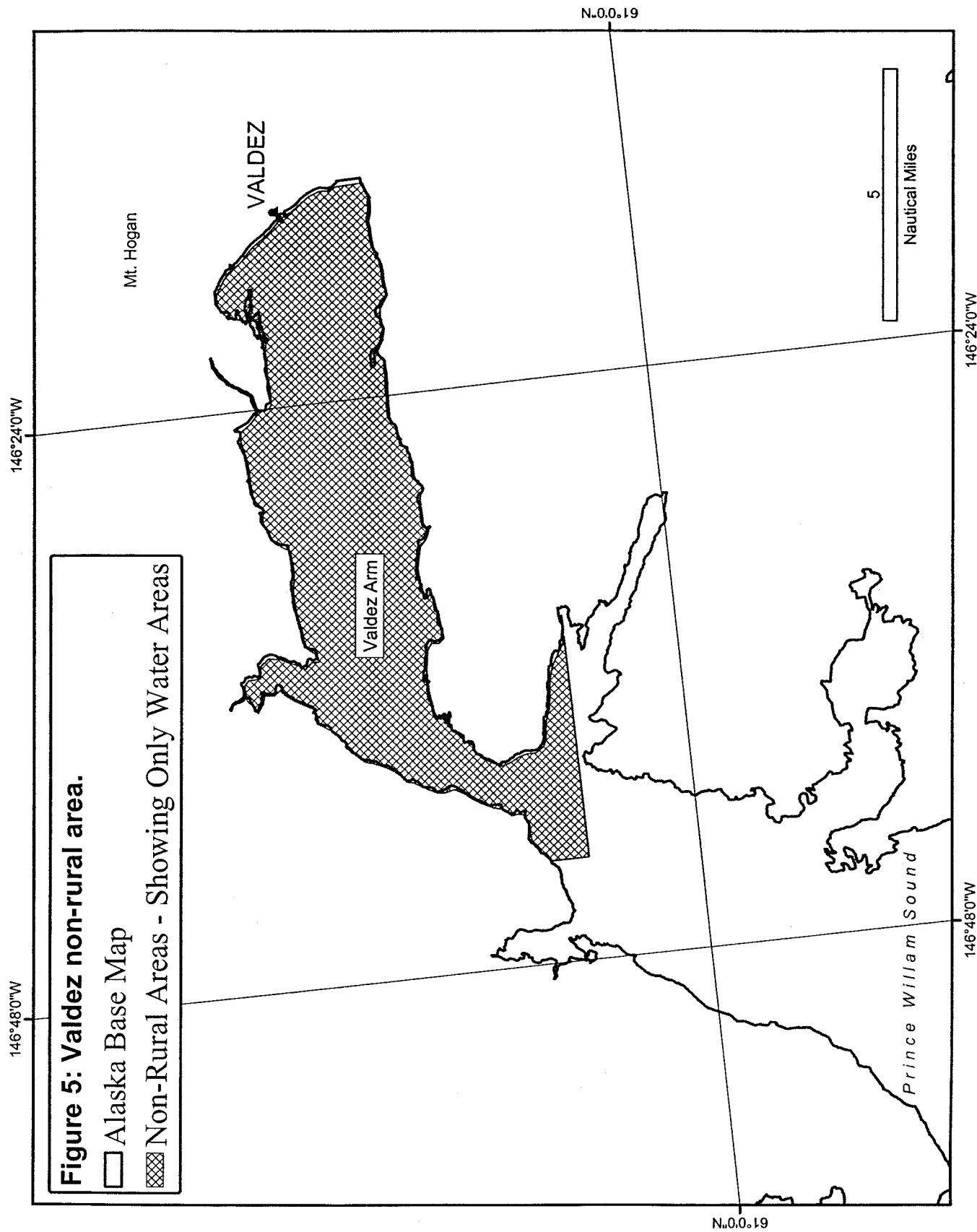
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PART 600—MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.725, table VII in paragraph (v) is revised to read as follows:

VII NORTH PACIFIC MANAGEMENT COUNCIL

| Fishery | Authorized gear types |
|--------------------------------------|--|
| *** | *** |
| 7. Pacific Halibut Fishery (Non-FMP) | |
| A. Commercial (IFQ and CDQ). | A. Hook and line |
| B. Recreational | B. Single line with no more than 2 hooks attached or spear |

VII NORTH PACIFIC MANAGEMENT COUNCIL—Continued

| Fishery | Authorized gear types |
|----------------------|---|
| C. Subsistence | C. Setline gear and hand held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging and hand-troll gear. |
| ***** | ***** |

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; and 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209 Pub. L. 106–554.

2. In § 679.2, the definitions for “Commercial fishing,” and “IFQ halibut” are revised as follows:

§ 679.2 Definitions.

* * * * *

Commercial fishing means:

(1) For purposes of the High Seas Salmon Fishery, fishing for fish for sale or barter; and

(2) For purposes of the Pacific halibut fishery, fishing, the resulting catch of which either is, or is intended to be, sold or bartered but does not include subsistence fishing for halibut, as defined at 50 CFR 300.61.

* * * * *

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 in this section.

* * * * *

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