

NOAA FISHERIES (NMFS)

Charter Halibut Limited Access Program



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Implementation Review for the Charter Halibut Limited Access Program and Charter Halibut Permits (CHPs) October 29, 2012

Purpose

This document presents information related to implementation of the Charter Halibut Limited Access Program (CHLAP) for Areas 2C and 3A. This report uses data as of October 16, 2012. Transfers and initial issuance of permits to community quota entities (CQEs) and U.S. Military Morale, Welfare, and Recreation Program (MWRs) continue. The National Marine Fisheries Service (NMFS) implemented the Program under a final rule published in the *Federal Register* ([75 FR 554, January 5, 2010](#)) and under regulations at 50 CFR 300.67. Visit our website for permit and transfer updates and other program information for the CHLAP:

alaskafisheries.noaa.gov/fisheries/sport-halibut

Program Summary

The CHLAP established new federal Charter Halibut Permits (CHPs) for operators in the charter halibut fishery in Regulatory Areas 2C (Southeast Alaska) and 3A (South Central Alaska). The Program also provides a limited number of permits issuable on request to nonprofit corporations representing specified rural communities and for the U.S. Military’s Morale, Welfare and Recreation (MWR) programs for service members. Beginning February 1, 2011, all vessel operators in Areas 2C and 3A with charter anglers onboard must have an original, valid permit onboard during every charter vessel fishing trip on which Pacific halibut are caught and retained. CHPs are endorsed for the appropriate regulatory area and, except for military CHPs, the number of anglers that may catch and retain charter halibut on a trip.

Eligibility Requirements

The NOAA Fisheries, Alaska Region’s Restricted Access Management Program (RAM) implemented the CHLAP at the recommendation of the North Pacific Fishery Management Council. To determine eligible applicants, RAM used data from the Official Charter Halibut Record (Official Record) that contains, with other information, the State of Alaska saltwater logbook data for 2004/05 groundfish trips and for 2008 (most recent year available) halibut trips.

Application Period

Except for special CHPs issued to CQEs and military CHPs, applicants must have applied for the new federal permits during the application period of February 4–April 5, 2010. There is no deadline for application for special permits.

Application Overview

Prior to the application period, NMFS made initial eligibility determinations from the Official Record, and directly mailed application packages reflecting the number and nature of CHPs for which each individual or business was deemed eligible. Additional persons could apply, using application forms available on the Internet or from the Restricted Access Management (RAM) office.

The status and types of permits and numbers of permit holders changed daily during the implementation process. While NMFS received 810 applications by the end of the application process, 522 represented eligible applicants. NMFS received 288 applications that did not meet the eligibility requirements, including applications not filed by the application deadline. NMFS denied claims for all late and initially ineligible applicants; of those, 195 applicants appealed, exercising their due process rights.

Permitholders, Permits, and Anglers

Initially RAM issued CHPs to persons who met all of the following eligibility criteria:

- ✓ submitted a timely application for a charter halibut permit,
- ✓ documented participation in the charter vessel fishery during both the qualifying and recent participation periods, and
- ✓ held a license issued by the Alaska Department of Fish & Game to operate specific types of guided sport fishing reported in the saltwater logbooks.

For “special permits,” of 32 communities, 22 formed required corporations (CQEs) and 19 requested CQE CHPs (612 anglers).

Table 1 shows the number of permits (by fishing area and type), permit holders, and anglers. Data will change over time with additional transfers and CQE and MWR permit issuance. All holders are counted, but each person is counted once per area even if he or she holds multiple permits. At least one MWR program permit holder earned “regular” CHPs in addition to requesting special MWR permits. Person counts are not additive across areas and types.

Table 1 Distinct CHP Holders, Permits, and Anglers as of October 16, 2012					
Fishing Area	Permit Type ¹	CHP Holders ²	Active ³ Permits	Average CHPs per Holder	Anglers
2C	CHP	356	533	1.5	2,734
	CQE	11	44	4.0	264
	MWR	1	1	1.0	unlimited
3A	CHP	439	439	1.0	3,227
	CQE	9	63	7.0	378
	MWR	3	6	2.0	unlimited
Both Areas	CHP	795	972		5,961
	CQE	20	107		642
	MWR	3	7		unlimited

¹CHP = regular permit with angler endorsements, CQE = community permits, and MWR = U.S. Military Morale, Welfare and Recreation Program permits.

²Within each permit type and area, CHP holders reflect all holders of all permits, but each holder is counted once, regardless of the number of CHPs held.

³Active permits are current and nonrevocable.

Appeals

Applicants with claims contrary to the Official Record were notified in writing and given 30 days to provide supporting evidence. Following this evidentiary period, any claims that remained were formally denied in an Initial Administrative Determination (IAD) that included instructions and a 60-day deadline to file an appeal. The NOAA Fisheries, National Appeals Office (NAO) adjudicated all appeals. Under Program regulations, all claims of “unavoidable circumstances” in which participation in one of the two required periods was lacking could only be decided under appeal to the NAO.

RAM issued a nontransferable “interim” CHP endorsed for 4 anglers to each applicant who, under the Official Record, was not eligible for any CHP but who filed a timely appeal. This temporarily allowed ineligible applicants to participate in the fishery until their due process claim was adjudicated. Eligible applicants who appealed for any reason initially received all issuable licenses (even those not contested) as “interim” and “nontransferable” until all their claims were resolved. As appeals were completed, RAM either commuted interim CHPs to noninterim permits or revoked the interim permits, as appropriate.

As appeals were resolved, permit data changed. As of early September 2012, the NAO had completed decisions on all 195 appeals (24.1 percent of applications). This relatively high appeal rate resulted in large part because, by regulation, only an appeal could resolve “unavoidable circumstance” claims. Only CHP (and not CQE and MWR) applications resulted in appeals.

Table 2 shows the type of completed cases and reflects NAO data and “type” descriptions. Some cases were reconsidered but are only counted once. Appeals including more than one type of claim (reason for appeal) are shown only under the primary claim. However, some appellants did not clearly identify a claim, and, as a result, NAO categories overlap and are not mutually exclusive. For example, “Logbook data” claims could represent a claim about eligibility, transferability, anglers, area, and/or for additional permits.

Table 2 Appeal Case Disposition by Type					
Cases					
Primary Claim Type	Detail	Total Appeal Cases ^{1,2}	Claim Denial Affirmed	Claim Denial Vacated	Cases Dismissed
Eligibility Detail	Unavoidable Circumstance	77	40	37	0
	Successor-in-Interest	24	19	3	2
	Military Exemption	7	5	2	0
	Late Application/Appeal	21	13	0	8
	Estate	1	1	0	0
	Other basic eligibility	12	11	1	0
Total Eligibility Cases		142	89	43	10
Total “Logbook” Cases (any issue)		19	14	4	1
Total Transferability Cases		30	25	5	0
Total Angler Endorsement Cases		4	3	0	1
Total Appeal Count⁴		195	131	52	12
Percent of total appeal count⁵		100%	67%	27%	6%

Source: National Appeals Office (NAO)

¹The Alaska Regional Administrator may reverse, modify, or remand a decision.

²NAO may issue a remand or stay.

Interim CHPs

Issued permits may be suspended, revoked, or modified. In dismissed cases and lost appeals, RAM revoked interim CHPs for which an applicant was determined ineligible. RAM reissued CHPs as needed in cases in which an initially ineligible applicant was determined to be eligible or after all of an initially eligible applicant's claims were resolved. As of September 2012, all appeal cases were completed. Thirty-seven interim CHP permitholders in Area 2C and 55 in Area 3A had permits revoked following an appeal and (as of October 16) had not reentered the program. These persons are included in Figure 1 counts, along with those 21 persons ineligible but who acquired CHPs by transfer (7 in area 2C and 14 in area 3A). In Figure 2 all holders of all permits were counted, but each person was counted only once per area.

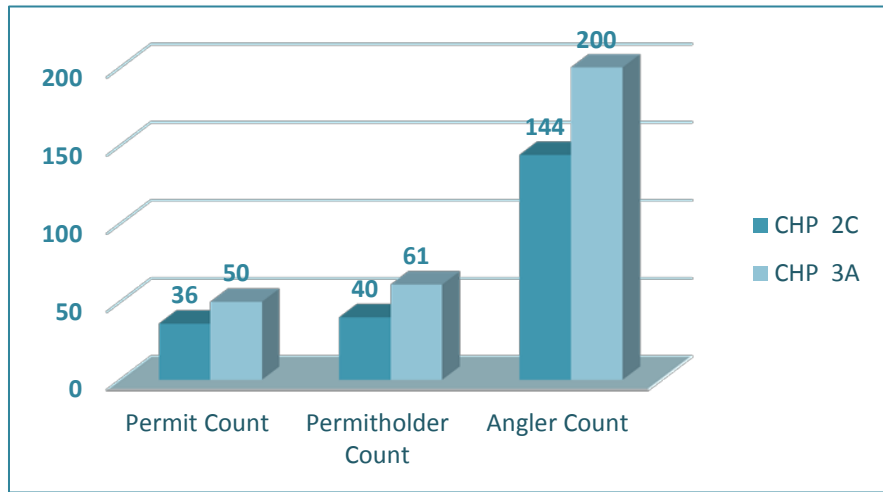


Figure 1. Number of Ineligible Persons whose CHPs Were Revoked after Appeal, by management area

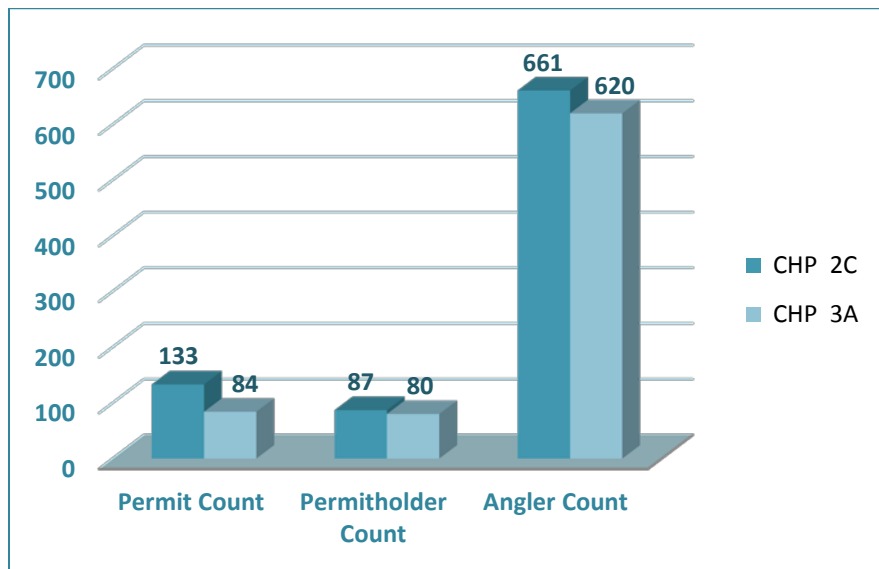


Figure 2. Number of Eligible Persons whose Interim CHPs Were Converted to Permanent CHPs after Appeal, by management area

Permit Summary by Type and Transfer Status

During implementation, NMFS reissued many permits with an improved transferability status or an increase in the number of angler endorsements. Table 3 shows the numbers of permits by type, management area, and transferability status as of October 16, 2012. An MWR permit carries no angler endorsement. The Table includes the category “transferable,” with numbers of permits, angler endorsements, and permit holders. Appendix 1 (page A-1) shows an extended version of Table 3 that includes additional detail based on CHP angler endorsements. Permit data will change over time with additional transfers and with new CQE and MWR permit issuance.

Permit Type ¹	Area	Transferable	Permits ³	Angler Endorsements	Permitholders
CHP	2C	N	161	777	150
		Y	372	1,957	275
	3A	N	100	599	112
		Y	339	2,628	362
CQE	2C	N	44	264	11
	3A	N	63	378	9
MWR ²	2C	N	1	no endorsement	1
	3A	N	6		3

¹CHP = regular permit with angler endorsements, CQE = community permits, and MWR = U.S. Military Morale, Welfare, and Recreation Program permits

²Current permit information is updated daily on our [website](#).

Transfers

By regulation, only some CHPs are transferable depending on the extent (number of eligible trips and number of vessels used) of an applicant’s fishing history. Transfers of CHPs allow new fishery entrants and consolidation as permit holders leave the fishery and nontransfer CHPs are revoked. To prevent overconsolidation, permit holders are generally limited to five permits; a person holding a transferable CHP may transfer the permit to another person (individual or nonindividual entity) unless the transfer would cause the recipient to exceed the allowable limit. CHP limits are computed by examining CHP holdings of affiliated persons. An initial recipient of more than five permits cannot receive transfers of additional permits but may transfer all of the CHPs to one other person under special “grandfather” privileges (below). If an individual permit holder dies or a corporate permit holder dissolves or changes its ownership by adding one or more new owner(s) or partner(s), the 5-permit limit applies to the new entity. NMFS considers a successor-in-interest or a changed corporate structure to be a different entity from the one that was the initial recipient of the permit, and this may invalidate “excess” transferable CHPs held, require divestiture to a new person(s), and revocation of nontransferable CHPs held by the initial permit holder.

“Grandfather” Provision

A person(s) may receive more than 5 CHPs by transfer *only if* all of the following conditions are met:

- holders of more than five permits transfer all of the transferable permits initially issued to them to the same recipient.
- permit holders transfer all business assets along with the permits of the charter fishing business, such as vessels, lodges, and fishing equipment.
- Persons applying to receive more than five permits do not hold any permits at the time of the proposed transfer.

A *person* may be an individual or a corporation. An individual receiving a CHP by transfer must be a U.S. citizen; a transfer to a corporate entity will be approved only if it is a U.S. business with at least 75 percent U.S.-citizen ownership of the business. Issuance of CHPs to non-U.S. citizens is not authorized by section 773c(c) of the Halibut Act. CQE and MWR permits may not be transferred.

Table 4 provides a CHP transfer summary that includes area, type (whether entire business was sold), angler endorsements, transaction prices and number of transactions, and numbers of permits, sellers, and buyers as of October 16, 2012. Transfer data are updated daily on our [summary of CHP transfers web page](#).

Table 4 CHP Transfers by Area, Type (whether entire business was sold), Transaction Prices, and Numbers of Transactions ¹ , Permits, Transferors ² , and Transferees ² as of October 16, 2012											
Year	Area	Entire Business Sold	Angler Endorsement	Min Transaction Price ³	Max Transaction Price ³	Median Transaction Price ³	Average Transaction Price ³	Transaction Count	Permit Count	Sellers Count	Buyers Count
2011	2C	N	5 Anglers	25,000	60,000	33,500	35,214	7	7	4	7
		N	6 Anglers	10,000	66,000	31,000	32,031	20	18	19	16
	3A	N	4 Anglers	9,000	50,000	43,000	37,625	7	7	7	7
		N	6 Anglers	36,000	80,000	61,000	62,063	29	29	29	25
		N	>6 Anglers	20,000	90,000	65,250	60,119	8	7	8	8
2012	2C	N	5 Anglers	20,000	30,000	26,500	25,750	4	4	4	4
		N	6 Anglers	28,000	36,000	30,000	31,800	5	5	5	5
	3A	N	4 Anglers	35,000	45,000	35,000	38,545	5	4	4	4
		N	6 Anglers	25,000	65,000	43,000	45,407	9	9	9	8
		N	>6 Anglers	44,000	1,000,000	75,000	340,100	3	3	3	3

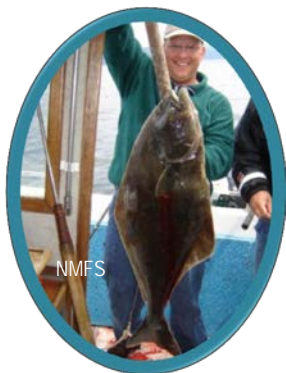
¹Transactions with a price of zero are excluded from the table.

²Confidential data (rows with fewer than 3 transferors or transferees) are excluded from the table.

³Reported prices may include some business assets when "Entire Business Sold" = "N."

Table 5, a summary of one-time and multiple CHP transfers, does not include community and military permits because they are nontransferable.

Table 5 Summary of the Number of CHPs Transferred One or More Times as of October 16, 2012			
Areas	Number of Permits Transferred Once	Number of Permits Transferred More than Once	Total Permits Transferred
2C	39	8	47
3A	58	6	64
Total Number of Permits Transferred	97	14	111



Charter-Commercial “Crossovers”

Some CHP holders also hold quota shares (QS) and participate in commercial halibut fisheries. Table 6 shows current CHP holders and the number and percentage of the total that also hold halibut QS. Table 7 shows holders of all permit types and the number holding halibut QS (percentage). Data are subject to change.

Table 6 CHP ¹ -Only Holders and Those Holding Halibut QS (Percent) as of October 16, 2012			
Area	Permitholders with only CHPs	Permitholders with QS in Same Area	Permitholders with QS in either 2C or 3A
2C	358	20 (5.6%)	23 (6.4%)
3A	440	21 (4.8%)	22 (5.0%)

¹CHP = regular permit with angler endorsements

Table 7 Holders of All Permit Types ¹ and Halibut QS Holders (Percent) as of October 16, 2012			
Area	Permitholders with CHPs, CQEs, MWRs ¹	Permitholders with QS in Same Area	Permitholders with QS in either 2C or 3A
2C	368	20 (5.4%)	23 (6.3%)
3A	450	22 (4.9%)	23 (5.1%)

¹CHP = regular permit with angler endorsements, CQE = community permits, and MWR = U.S. Military Morale, Welfare, and Recreation Program permits

Appendix 1: Numbers of Anglers, Permits, and Permitholders by Area and Permit Transferability and Angler Endorsement

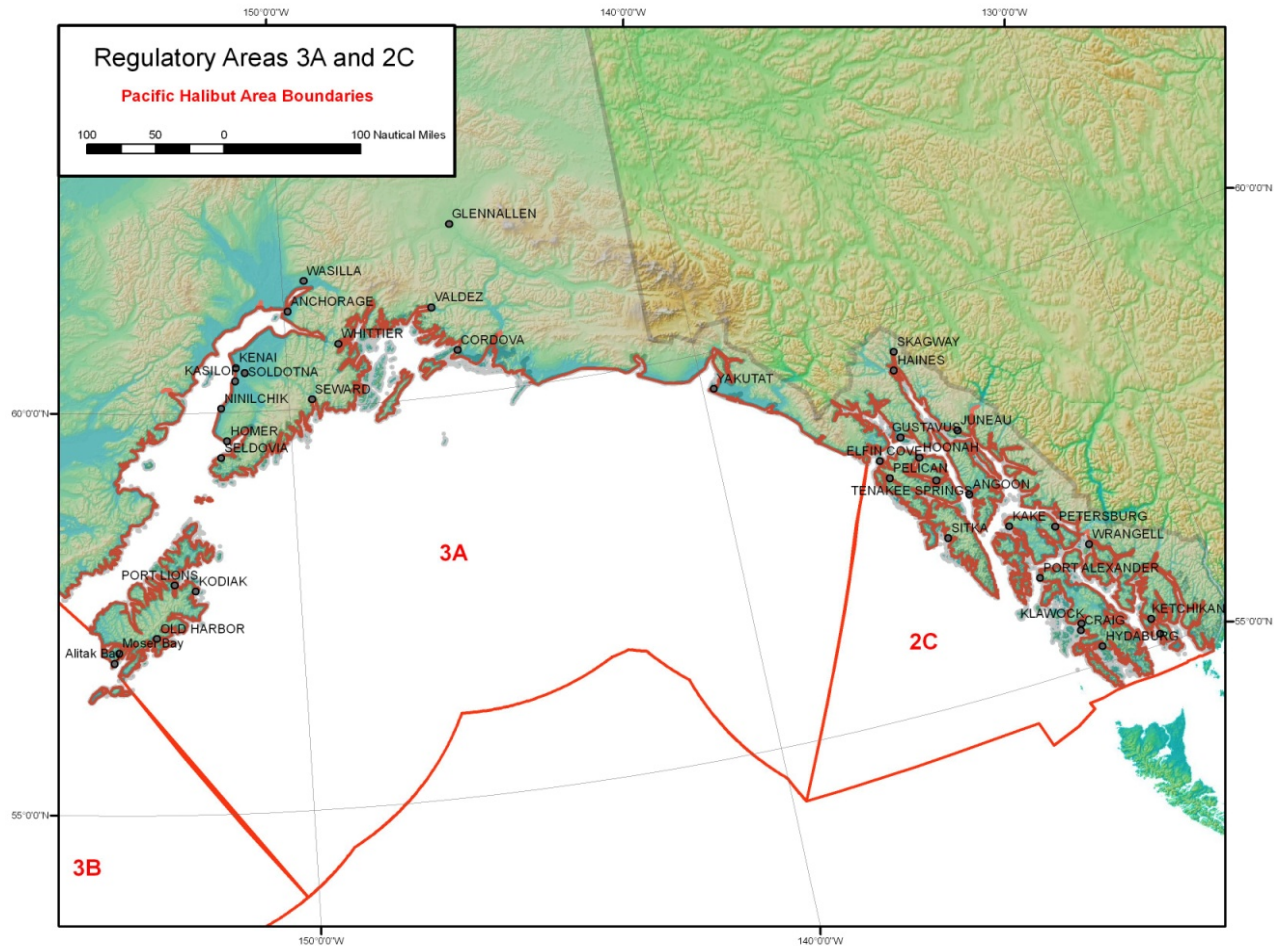
Table A1. Numbers of Anglers, Permits, and Permitholders by Area and Permit Transferability as of October 16, 2012					
Type	Area	Transferable	Angler Count	Permit Count	Permitholder Count
CHP	2C	N	4	86	74
CHP	2C	N	5	27	34
CHP	2C	N	6	46	55
CHP	2C	N	9	1	2
CHP	2C	N	13	1	5
CHP	2C	Y	4	90	60
CHP	2C	Y	5	112	101
CHP	2C	Y	6	160	166
CHP	2C	Y	7	5	5
CHP	2C	Y	8	4	5
CHP	2C	Y	10	1	1
CQE	2C	N	6	44	11
MWR ¹	2C	N	n/a	1	1
CHP	3A	N	4	24	31
CHP	3A	N	5	18	25
CHP	3A	N	6	46	51
CHP	3A	N	7	2	3
CHP	3A	N	8	1	2
CHP	3A	N	9	1	1
CHP	3A	N	10	3	2
CHP	3A	N	11	1	1
CHP	3A	N	15	2	5
CHP	3A	N	17	1	3
CHP	3A	N	18	1	1

Continued

Table A1. (Continued)					
Type	Area	Transferable	Angler Count	Permit Count	Permitholder Count
CHP	3A	Y	4	18	23
CHP	3A	Y	5	27	35
CHP	3A	Y	6	210	248
CHP	3A	Y	7	21	30
CHP	3A	Y	8	8	13
CHP	3A	Y	9	2	3
CHP	3A	Y	10	2	3
CHP	3A	Y	11	2	3
CHP	3A	Y	12	6	10
CHP	3A	Y	13	4	5
CHP	3A	Y	14	2	3
CHP	3A	Y	15	2	2
CHP	3A	Y	16	10	15
CHP	3A	Y	17	4	4
CHP	3A	Y	18	4	5
CHP	3A	Y	19	2	3
CHP	3A	Y	20	2	3
CHP	3A	Y	21	2	5
CHP	3A	Y	22	2	3
CHP	3A	Y	23	2	3
CHP	3A	Y	24	1	1
CHP	3A	Y	25	3	4
CHP	3A	Y	28	1	3
CHP	3A	Y	33	1	1
CHP	3A	Y	38	1	3
CQE	3A	N	6	63	9
MWR	3A	N	n/a ¹	6	3

¹MWR permits have no angler endorsements.

Appendix 2: Communities Eligible for Community CHPs by IPHC Area



Map Source: NMFS

Area 2C: ANGOON • COFFMAN COVE • CRAIG • EDNA BAY • ELFIN COVE • GLACIER BAY (Outer Coast) • GUSTAVUS • HOLLIS • HOONAH • HYDABURG • JUNEAU • KAKE • KASAAN • KETCHIKAN • KLAWOCK • METLAKATLA • MEYERS CHUCK • PELICAN • PETERSBURG • POINT BAKER • PORT ALEXANDER • PORT PROTECTION • SITKA • TENAKEE SPRINGS • THORNE BAY • WHALE PASS • WRANGELL

Area 3A: AKHIOK • CHENEGA BAY • HALIBUT COVE • KARLUK • LARSEN BAY • NANWALEK • OLD HARBOR • OUZINKIE • PORT GRAHAM • PORT LYONS • SELDOVIA • TATITLEK • TYONEK • YAKUTAT

Appendix 3: Program Timeline

The timeline shows efforts by the North Pacific Fishery Management Council (Council), NOAA Fisheries, the Alaska Department of Fish and Game (ADF&G), The International Pacific Halibut Commission, and the Secretary of Commerce (Secretary) to develop a new limited access program in Alaska.

- 2012** In September, implementation was completed when NMFS finished the final appeals.
- 2011** On February 1, 2011, CHPs were required on all guided charter vessels in areas 2C and 3A.
- 2010** NMFS issued a final rule (75 FR 554, January 5, 2010), effective February 4, 2010, to create the Charter Halibut Limited Access Program for charter vessels in the guided sport fishery for Pacific halibut in international Pacific Halibut Commission regulatory areas 2C and 3A. RAM accepted applications from February 4 through April 5, 2010.
- 2009** NMFS published a proposed rule (74 FR 18178, April 21, 2009) to implement the Charter Halibut Limited Access Program and initiate public comment.
- 2007** Council adopted its preferred limited access alternative and submitted it to the Secretary for implementation.
- 2006** In April, Council initiated analysis on the limited access program.
In February, Council forwarded GHLC Committee recommendations for a limited access program to its Charter Stakeholder Committee.
NMFS published December 9, 2005, control date in Federal Register (71 FR 6442, February 8, 2006).



Photo courtesy of Jane DiCosimo

Contacts and Acknowledgments

For more detailed information regarding the Charter Halibut Limited Access Program, please refer to the NOAA Fisheries website:

alaskafisheries.noaa.gov/fisheries/sport-halibut

For questions about Charter Halibut Permits or the application process, please contact:

NOAA Fisheries (NMFS), Restricted Access Management

1-800-304-4846 (option 2) or call the Juneau local number: 907-586-7202

Email: ram.alaska@noaa.gov

Website: alaskafisheries.noaa.gov

For questions about regulations, please contact:

NOAA Fisheries (NMFS), Sustainable Fisheries Division

1-800-304-4846 (option 3) or call Juneau's local number at 907-586-7228

Website: alaskafisheries.noaa.gov

North Pacific Fishery Management Council (Council)

907-271-2809

Website: www.npfmc.org

International Pacific Halibut Commission

206-634-1838

Fax: 206- 632-2983

2320 West Commodore Way #300

Seattle, WA 98199-128

Website: iphc.int/

For harvest information, please contact:

Alaska Department of Fish and Game

Division of Sport Fish

Region I

Email: sf1web@fishgame.state.ak.us

907-465-4270

Local Website: sf.adfg.state.ak.us

1255 W. 8th Street

P.O. Box 115525 Juneau, AK 99811-5526,

907-465-4180; Fax 907-465-2772

NOAA's National Marine Fisheries Service appreciates the dedication of its partners over the past years and their ability to work closely with the agency in persistent and plentiful efforts to preserve and sustain Alaska's multi-use halibut resource and to elevate the value and development of Alaska's fisheries and fishing communities. NOAA successfully implemented the Charter Halibut Limited Access Program by partnerships with the North Pacific Fishery Management Council, the Alaska Department of Fish and Game, the International Pacific Halibut Commission, and stakeholders.