ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Gray Television Licensee, LLC, the licensee of WKYT–TV, channel 13, Lexington, Kentucky, requesting the substitution of channel 36 for channel 13 at Lexington.

DATES: This rule is effective November 4, 2009.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 09–163, adopted October 22, 2009, and released October 23, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com*. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Kentucky, is amended by adding channel 36 and removing channel 13 at Lexington.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–26610 Filed 11–3–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 0812191631–91238–03]

RIN 0648–AX53

Pacific Halibut Fisheries; Subsistence Fishing

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to revise the criteria for rural residents to participate in the subsistence fishery for Pacific halibut in waters in and off Alaska. This action is necessary to allow subsistence halibut fishing opportunities for rural residents who reside in locations outside the legal boundaries of specified communities and who were prohibited from participating in the subsistence halibut fishery by previous regulations. This action is intended to allow these inadvertently-excluded rural residents to participate in the subsistence halibut fishery and to support the conservation and management provisions of the Northern Pacific Halibut Act of 1982.

DATES: This rule is effective December 4, 2009.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR) prepared for this action, and the environmental assessment (EA) prepared for the original subsistence halibut action (68 FR 18145; April 15, 2003) may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://www.alaskafisheries.noaa.gov*.

Written comments regarding the burden–hour estimates or other aspects of the collection–of–information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by e–mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Management of the Pacific halibut (*Hippoglossus stenolepis*) (hereafter ''halibut'') fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, entitled the ''Convention between the 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. The Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act).

The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. NMFS published the IPHC's current annual management measures on March 19, 2009 (74 FR 11681).

The Halibut Act also authorizes 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 United States (Halibut Act, section 773c(c)). Such an action by the Council is limited to only those regulations that are in addition to, and not in conflict with, IPHC regulations. Council-developed regulations must be approved and implemented by the Secretary. Any allocation of halibut fishing privileges must be fair and equitable and consistent with other

applicable federal law. The Council used its authority under the Halibut Act to recommend a subsistence halibut program in October 2000 to recognize and manage the subsistence fishery for halibut. Like the original subsistence halibut program and subsequent amendments to it, this action was developed by the Council under the authority of the Halibut Act.

The Halibut Act at sections 773c (a) and (b) provides the Secretary with the general responsibility to carry out the Convention with the authority to, in consultation with the Secretary of the department in which the U.S. Coast Guard is operating (currently the Secretary of Homeland Security), adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary has delegated authority to NMFS to implement the Halibut Act.

Need for Action

The need for this action was described in detail in the preamble to the proposed rule for this action (74 FR 39270; August 6, 2009) and is summarized below. The proposed rule is available via the Internet (see **ADDRESSES**). No substantive changes were made to the proposed regulatory text in this final rule; however, minor technical edits that are specified below were made to the regulatory text.

The subsistence halibut regulations authorize eligible persons who possess subsistence halibut registration certificates (SHARCs) to conduct subsistence halibut fishing in waters in and off Alaska. Under regulations in effect prior to this rule, a person was eligible for a SHARC to harvest subsistence halibut only if he or she were a rural resident of a community with customary and traditional uses of halibut that is listed in the tables at § 300.65(g)(1) (hereafter ''listed community''), or a member of an Alaska Native tribe with customary and traditional uses of halibut that is listed in the tables at § 300.65(g)(2). Members of Alaska Native tribes are not directly affected by this action. Therefore, the discussion of rural versus non-rural eligibility in the preamble of this final rule does not apply to Alaska Native tribal members. The definition of the term ''rural resident'' is the primary issue in this action. The previous definition that limited rural residents to persons residing in listed communities had inadvertent, adverse impacts on some rural residents; individuals who resided outside the boundaries of listed communities did not qualify for SHARCs.

Under this final rule, rural residents of south of Cape Espenberg who reside within a designated ten-statute-mile boundary adjacent to the waters of the Bering Sea and Pacific Ocean or in other designated places outside of specified non-rural areas are eligible to subsistence fish for halibut. In June 2008, the Council recommended a wider geographic scope for rural resident eligibility to include individuals who reside in remote locations outside the boundaries of listed communities. The Council determined that those individuals or families in remote locations within the subsistence halibut use areas practice the same patterns of halibut use as residents of nearby listed communities that have customary and traditional uses and, therefore, should be eligible to participate in subsistence fishing for halibut. NMFS agrees with the Council's recommendation and determination concerning rural resident eligibility and, therefore, approves this final rule to allow inadvertently-excluded rural residents who reside in certain locations outside the legal boundaries of specified communities to participate in the subsistence halibut fishery. The land areas adjacent to the current non-subsistence marine waters areas are now designated as non-rural areas.

Under this action, rural residents are considered eligible to participate in the subsistence halibut program if they meet the criteria for rural residency under one of two options. First, a person continues to be considered a rural resident if he or she is domiciled in a community specified at § 300.65(g)(1). Second, under the new definition for a rural area, a person is considered a rural resident if he or she is domiciled in one of the following rural areas listed at § 300.65(g)(3):

- Southeast Alaska east of 141° W. long., except for the land areas of the Ketchikan Gateway Borough as these areas are described below, the land areas of the City and Borough of Juneau, and the Ketchikan and Juneau non-subsistence marine waters areas (see Figures 2 and 3);
- The Alaska Peninsula, Aleutian Islands, Kodiak Island Archipelago, and the area south of the northern boundary of the Bristol Bay Borough and south of 58°39.2' N. lat. (see Figures 5, 6, and 7);
- Nelson, Nunivak, and Saint Lawrence Islands (see Figure 6); and
- All other areas of Alaska within ten statute miles of mean high water on the Bering Sea and Pacific Ocean coasts, south of Cape Espenberg, including along the Kuskokwim River to Bethel, and that are not specified as non-rural areas and that are not specified as the Anchorage-Matsu-Kenai or Valdez non-subsistence marine waters areas (see Figures 4, 5, 6, and 7).

Qualifications for a rural SHARC continue to require domicile in a designated rural area for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and no claim of residency in another state, territory, or country. The definitions for ''rural'' and ''rural resident'' listed at § 300.61 are revised to include the residents of the newly described rural areas.

Expansion of the rural resident definition requires definitive specification of non-rural areas as exceptions to the rural areas because a resident of a non-rural area does not qualify for a SHARC. In general, the non-rural areas are those land areas adjacent to the existing non-subsistence marine waters areas, the definitions of which are retained, and include the non-subsistence marine waters areas. Under this action, the land areas of the following cities and boroughs are non-rural areas for the purposes of the subsistence halibut fishery: the Ketchikan Gateway Borough as those boundaries existed on May 18, 2008; the City and Borough of Juneau; the Greater Anchorage Area Borough; the Matanuska-Susitna Borough; the Kenai Peninsula Borough, excluding the southern tip of the Kenai Peninsula that includes the Seldovia Census Designated Place; and the City of Valdez.

The previous figures that displayed the ''non-subsistence marine waters areas'' described at § 300.65(h)(3) in which subsistence fishing for halibut is prohibited are revised to include the adjacent non-rural land areas. These revised figures show the rural and non-rural areas of Southern Southeast Alaska, including Ketchikan; Northern Southeast Alaska, including Juneau; Prince William Sound, including Valdez; and Anchorage-Matsu-Kenai. Two new figures are added to show the rural and non-rural areas of the Alaska Peninsula and Aleutian Islands and of Western and Central Alaska.

The SHARC application is revised to incorporate changes necessitated by this action. Prior to this action, one combined application was used by rural residents and by Alaska Native tribal members. To simplify the application process for the public, separate applications will be used by rural residents and by Alaska Native tribal members. Additionally, the regulations at § 300.65(i)(2) are revised to simplify the application requirements that are listed in the regulations. The SHARC application requirements for a rural

resident include indicating the basis upon which the applicant is eligible to harvest subsistence halibut as a rural resident. Additional requirements include listing a post office box number, describing the physical location of the domicile if there is no street address, and adding ''or area'' to the requirement to list the community that qualifies the fisherman as eligible to fish for subsistence halibut. The SHARC application for an Alaska Native tribal member clearly states what is needed for address or location information and includes listing the community or area of residence, and no longer requires the dates of residence in a community because that information is not necessary for an Alaska Native tribal member.

The specific location of any SHARC holder's domicile must be provided on the SHARC application due to existing regulations limiting cash reimbursement for subsistence halibut fishing expenses. These regulations, at § 300.66(j)(1) and § 300.66(j)(2), are revised to include (A) references to the new qualification for a rural resident that is described at § 300.65(g)(3), and (B) a limit on reimbursement of actual expenses of qualified subsistence fishermen who reside outside listed rural communities–the fisherman's actual expenses may be reimbursed only by rural residents who reside within ten statute miles of the rural location listed on the fisherman's SHARC application. Additionally, the text at § 300.66(j)(2) is revised to parallel the construction used at § 300.66(j)(1) regarding reimbursement of rural residents and specifies that Alaska Native tribal members may be reimbursed for only actual expenses for ice, bait, food, and fuel. The words ''actual expenses'' were inadvertently omitted from the previous regulatory text.

The SHARC application for a rural resident includes the requirement to provide the name, complete mailing address, and phone number of an adult age 18 years or older who can verify that the residence listed by the applicant is the applicant's domicile and that it was the applicant's domicile for 12 months prior to the date of the application. The verifying person may not be the applicant's wife, husband, parent, or child and may not be living at the rural residence listed by the applicant. This requirement for a verifier enhances the ability of NMFS to determine whether a SHARC applicant is truly qualified as a rural resident eligible to fish for subsistence halibut.

Under this action, there are several other minor changes to the regulations. First, added to the regulations at § 300.61, is a definition for SHARC, which is the documentation issued by NMFS of the registration required to participate in subsistence fishing. Second, the regulations at § 300.65(g) include a reference to the new qualification for a rural resident described at § 300.65(g)(3). Third, a misspelling of Sheldon Point (Nunam Iqua) is corrected in the regulations at § 300.65(g)(2) in the table for the IPHC halibut regulatory area 4E. Fourth, the regulations at § 300.65(h)(3) no longer specify ''non-rural areas'' but ''non-subsistence marine waters areas'' instead; therefore, regulations at §§ 300.65(h)(4) and 300.66(g) are revised to reflect that change. Finally, the meaning of the ''area of tribal membership'' that is defined at § 300.65(h)(4)(iii) is revised to specify that this means the IPHC regulatory area under which an organized tribal entity is listed at § 300.65(g)(2), or the area of the Bering Sea that is closed to commercial halibut fishing and adjacent to the rural area in which the Alaska Native tribal headquarters is located.

Response to Comments

The proposed rule published in the **Federal Register** on August 6, 2008 (74 FR 39269). The 30-day comment period on the proposed rule ended September 8, 2009. NMFS received a total of three letters that contained five unique comments on the proposed rule. Two letters were received from private citizens and one letter was received from a fishing industry association. A summary of these comments and NMFS's responses follows.

Comment 1: One commenter was concerned about continuing to be excluded from the subsistence halibut fishery. The commenter resides full time in Resolute Cove, Day Harbor, Alaska, which is accessible only by water. The nearest road access is about 33 miles away in Seward, Alaska. The commenter is retired and depends on local fishing, especially in winter when travel is difficult.

Response: Day Harbor, Alaska, which is located in the Kenai Peninsula Borough, is a non-rural area under this action. ''Therefore residents of this area are excluded from the subsistence halibut fishery.'' The marine waters in that area that are within the State of Alaska (State) have been classified as non-subsistence marine waters areas since the inception of the program. The Council recommended that the boundaries for non-subsistence areas match the boundaries for Anon-subsistence use areas established by the State of Alaska Joint Board of Fisheries and Game. These boundaries are based on whether customary and traditional use is a principal part of the economy of the area and are not based on population size or remoteness. Substantively changing the boundaries of the non-subsistence marine waters areas or the adjacent land areas is beyond the scope of this action. A request to change the classification of the marine waters and land in this area to be qualified for subsistence halibut purposes may be made by the public to the Council.

Comment 2: It appears that the proposed changes would exclude Loring, Alaska, from the subsistence halibut fishery. Loring is a small rural community located on Naha Bay, which is near Ketchikan and about 12 miles from the road system on Revillagigedo Island. Most of the permanent residents of Loring fish and hunt to supplement their food supply. Loring was excluded as an eligible community under the earlier requirements for subsistence halibut fishing as the population was less than 20. This latest development continues to exclude Loring residents from subsistence halibut fishing even though Loring is a well-defined remote and rural community whose residents have subsistence fished for halibut since the early 1800s. The town of Loring and its residents should be included in the revised proposals for subsistence halibut fishing. The total number of families who would benefit would be around two or three, so it would not significantly impact the halibut stocks.

Response: Residents of Loring, Alaska, are excluded from the subsistence halibut fishery under this rule.''The marine waters near Loring have been classified as a non-subsistence marine waters area since the inception of the program.'' Loring is 11 nautical miles from the closest waters that are open to subsistence halibut fishing. Please see the response to Comment 1 for how the boundaries for non-subsistence areas were established. Substantively changing the boundaries of the non-subsistence marine waters areas or the adjacent land areas is beyond the scope of this action. A request may be made by the public to the Council to change the classification of the marine waters and land in this area to be qualified for subsistence halibut purposes.

Comment 3: The commenter supports this action to allow inadvertently excluded rural residents who reside outside the city limits of Petersburg to participate in the subsistence halibut fishery.

Response: NMFS notes the support for this action.

Comment 4: The commenter is very apprehensive that the most recent information regarding subsistence halibut in this proposed rule is from 2007, and supports action to gather accurate harvest numbers as quickly as possible. The commenter supports additional efforts for a harvest logbook or harvest report that must be submitted within one week of completion of subsistence harvest.

Response: Information on subsistence halibut harvests is submitted voluntarily through a survey of SHARC holders. Although mandatory subsistence halibut harvest information is not required, 58 percent of SHARC holders participated in the 2007 harvest survey according to the report on subsistence harvests of halibut in Alaska published by the State in December 2008. This amount of participation is sufficient for a reasonably accurate harvest estimate. The collection of catch information from subsistence halibut participants is modeled on the State-wide sport fish harvest survey, a similar voluntary harvest reporting program.

The data from 2007 are the most recent data available from all areas of the State of total halibut removals that include subsistence halibut harvest estimates. These data indicate that sport fisheries harvested 10.3 percent of the total and subsistence fisheries harvested 1.4 percent of the total. Rigorous recordkeeping and reporting requirements for these two fisheries likely would increase the precision of these estimates. This is unnecessary, however, for the relatively small proportions of the total harvest. More rigorous recordkeeping and reporting requirements are imposed on fisheries that remove larger amounts of halibu– the commercial harvest of halibut and bycatch of halibut during directed commercial fisheries for other species.

For those who live in remote locations, requiring the submission of the information within a week of the conclusion of fishing is an unreasonable reporting burden that is not justified based on the amount of halibut harvested in subsistence fishing State-wide. However, the suggestion to require a harvest logbook or other reporting tools for subsistence halibut fishermen in specific areas may be made to the Council.

Comment 5: The commenter appreciates the emphasis on legal participation in the program being limited to Alaska residents and is concerned with the number of ''part-time'' Alaska residents who are in the State for only a few months of the year in the summer, yet claim Alaska residency.

Response: The subsistence halibut program is not limited to Alaska residents. Alaska Native tribal members who reside outside the State may qualify to subsistence fish for halibut. For rural residents, the program is limited to those persons who reside in certain designated locations with customary and traditional use in waters in and off the geographical area under the Council's jurisdiction.

Changes from the Proposed Rule

No substantive changes are made in this final rule from the proposed rule. The regulations at § 300.65(i)(2) were revised to more precisely delineate the application submission requirements for a SHARC, which are detailed on the application form. To correct errors that occurred in the proposed rule, minor technical edits are made as follows: (1) add degree signs in the geographic coordinates at § 300.65(g)(3)(i) and § 300.65(g)(4)(v), (2) correct the spelling of ''Behm Narrows'' at § 300.65(g)(4)(i), (3) add italics to text at § 300.65(h)(3)(iii) and § 300.65(h)(3)(iv), and (4) insert quotation marks around the phrase ''area of tribal membership'' at § 300.65(h)(4)(iii).

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the Council, and the Secretary. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) allows the regional council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Council's authority and the Secretary's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule also complies with the Secretary's authority under the Halibut Act to implement management measures for the halibut fishery.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This rule contains collection–of–information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648–0460. Public reporting burden for the SHARC applications for a rural resident or an Alaska Native tribal member are each estimated to average ten minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e–mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall 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.

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of the NMFS in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat 452), as amended by section 518 of Public Law 108–447 (118 Stat 3267), extends the consultation requirements of Executive Order 13175 to Alaska Native corporations. Consultations occurred with the Alaska Native Subsistence Halibut Working Group in December 2008, pursuant to the requirements of Executive Order 13175.

List of Subjects in 50 CFR Part 300

Alaska, Alaska Natives, Fisheries, Pacific halibut fisheries, Recordkeeping and reporting requirements.

Dated: October 30, 2009.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 300, subpart E is 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 revise the definitions for ''Rural'' and ''Rural resident'' and add a new definition for ''Subsistence halibut registration certificate (SHARC)'' in alphabetical order to read as follows:

§ 300.61 Definitions.

* * * * *

Rural means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a community of Alaska listed at § 300.65(g)(1) or an area of Alaska described at § 300.65(g)(3) in which the non-commercial, customary, and traditional use of fish and game for personal or family consumption is a principal characteristic of the economy or area and in which there is a long-term, customary, and traditional use of halibut.

Rural resident means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska:

(1) An individual domiciled in a rural community listed in the table at § 300.65(g)(1) and who has maintained a domicile in rural communities listed in the table at § 300.65(g)(1), or in rural areas described at § 300.65(g)(3), for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country; or

(2) An individual domiciled in a rural area described at § 300.65(g)(3) and who has maintained a domicile in rural areas described at § 300.65(g)(3), or in rural communities listed in the table at § 300.65(g)(1), for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country.

* * * * *

Subsistence halibut registration certificate (SHARC) means documentation, issued by NMFS, of the registration required at § 300.65(i).

* * * * *

■ 3. In § 300.65:

A. Revise paragraphs (g) introductory text, (h)(3) introductory text, (h)(3)(iii) introductory text, (h)(3)(iv), (h)(4) introductory text, (h)(4)(iii), (i)(2), (j)(3)(i)(B), (k)(3)(i)(A) introductory text, and (k)(3)(i)(B).

B. In paragraph (g)(2), in the table entitled (Halibut Regulatory Area 4E,(revise the entry for ''Sheldon Point (Nuna Iqua)''.

C. Add new paragraphs (g)(3) and (g)(4).

The additions and revisions read as follows:

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

* * * * *

(g) *Subsistence fishing in and off Alaska.* No person shall engage in subsistence fishing for halibut unless that person meets the requirements in paragraphs (g)(1), (g)(2), or (g)(3) of this section.

* * * * *

(2) * * *

HALIBUT REGULATORY AREA 4E

Place with Tribal Headquarters	Organized Tribal Entity
* * *	* *
Sheldon Point (Nunam Iqua)	Native Village of Sheldon's Point
* * *	* *

(3) A person is eligible to harvest subsistence halibut if he or she is a rural resident in one of the rural areas of Alaska described as follows:

(i) Southeast Alaska east of 141° W. long., except for the land areas of the Ketchikan Gateway Borough as described at paragraph (g)(4)(i) of this section, the land areas of the City and Borough of Juneau, and the Ketchikan and Juneau non-subsistence marine waters areas as defined in paragraphs (h)(3)(i) and (h)(3)(ii) of this section (see figures 2 and 3 to this subpart E).

(ii) The Alaska Peninsula, Aleutian Islands, Kodiak Island Archipelago, and the area south of the northern boundary of the Bristol Bay Borough and south of 58°39.2′ N. lat. (see figures 5, 6, and 7 to this subpart E).

(iii) Nelson, Nunivak, and Saint Lawrence Islands (see figure 6 to this subpart E).

(iv) All other areas of Alaska within ten statute miles of mean high water on the Bering Sea and Pacific Ocean coasts, south of Cape Espenberg, including along the Kuskokwim River to Bethel, and that are not specified as non-rural land or water areas as defined in paragraph (g)(4) of this section (see figures 4, 5, 6, and 7 to this subpart E).

(4) Non-rural areas consist of the non-subsistence marine waters areas defined in paragraph (h)(3) of this section and the land areas of the following cities and boroughs for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska:

(i) The Ketchikan Gateway Borough on May 18, 2008. This area encompasses all those islands bounded on the east, north, and west by Behm Canal, Behm Narrows, and Clarence Strait to its junction with Nichols Passage, and on the south by Nichols and Revillagigedo Channel to its junction with Behm Canal. The designated boundaries extend to the center line of Behm Canal, Behm Narrows, Clarence Strait, Nichols Passage, and Revillagigedo Channel, and include all the area of Revillagigedo, Gravina, Pennock, Betton, Grant and other Clover Passage and Naha Bay Islands, Hassler, Gedney, Black, Smeaton, Manzanita, Rudyerd, and Bold Islands, and all other offshore and adjacent islands and inlets thereto (see figure 2 to this subpart E).

(ii) The City and Borough of Juneau (see figure 3 to this subpart E).

(iii) The Greater Anchorage Area Borough (see figures 4 and 5 to this subpart E).

(iv) The Matanuska-Susitna Borough (see figure 5 to this subpart E).

(v) The Kenai Peninsula Borough excluding the area of the Seldovia Census Designated Place, the area south and west of that place, and the area south and west of a line that runs from 59°27.5′ N. lat., 151°31.7′ W. long. to 59°12.5′ N. lat., 151°18.5′ W. long (see figure 5 to this subpart E).

(vi) The City of Valdez (see figures 4 and 5 to this subpart E).

(h) * * *

(3) Subsistence fishing may be conducted in any waters in and off Alaska except in the four non-subsistence marine waters areas defined as follows:

* * * * *

(iii) *The Anchorage-Matsu-Kenai non-subsistence marine waters area in Commission Regulatory Area 3A* (see figures 4, 5, 6, and 7 to this subpart E) is defined as:

* * * * *

(iv) *Valdez non–subsistence marine waters area in Commission regulatory area 3A* (see figures 4 and 5 to this subpart E) is defined as the waters of Port Valdez and Valdez Arm located north of 61°01.38′ N. lat., and east of 146°43.80′ W. long.

(4) Waters in and off Alaska that are not specifically identified as non-subsistence marine waters areas in paragraph (h)(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 (i) of this section, except that:

* * * * *

(iii) For purposes of this paragraph (h)(4), Aarea of tribal membership@ means rural areas of the Commission regulatory area under which the Organized Tribal Entity is listed in the tables set out in paragraph (g)(2) of this section, or the Bering Sea closed area adjacent to the rural area in which the Alaska Native tribal headquarters is located.

(i) * * *

(2) *Registration*. To register as a subsistence halibut fisherman, a person may request a cooperating Alaska Native tribal government or other entity designated by NMFS to submit an application on his or her behalf to the Alaska Region, NMFS. Alternatively, a person may apply by submitting a completed application to the Alaska Region, NMFS. Application forms are available on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2. NMFS will process a SHARC Application for an Alaska Native Tribal Member or a SHARC Application for a Rural Resident provided that an application is completed, with all applicable fields accurately filled-in, and all required additional documentation is submitted. Initial applications for a SHARC must be signed and mailed or faxed to NMFS (see instructions on form). Renewals may be submitted electronically, mailed, or faxed.

(i) *Non-electronic submittal*. The applicant must sign and date the application certifying that all information is true, correct, and complete. The applicant must submit the paper application as indicated on the application.

(ii) *Electronic submittal*. An individual can submit a SHARC renewal on-line using an application available at the Alaska Region website. By using the SHARC number and date of birth, and by submitting the application form, the applicant certifies that all information is true, correct, and complete.

* * * * *

(j) * * *

(3) * * *

(i) * * *

(B) Within the Ketchikan, Juneau, Anchorage–Matsu–Kenai, and Valdez non–subsistence marine waters areas as defined in paragraph (h)(3) of this section (see figures 2, 3, 4, 5, 6, and 7 to this subpart E).

* * * * *

(k) * * *

(3) * * *

(i) * * *

(A) In the Anchorage–Matsu–Kenai non–subsistence marine waters area defined in paragraph (h)(3) of this section (see figures 4, 5, 6, and 7 to this subpart E), only the following tribes may use a Ceremonial or Educational permit:

* * * * *

(B) In the Valdez non–subsistence marine waters area defined in paragraph (h)(3) of this section (see figures 4 and 5 to this subpart E), only the Native Village of Tatitlek may use a Ceremonial or Educational permit.

* * * * *

■ 4. In § 300.66, revise paragraphs (g), (j)(1), and (j)(2) to read as follows:

§ 300.66 Prohibitions.

* * * * *

(g) Fish for subsistence halibut in and off Alaska in a non-subsistence marine waters area specified at § 300.65(h)(3).

* * * * *

(j) * * *

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

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

* * * * *

5. Revise figures 2, 3, 4, and 5 to subpart E of part 300 and add figures 6 and 7 to subpart E of part 300 to read as follows:

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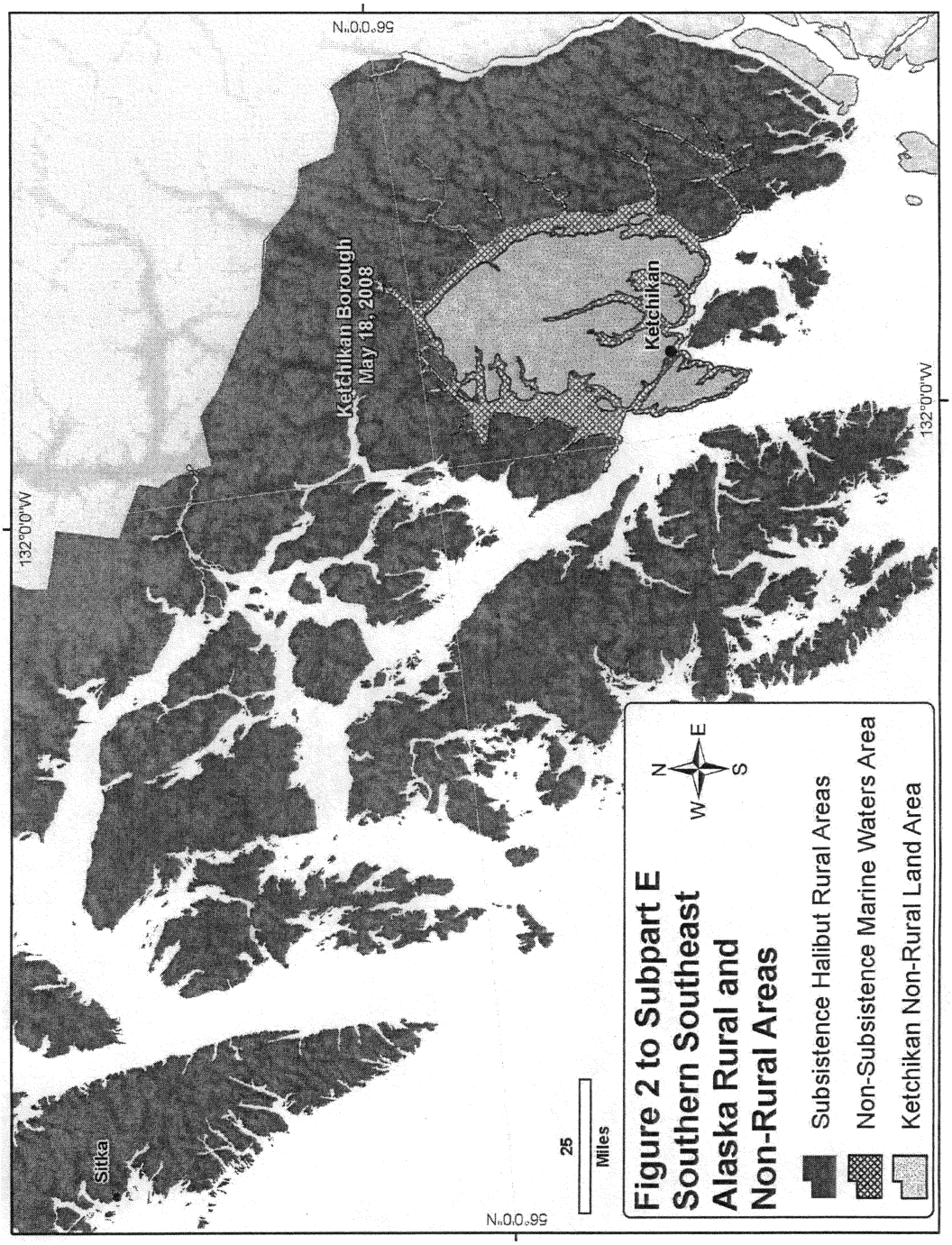


Figure 2 to Subpart E Southern Southeast Alaska Rural and Non-Rural Areas

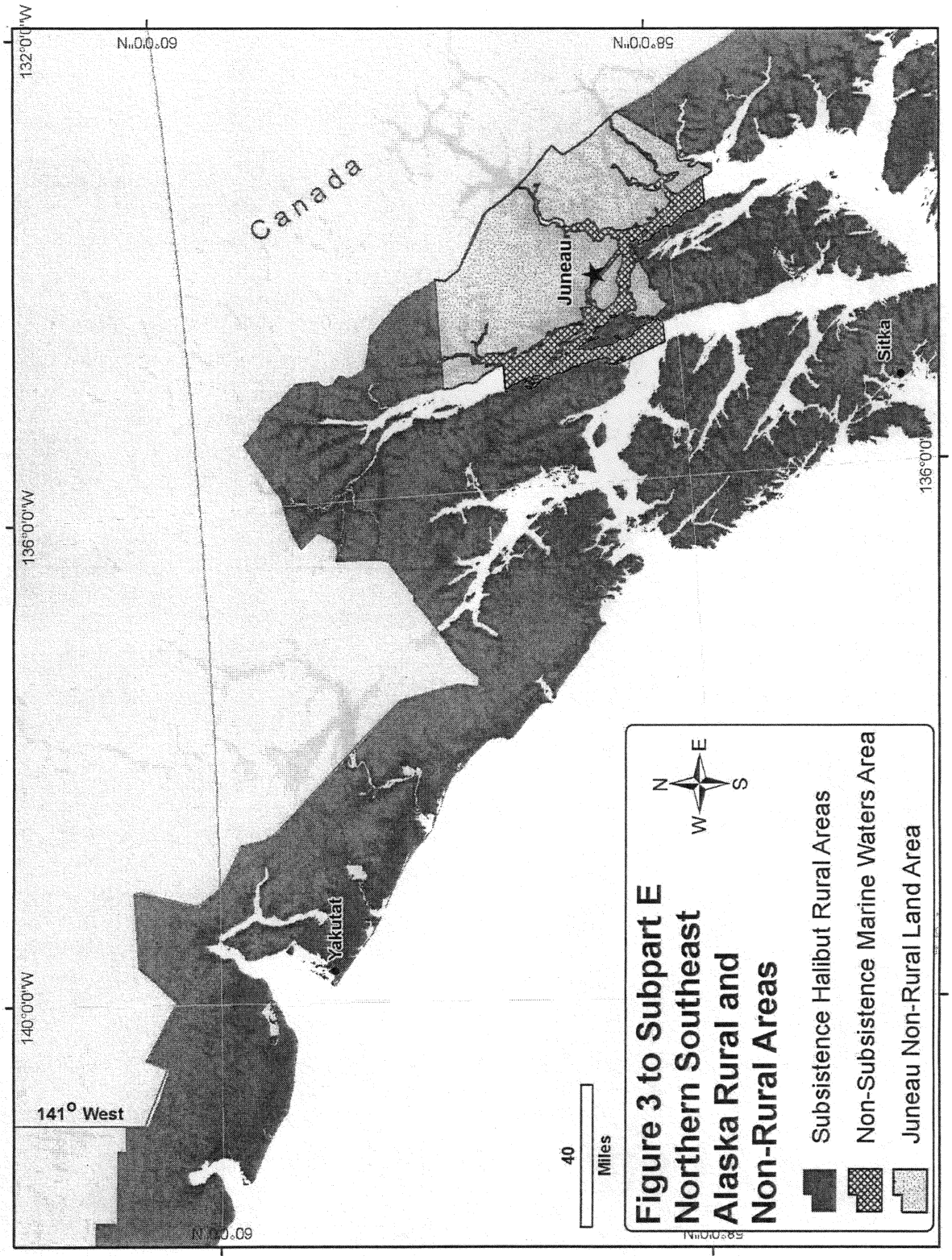


Figure 3 to Subpart E Northern Southeast Alaska Rural and Non-Rural Areas

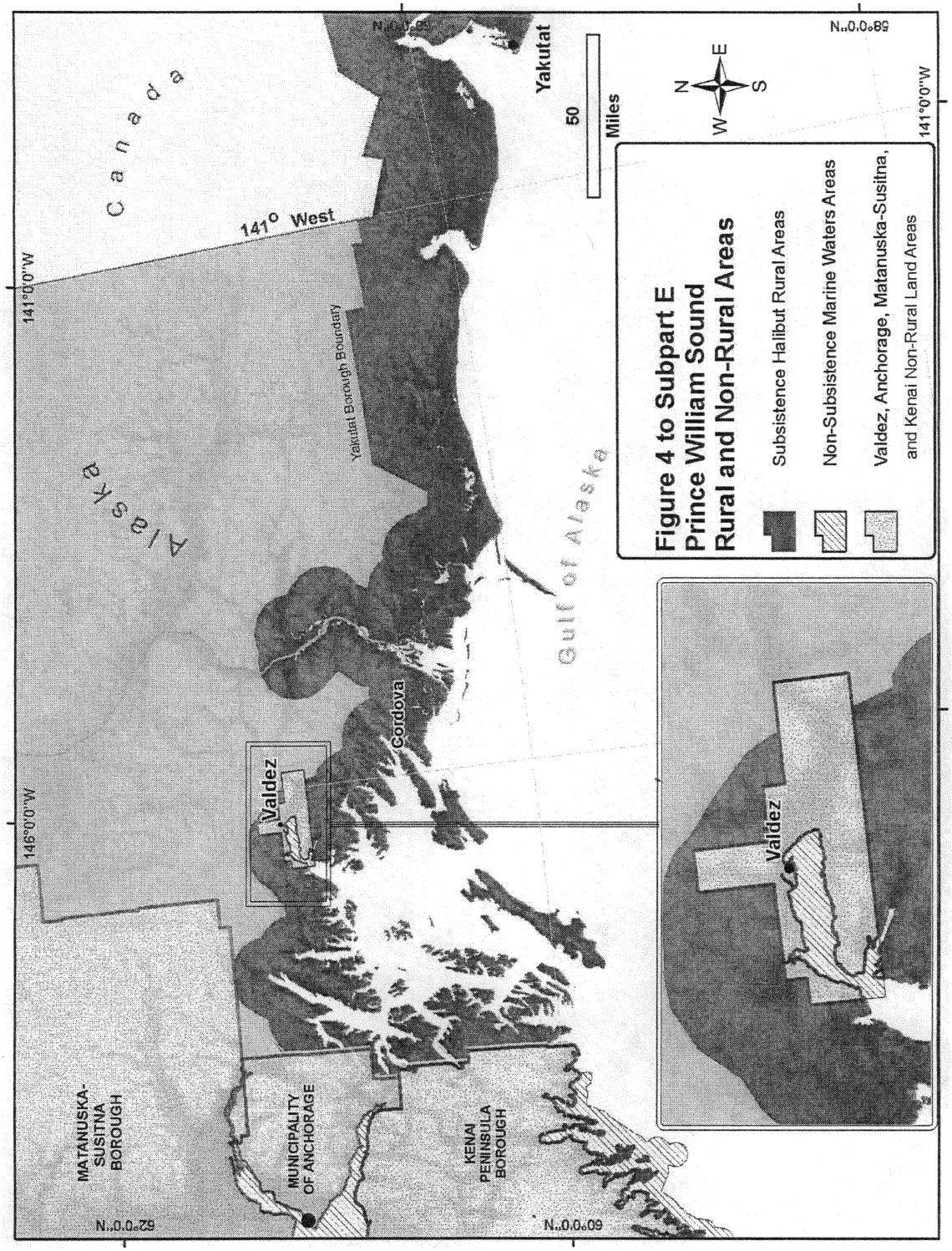
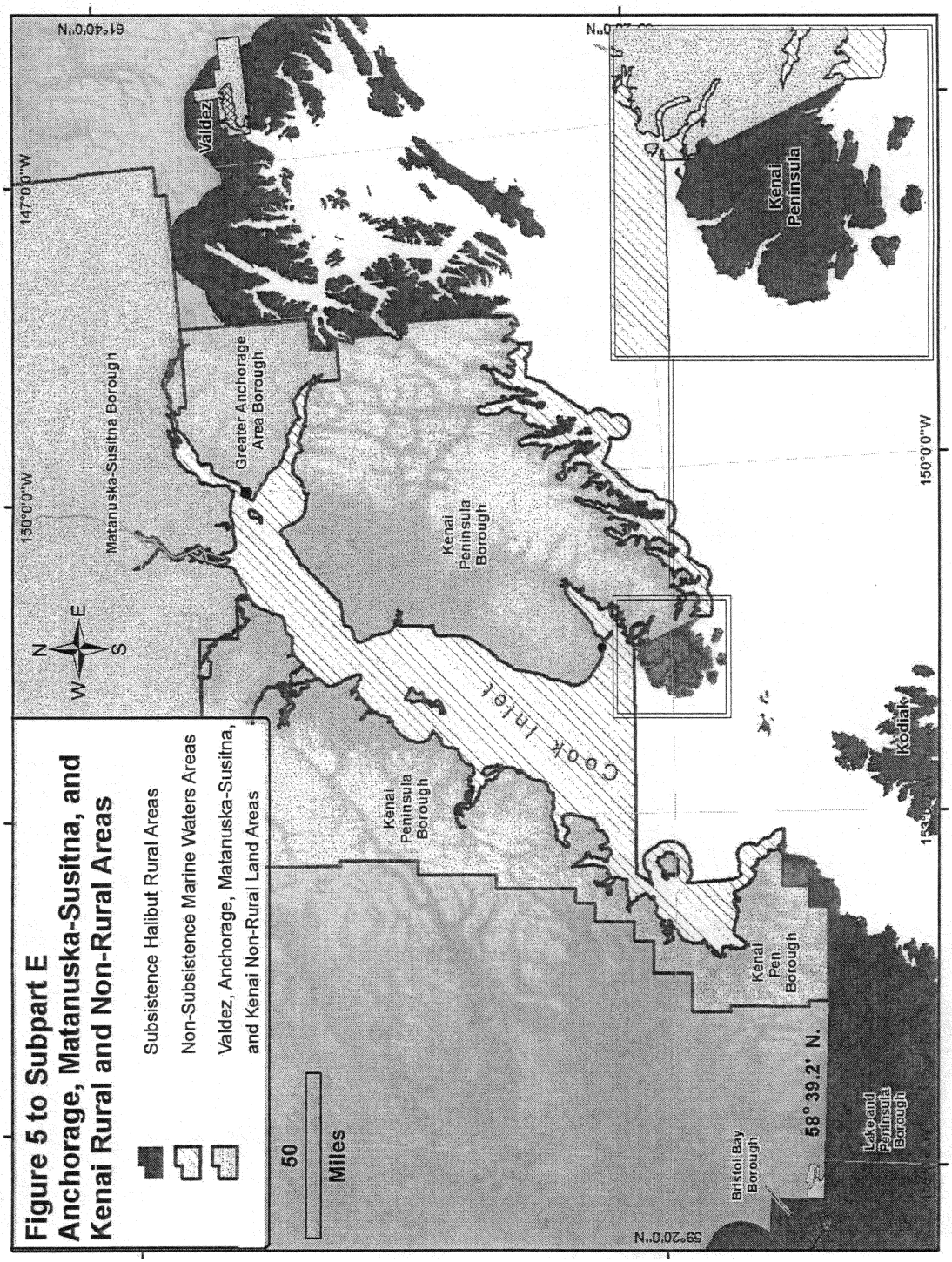


Figure 4 to Subpart E
Prince William Sound
Rural and Non-Rural Areas
Subsistence Halibut Rural Areas
Non-Subsistence Marine Waters Areas
Valdez, Anchorage, Matanuska-Susitna, and Kenai Non-Rural Land Areas
Canada
Alaska
141° West
141°0'0"W
146°0'0"W
Yakutat Borough Boundary
Yakutat
Gulf of Alaska
Cordova
Valdez
MATANUSKA-SUSITNA BOROUGH
MUNICIPALITY OF ANCHORAGE
KENAI PENINSULA BOROUGH
50
Miles
N
S
E
W
62°0'0"N
60°0'0"N
58°0'0"N

Figure 5 to Subpart E of Part 300—Anchorage, Matanuska-Susitna, and Kenai Rural and Non-Rural Areas



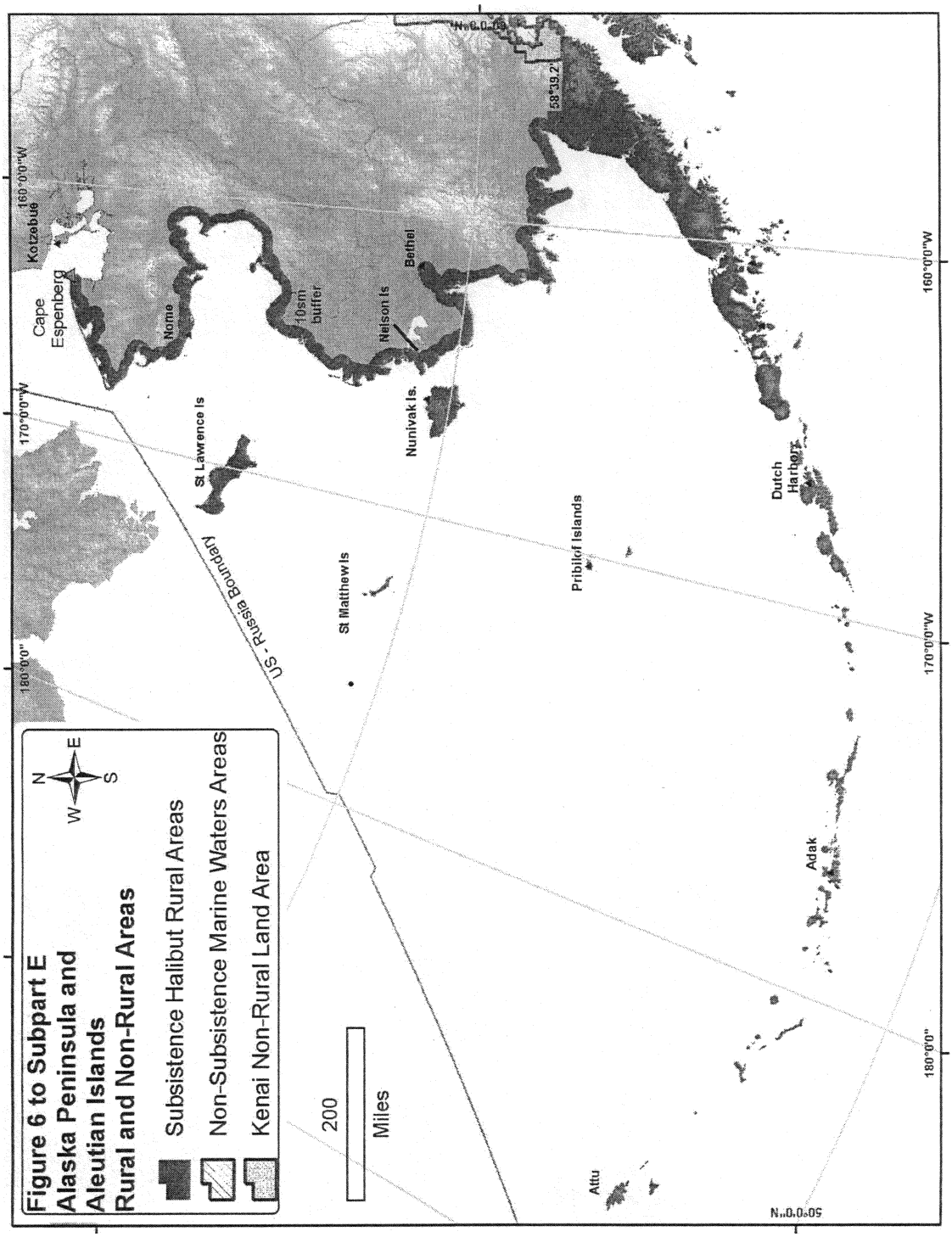
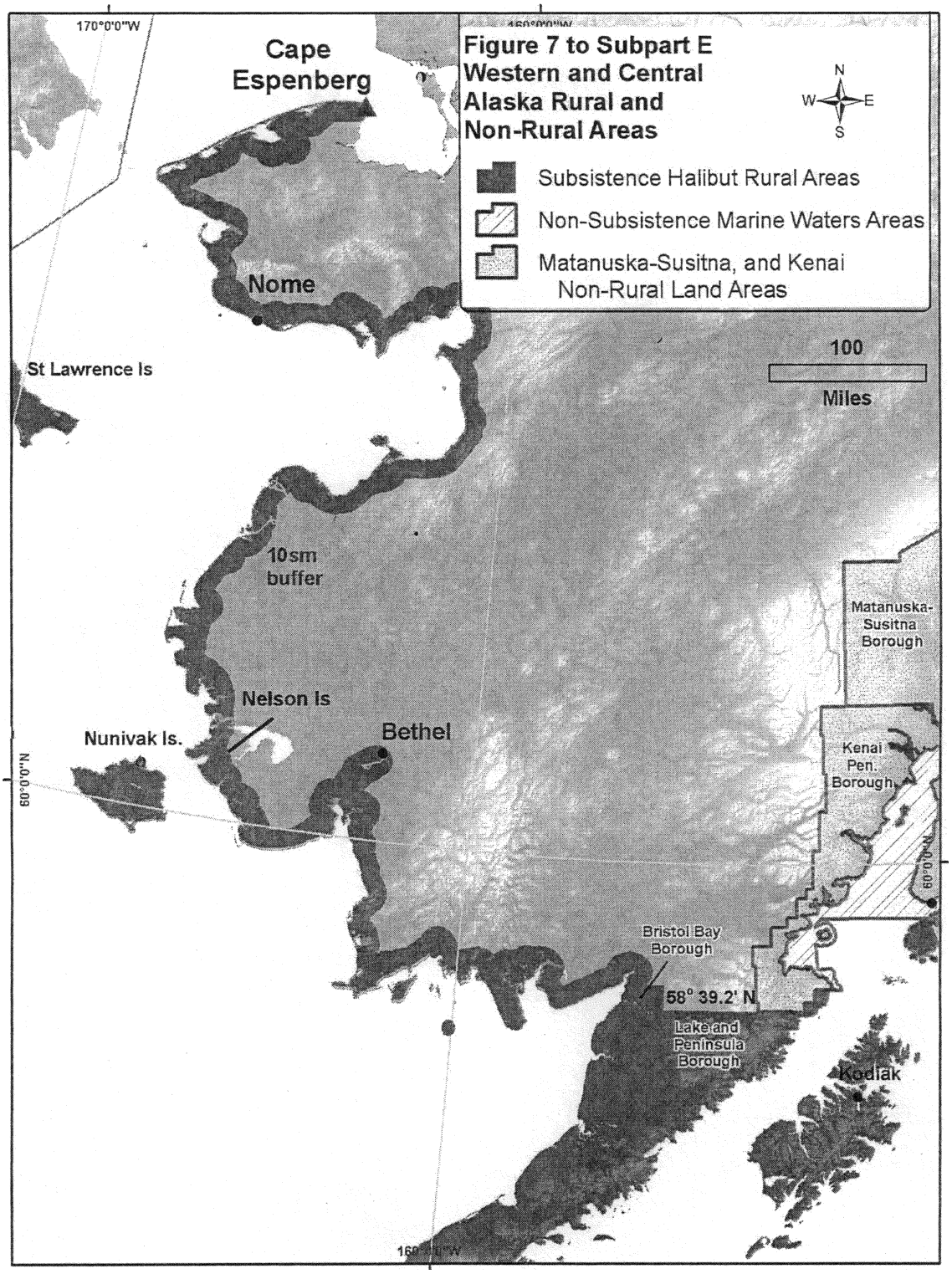


Figure 6 to Subpart E
Alaska Peninsula and
Aleutian Islands
Rural and Non-Rural Areas
Subsistence Halibut Rural Areas
Non-Subsistence Marine Waters Areas
Kenai Non-Rural Land Area
N
E
S
W
200
Miles
Kotzebue
Cape Espenberg
Nome
10sm buffer
Nelson Is
Bethel
Nunivak Is.
St Lawrence Is
St Matthew Is
US - Russia Boundary
Pribilof Islands
Dutch Harbor
Adak
Attu
180°0'0"
170°0'0"W
160°0'0"W
160°0'0"W
170°0'0"W
180°0'0"
58°39.2'
N



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