



# NOAA FISHERIES

## Sustainable Fisheries Alaska Region

# CHARTER HALIBUT LIMITED ACCESS PROGRAM

## Small Entity Compliance Guide and Frequently Asked Questions

**Updated May 9, 2016**

This Small Entity Compliance Guide satisfies the Small Business Regulatory Enforcement Fairness Act of 1996 that requires a plain language guide to assist small entities. If you are required to comply with the regulations, you should consult and rely on the actual regulatory text. We cite the Code of Federal Regulations (CFR) throughout this document, and provide citations for specific regulations for your reference. These regulations are available online at the electronic CFR (eCFR) [Web site](#),<sup>1</sup> which is updated more frequently. The Charter Halibut Limited Access Program (CHLAP) regulations can be found under [50 CFR 300.67](#).

**The regulations in the CFR take precedence if a discrepancy occurs between them and the information in this guide.**

This is a summary of regulations governing the Charter Halibut Limited Access Program and is not the complete list of limitations and prohibitions specific to this program. See [50 CFR 300.65, 300.66, and 300.67](#) and [annual management measures](#) published each year in the *Federal Register*, pursuant to 50 CFR 300.62, for actual regulatory requirements. This summary only provides information on the CHLAP and does not provide information on the requirements of the International Pacific Halibut Commission, United States Coast Guard, or State of Alaska regulations governing the halibut fisheries. Charter vessel operators should consult these agencies for information on other applicable regulations.

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<sup>1</sup> Electronic Code of Federal Regulations: <http://www.ecfr.gov/>

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## Program Description

The Charter Halibut Limited Access Program established new Federal Charter Halibut Permits (CHPs) for operators in the charter halibut fishery in regulatory Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). Since February 1, 2011, all vessel operators in Areas 2C and 3A with charter anglers catching and retaining Pacific halibut must have a valid CHP onboard during every charter vessel fishing trip. CHPs must be endorsed with the appropriate regulatory area and number of anglers.

The National Marine Fisheries Service (NMFS) implemented this program based on recommendations by the North Pacific Fishery Management Council (NPFMC) to meet allocation objectives in the charter halibut fishery. This program provides stability in the fishery by limiting the number of charter vessels that may participate in Areas 2C and 3A and decreasing the overall number of available CHPs over time. The program goals are to increase the value of the resource, limit boats to qualified active participants in the guided sport halibut sector, and enhance economic stability in rural coastal communities.

## Permit Types

### **1. Transferable Permits**

Transferable permits establish a market-based system of access to the halibut charter fishery after the initial allocation of permits. A person holding a transferable permit may transfer the permit to another person (individual or non-individual entity) by submitting to NMFS an [Application for Transfer of Charter Halibut Permit](#). NMFS will approve the transfer if (1) the receiver is a US citizen or 75%-owned U.S. business; (2) either party does not owe NMFS any fines, civil penalties, or other payments; and (3) the receiver would not exceed the excessive share limit (5 permits). A formal CHP transfer is a change of CHP holder as named on the permit and must be approved by NMFS. All CHP transfers are considered permanent; NMFS does not approve limited-duration transfers.

## 2. Nontransferable Permits

Nontransferable permits allow a business with relatively low participation in the qualifying years to continue its operation while reducing potential harvesting capacity of the charter fishery over time. These permits may not be transferred to another person (individual or business) different from the one to which it was initially issued. Nontransferable permits are invalidated when (1) a permit holder dies or business entity dissolves; or (2) new shareholders or partners are added to a business. (This change in business structure creates a new business entity, which requires a permit to be transferred.)

## 3. Military Charter Halibut Permits

Military Charter Halibut Permits are for any U.S. Military Morale, Welfare, and Recreation (MWR) program in Alaska operating a halibut charter vessel. The program must obtain a permit, which may be applied for through NMFS at any time at no cost. These permits are non-transferable, issued without angler endorsements, and may be used only in the regulatory area designated on the permit. NMFS reserves the right to limit the number of these permits.

## 4. Community Charter Halibut Permits

Community Charter Halibut Permits (CCHPs) are issued at no cost to Community Quota Entities (CQE) representing communities that may not have a fully developed charter halibut fleet. A CQE may apply at any time through NMFS for CCHPs. A charter vessel operator who is using a CCHP is required to either begin or end the charter vessel fishing trip within the community designated on the permit. A CQE in Area 2C may receive a maximum of four (4) CCHPs to provide to an ADF&G licensed charter vessel operator. The operator must have a current ADF&G Saltwater Logbook in possession. A CQE in Area 3A may receive a maximum of 7 CCHPs. All CCHPs issued to a CQE will be non-transferable, designated for either Area 2C or 3A, and be endorsed for 6 anglers. CQEs may also receive CHPs by transfer but may not hold more than 8 permits in Area 2C and 14 permits in Area 3A. See 50 CFR 300.67(k) and the glossary for more information on CQEs.

## Frequently Asked Questions

Following is a list of frequently asked questions to assist you in understanding the Charter Halibut Limited Access Program. For specific regulatory requirements, see regulations at [50 CFR 300.65, 300.66, and 300.67](#); and [annual management measures](#) published in the *Federal Register* pursuant to 50 CFR 300.62.

## General Program Questions

### 1. What is a charter halibut permit (CHP)?

A charter halibut permit, or CHP, is a federal permit issued to the owners of charter vessel businesses that catch and retain Pacific halibut. A CHP is required in Areas 2C or 3A and valid only for the authorized number of anglers on the permit. Beginning February 1, 2011, a valid CHP must be on board the vessel during each charter vessel fishing trip. The CHP remains valid until amended, revoked, suspended, or superseded by a more recent version issued by NMFS. Anyone in Areas 2C or 3A who is being compensated in any way to provide sport fishing guide services to help anglers catch and retain halibut must have a valid CHP on board with appropriate endorsements.

**2. Who holds CHPs?** A list of issued CHPs with holders' names, business mailing addresses, and CHP endorsements is online.

**3. I lost or damaged my CHP; how do I get a replacement?** To obtain a replacement for your CHP you must submit an Application for Replacement of Certificates or Permits OR a written request to Restricted Access Management Program, NOAA Fisheries Alaska Region, P.O. Box 21668, Juneau, Alaska 99802 (fax to (907) 586-7354)). You must provide the CHP number(s) to be replaced, as well as the name printed on the CHP. The written request must be signed by the CHP holder or an authorized representative. If a representative is acting on behalf of the applicant, written authorization signed by the applicant must be submitted with the application.

**4. Will unguided sport anglers or subsistence fishermen need a CHP to catch and retain halibut in Area 2C or Area 3A?** No. Only charter vessels in Area 2C or 3A with charter vessel anglers on board that are catching and retaining halibut are required to have a CHP.

**5. Do I need a CHP if my anglers catch and release halibut?** No. A CHP is not needed if no angler on board retains halibut. Effective February 1, 2011, it is prohibited to be an operator of a vessel with one or more charter vessel anglers on board that are catching and retaining halibut without a valid CHP for the regulatory area in which the vessel is operating. However, IPHC regulations specify that any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

**6. I am a licensed guide; do I need a CHP on board to take friends, family, or neighbors fishing even if they are not paying me?** It depends. A CHP is required to be on board a vessel if the charter vessel guide is providing sport fishing guide services for compensation. Compensation does not include reimbursement for the actual daily expenses for fuel, food, or bait. Therefore, a licensed guide may take friends, family, or neighbors fishing, but may not receive compensation that exceeds the actual daily expenses.

**7. May I harvest subsistence halibut on a charter vessel?** The owner of a vessel that is registered with the State of Alaska as a charter vessel may use that vessel to harvest subsistence halibut provided the owner has a valid Subsistence Halibut Registration Certificates (SHARC). Only the vessel owner and members of the vessel owner's immediate family may be on board the vessel while subsistence halibut fishing. Only the vessel owner and members of the vessel owner's immediate family who hold a valid SHARC may fish for subsistence halibut from the charter vessel. It is prohibited to conduct subsistence fishing for halibut while commercial or sport fishing for halibut from the same vessel on the same calendar day, or possess on board a vessel, halibut harvested while subsistence fishing with halibut harvested while commercial or sport fishing, with limited exceptions.

**8. May I commercially fish for halibut and charter fish for halibut on the same vessel in the same day?** No, it is prohibited to conduct commercial and sport fishing for halibut from the same vessel on the same day.

**9. We charter for salmon but sometimes catch a halibut; are we required to throw back halibut if we do not have a CHP on board?** Yes. All charter vessels with anglers on board that are catching and retaining halibut must have a valid CHP on board the vessel, even if the halibut catch is incidental.

**10. The ownership of my business changed; do I need to let NMFS know?** Yes. A CHP is no longer valid if an individual CHP holder dies or a business dissolves or changes. See the Glossary for definition of “change.” NMFS must be notified within 30 days of an individual’s death and within 15 days of the effective date of change for the business entity. Notify NMFS in writing addressed to RAM Program Administrator, NOAA Fisheries, Alaska Region, P.O. Box 21668, Juneau, Alaska 99802. Depending on the conditions, permit divestiture also may be required.

## Using Charter Halibut Permits

**11. May I use more than one CHP on a vessel to take more anglers?** Yes. A vessel operator is able to “stack” CHPs to increase the number of charter vessel anglers on board. For example, if a charter vessel operator is otherwise authorized to carry 10 passengers, he or she may have two CHPs on board, one endorsed for 4 anglers and one endorsed for 6 anglers. The vessel operator may then have a maximum of 10 anglers on board who are catching and retaining halibut.

### **12. May two charter businesses fish from the same vessel?**

Yes. Two businesses may fish from the same vessel during a charter vessel fishing trip, as long as each business has a CHP and its own ADF&G Saltwater Charter Logbook issued to the business. Starting in 2014 in Area 3A, a vessel with one or more charter vessel anglers on board that are catching and retaining halibut may only take one trip per day. Two charter businesses may not fish from the same vessel in separate trips during a calendar day if either vessel has one or more charter vessel anglers on board that are catching and retaining halibut.

**13. Does the CHP limit the number of trips I may take per year?** There is no limit to the number of charter vessel fishing trips you may take per year. CHPs limit charter vessel operators to the area and number of anglers endorsed on the CHP. There is, however, a limit of one trip during which charter anglers catch and retain halibut per vessel per day in Area 3A.

**14. May crew members catch and retain halibut during a charter vessel trip?** No. Charter vessel guides and crew members in Area 2C and Area 3A are not allowed to catch and retain halibut during a charter halibut fishing trip.

**15. May I have more passengers on board than the angler endorsement allows if the extras are not fishing?** Yes. The charter halibut limited access program limits the number of anglers catching and retaining halibut and not the number of passengers (however, passengers may be limited by other applicable law and regulation).

**16. If I have a CHP endorsed for 4 anglers, but have 6 anglers on board, may I rotate my anglers so that all 6 anglers get to fish for halibut so long as I’m never fishing more than 4 anglers simultaneously?** No. Effective February 1, 2011, it is prohibited to be an operator of a

vessel with more charter vessel anglers catching and retaining halibut than the angler endorsement number specified on the CHP(s) on board the vessel during one trip. In this example, 6 anglers are considered to be on board and fishing even if all 6 are not fishing at the same time.

**17. May I charter halibut fish in Area 2C and 3A on the same trip?** No. Charter vessel anglers may not catch and retain halibut in more than one regulatory area during a charter vessel fishing trip. Also note that each CHP is endorsed for only one area.

**18. My vessel broke down; may I use my CHP on any vessel?** A CHP may be used on any vessel if the CHP is endorsed for the regulatory area in which the vessel is operating and endorsed for at least the number of charter vessel anglers who are catching and retaining halibut on the vessel. (Other State of Alaska requirements may also apply.) However, a charter operator may not use one CHP split between two or more vessels simultaneously. See “Reporting – ADF&G Saltwater Charter Logbooks” section below for more information.

**19. How many halibut may my anglers catch and retain?** For up-to-date regulations and annual management measures, visit our webpage. In some cases, guided angler fish may be available for additional charter harvest opportunities (see “Guided Angler Fish (GAF)” section below).

**20. Does the one trip per day limit in Area 3A apply to CHPs also?** No. The trip limit applies only to vessels. A CHP may be used on more than one vessel in a day, but a vessel may not be used on more than one charter vessel fishing trip in which halibut are caught and retained (see Glossary) per day.

## Transferable and Non-transferable CHPs

**21. May I lease my CHP to another business?** Regulations do not prohibit CHP holders from allowing another person to temporarily use their CHP(s). See “Reporting – ADF&G Saltwater Charter Logbooks” section below for the Federal requirements to record CHP information in an ADF&G Saltwater Charter Logbook. If the CHP is transferable, the CHP holder identified on the card may formally sell, gift, or otherwise transfer the CHP to another person via a NMFS approval process. See “Transferable Permits” under the “Permit Types” section above for information about transfers.

### **22. How do I sell or give my CHP to someone?**

A transferable CHP may be sold or given to anyone who—

- is a U.S. citizen or a U.S. business with a minimum of 75 percent U.S. ownership;
- does not owe NMFS any fines, civil penalties, or any other payments; and
- does not hold more than 5 CHPs (unless the excessive limit share exception applies).

All CHPs may be sold privately or through a broker as long as the two parties submit a complete Application for Transfer of Charter Halibut Permit to NMFS. The sale is valid only after NMFS approves the transfer application. A transfer would not be approved if it is inconsistent with any sanctions resulting from federal fishing violations, if either party owes fees, or if the transfer would cause the recipient to exceed program caps.



**23. How many CHPs may I buy?** Generally, you may hold up to 5 CHPs. NMFS will not approve a transfer application that would result in the applicant holding more than 5 CHPs unless the applicant qualifies for an exemption to the limit as discussed in the next question. Businesses with multiple corporate interests are also limited to 5 CHPs. Two entities are considered the same entity if one entity owns or controls 10 percent or more interest in the other entity.

**24. May a person ever hold more than 5 CHPs?** Yes. At the start of the program, some initial recipients exceeded the excessive share limit and received more than 5 CHPs. These “grandfathered” CHPs may be transferred to another recipient if —

- the CHPs are transferable;
- the transfer includes all transferable CHPs initially awarded to the initial recipient;
- the designated recipient does not already hold any CHPs; and
- the entire charter vessel business is also being transferred, including all assets such as vessels, lodges, and equipment.

**25. If I die, does my CHP go to my spouse or kids?** It depends. Transferable CHPs may be transferred to an individual holder’s successor-in-interest providing that person does not hold 5 or more CHPs. Non-transferable CHPs may not be transferred from the initial recipient to family members once the individual dies. If the non-transferable permit is in the name of a business entity, it may stay in that name provided there are no new shareholder(s) or partner(s) added (see Question 10).

## Reporting- ADF&G Saltwater Charter Logbooks

**26. Does my ADF&G Saltwater Charter Logbook need to be on board my vessel all of the time?** Yes. Federal regulations require all charter vessels in Area 2C or 3A with anglers on board catching and retaining halibut to have an ADF&G Saltwater Charter Logbook on board that identifies the vessel.

**27. Who has to complete an ADF&G Saltwater Charter Logbook Sheet?** Federal regulations require charter operators to complete and submit a logbook sheet to ADF&G if (1) one or more persons on board a charter vessel are catching and retaining halibut, and (2) a person is receiving compensation to assist another person to take or attempt to take halibut while sport fishing. The charter vessel guide is responsible for complying with the federal charter halibut reporting requirements for each trip. The person whose business was assigned the logbook is responsible for ensuring that the charter vessel guide complies with the reporting requirements. In addition, charter vessel anglers must acknowledge the accuracy of the halibut retention information entered by the charter vessel guide by signing the logbook sheet at the end of a charter vessel fishing trip.

**28. How should I record my CHP information in an ADF&G Saltwater Charter Logbook?** For each charter vessel fishing trip, federal regulations require operators to record the name of the CHP holder and the CHP number being used on board the vessel in the ADF&G Saltwater Charter Logbook. This information should be recorded as follows:

1. Record the CHP number and name of the holder(s) on the front of the logbook issued for the vessel.
2. Record the CHP number on each logbook sheet completed for that trip. If you are using more than one CHP for the charter vessel fishing trip, check the box next to the CHP number on each logbook sheet to indicate that multiple CHPs were used and record each CHP number on a separate logbook sheet.

Charter vessel operators should consult the instructions for ADF&G Saltwater Charter Logbooks to determine other applicable reporting requirements.

**29. When does an ADF&G Saltwater Charter Logbook Sheet need to be completed?**

Charter vessel guides must enter the charter vessel angler's license number and printed name in the ADF&G Saltwater Charter Logbook sheet before the charter vessel fishing trip begins. In addition, each charter vessel angler catching and retaining halibut needs to sign the saltwater logbook sheet at the end of a charter vessel fishing trip. All reporting requirements must be complete by the end of the day or end of the charter vessel fishing trip, whichever comes first, and before any halibut are offloaded or anglers disembark from the vessel.

**30. When does an ADF&G Saltwater Charter Logbook Sheet need to be submitted?**

Logbook sheets from trips that happen the first Monday in April through December 31 must be submitted to the ADF&G no later than 14 calendar days after the Monday of the fishing week in which the halibut were caught and retained. Logbook sheets for January 1 through the first Sunday in April must be submitted no later than the second Monday in April.

**31. Do I need to save a copy of my completed logbook sheets after I have submitted them to ADF&G?** Yes, the person required to complete the logbook is required to retain all logbook pages showing halibut harvest for 2 years after the end of a fishing year for which the logbook was used and must make the logbook data pages available for inspection upon the request of an authorized officer.

**32. Do the logbook reporting requirements differ for different areas?** No. The reporting requirements are the same for both areas.

## Monitoring and Enforcement

**33. I lost my original CHP but have a copy of it on board the vessel, is that legal?** No.

Regulations require that an operator of a vessel must have a valid CHP on board, which means an original and current CHP. A copy of a CHP or an original of an old version that has been superseded would not meet the requirements.

**34. Can enforcement personnel board my vessel to inspect my halibut catch, logbook, or license?** Yes. Any officer authorized to enforce the Northern Pacific Halibut Act may board and inspect any fishing vessel subject to the provisions of the Act. You must present the ADF&G Saltwater Charter Logbook when requested by an authorized officer. (Other State of Alaska requirements may apply.) In addition, authorized officers may enter, search, or inspect shoreside facilities in which halibut are processed, packed, or held.



## Guided Angler Fish (GAF)

The Halibut Catch Sharing Plan and the GAF Program are described in more detail on the [NMFS Alaska Region website sport fishing page](#). Regulations governing the GAF program are at [50 CFR 300.65\(c\)\(5\)](#).

## Program Contacts

For exact regulatory language please refer to the U.S. Government Printing Office Electronic Code of Federal Regulations as <http://www.ecfr.gov/>.

### **Questions about NMFS Permits or Application Process**

NMFS Restricted Access Management (RAM) Program  
P.O. Box 21668  
Juneau, AK 99802-1668  
1-800-304-4846 (press 2) or 907-586-7344, Fax 907-586-7354  
Email: [ram.alaska@noaa.gov](mailto:ram.alaska@noaa.gov)  
[Applications for charter halibut permits and GAF transfers](#)

### **Questions about Enforcement**

NOAA [Office of Law Enforcement](#)  
Alaska Region  
P.O. Box 21767  
709 W. 9th Street, Room M09C  
Juneau, AK 99802-1767  
907-586-7225

### **Questions about the Regulatory Process**

NOAA Fisheries (NMFS)  
[Sustainable Fisheries Division](#)  
P.O. Box 21668  
Juneau, AK 99802-1668  
1-800-304-4846 (press 3) or 907-586-7228

### **Questions about Harvests**

Alaska Department of Fish and Game, [Division of Sport Fish](#)  
Email: [sflweb@fishgame.state.ak.us](mailto:sflweb@fishgame.state.ak.us)  
907-465-4270, 907-465-4180  
1255 W. 8th Street  
P.O. Box 115525  
Juneau, AK 99811-5526

## Glossary

A complete list of definitions relevant to this management program can be found at 50 CFR 300.61 or 300.67(f).

**Angler Endorsement:** the maximum number of charter vessel anglers that may catch and retain halibut on board the vessel. It is the number of *authorized anglers* on your CHP.

**Change (ownership):** NMFS considers a change in business structure, such as new shareholders or partners, to be a new business entity and requires CHPs to be transferred to the new entity. For a CHP holder, “change” also occurs when the individual dies or business entity dissolves. “Change” invalidates a non-transferable CHP.

**Charter halibut permit (CHP):** a permit issued by NMFS to owners of charter vessel businesses, bearing endorsements for operating in Areas 2C or 3A, and for the number of charter vessel anglers authorized to catch and retain Pacific halibut during a charter vessel fishing trip.

**Charter vessel angler:** a person, paying or nonpaying, using the services of a charter vessel guide.

**Charter vessel fishing trip:** the time period between the first deployment of fishing gear into the water from a vessel after any charter vessel angler is on board and the offloading of one or more charter vessel anglers or any halibut from that vessel.

**Charter vessel guide:** a person who holds an annual sport guide license issued by ADF&G; or a person who provides sport fishing guide services.

**Charter vessel operator:** the person in control of the vessel during a charter vessel fishing trip.

**Community Quota Entity (CQE):** a nonprofit organization that (1) did not exist prior to April 10, 2002; (2) represents at least one eligible community that is listed below; and (3) has been approved by the Regional Administrator (50 CFR 679.2). A nonprofit may apply at any time and is required to submit an annual report to NMFS. Communities currently eligible to form a nonprofit to receive a community CHP under (50 CFR 300.67(k)(2)) are listed below:

*Area 2C:* Angoon, Coffman Cove, Edna Bay, Hollis, Hoonah, Hydaburg, Kake, Kasaan, Klawock, Metlakatla, Meyers Chuck, Pelican, Point Baker, Port Alexander, Port Protection, Tenakee Springs, Thorne Bay, Whale Pass.

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

**Guided Angler Fish (GAF):** Halibut transferred within a year from an IPHC regulatory area 2C or 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:** An annual permit issued by the National Marine Fisheries Service pursuant to §300.65(c)(5)(iii).

**GAF permit holder:** The person identified on a GAF permit.

**International Pacific Halibut Commission (IPHC):** A public international organization established in 1923 by a convention between the United States and Canada, originally called the International Fisheries Commission. The IPHC is responsible for conservation of Pacific halibut in waters off Canada and the United States.

**National Marine Fisheries Service (NMFS, a.k.a. NOAA Fisheries):** Responsible for managing the fisheries and enforcing regulations under authority of the Secretary of Commerce and the National Oceanic and Atmospheric Administration (NOAA). NMFS is the permitting body that maintains the Official Record.

**North Pacific Fishery Management Council (NPFMC):** is responsible for allocating resources to fisheries programs. NPFMC and NMFS work together to manage federal fisheries off Alaska; NPFMC makes recommendations to NMFS, and NMFS approves, implements, and administers them.

**Sport fishing guide services:** assistance, for compensation or with the intent to receive compensation, to a person who is sport fishing, to take or attempt to take halibut by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a charter vessel fishing trip. Sport fishing guide services do not include services provided by a crew member.

