



In his review of ██████████ proof and arguments, the NAO hearing officer focused on what constitutes a “halibut logbook fishing trip.” A “halibut logbook fishing trip”, according to the regulatory definition,<sup>3</sup> “means a logbook fishing trip in [2008] that was reported to the State of Alaska in a Saltwater Charter Logbook...”. The NAO hearing officer considered ██████████ argument that he reported five or more 2008 logbook trips in “a” Saltwater Charter Logbook, although the logbook was not issued to him. The NAO hearing officer concluded that 50 C.F.R. §300.67(f)(3) did not address whether or not the person issued an ADF&G Business Owner License must report trips in a Saltwater Charter Logbook issued to him or her. The hearing officer found the regulation ambiguous. He concluded that RAM’s IAD regulatory interpretation that only the person who was issued the logbook could make entries, was reasonable. Rejecting ██████████ argument, the hearing officer upheld RAM’s IAD finding that ██████████ cannot be credited with fishing trips he reported in a logbook that was not issued to him.

The central issue is whether the regulatory definition precludes acknowledgment of logbook entries by someone other than the person to whom it was issued. The NAO hearing officer concluded that the excerpt phrase “[a trip reported to the state] in a Saltwater Charter Logbook” required this interpretation: that “a Saltwater Charter Logbook” *must be the logbook* that was issued to the same person making the logbook entry. In contrast, there is ██████████ position that the regulatory language is not subject to interpretation; that the regulation simply requires an entry *in a logbook* : no one’s logbook in particular, so long as it was a Saltwater Charter Logbook issued by ADF&G.

I am not persuaded that the RAM IAD §300(f)(3) regulatory interpretation, found reasonable by the NAO hearing officer, should be applied. Instead, I accept ██████████ position that the regulation does not allow a narrow or restrictive interpretation. The regulation does not preclude recognition of entries made by a person other than the person to whom the logbook was issued. The regulation plainly states that entries must be made *in a logbook*, without further qualification. So, of the two positions, I find ██████████ to be consistent with the regulation’s plain language. There is no reason to read more into it.

Based on the record, I find that ██████████ is qualified for a non-transferrable halibut charter permit<sup>4</sup>. ██████████ was issued an ADF&G business license that authorized logbook fishing trips. With that license, he engaged in charter services in the qualifying and recent participation periods. And, referring to the license number, he reported at least five bottom fish logbook fishing trips during the qualifying period and at least five halibut logbook fishing trips during the recent participation period. The logbook fishing trips were reported to the State of Alaska in a Saltwater Charter Logbook within the required time frames and with the required information.

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<sup>3</sup> 50 C.F.R. §300.67(f)(3).

<sup>4</sup> Because he is qualified for the permit through his participation, there is no reason to consider ██████████ unavoidable circumstances argument.

I direct Restricted Access Management to issue a non-transferrable halibut charter permit to [REDACTED].

**IT IS SO ORDERED.**

Date: 8/31/12

[REDACTED]

James W. Balsiger, Ph.D.  
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