

DRAFT FOR PUBLIC REVIEW

Environmental Assessment/Regulatory Impact Review for a Regulatory Amendment to

Amend Proposed Halibut Subsistence Fishery Regulations in Convention Waters

Date: November 8, 2001

Lead Agency: National Marine Fisheries Service
P. O. Box 21668
Juneau, Alaska 99802

Responsible Official: Jim Balsiger, Alaska Regional Administrator

Abstract: The Halibut Subsistence EA/RIR analyzes proposed changes to an October 2000 action to define the legal harvest of halibut for subsistence use in Convention waters in and off Alaska. At the request of the North Pacific Council, the Alaska Board of Fisheries forwarded its recommendations for changes affecting Areas 2C, Area 3, and Area 4 to the Council in June 2001. In response, the Council initiated this analysis for potential changes to its previous action on: 1) gear limits, 2) stacking of gear limits, 3) harvest limits, 4) proxy fishing, and 5) changing the Cook Inlet non-subsistence fishing area southern boundary.

The proposed action is designed to better reflect local halibut subsistence fishing needs to feed families in all areas and balance concerns about rockfish stocks in four local areas adjacent to more densely populated centers. It may affect as many as 82,000 Alaska residents deemed eligible under the previous action whose fishing practices occur in the affected areas. The proposed actions are not designed to decrease the amount of total harvest for subsistence use in those waters. The biological data to assess local fish removals and rockfish populations are not currently available, but the potential effects are expected to be marginally positive in those local areas. The economic data to assess the potential effects of the proposed measures on the affected individuals also are not available, but they are expected to be marginally negative in those same areas. The Council must weigh these effects in making its decision.

None of the alternatives is expected to result in a “significant regulatory action” on the human environment as defined in E.O. 12866. The proposed action is not expected to be “economically significant.” The affected entities in this analysis are not considered “small entities” under the Regulatory Flexibility Act.

Comment Due Date: A public comment period will occur through final action by the Council on December 6, 2001. A second comment period will be announced by NMFS in the proposed rule for the preferred alternatives under each of the five actions.

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EXECUTIVE SUMMARY

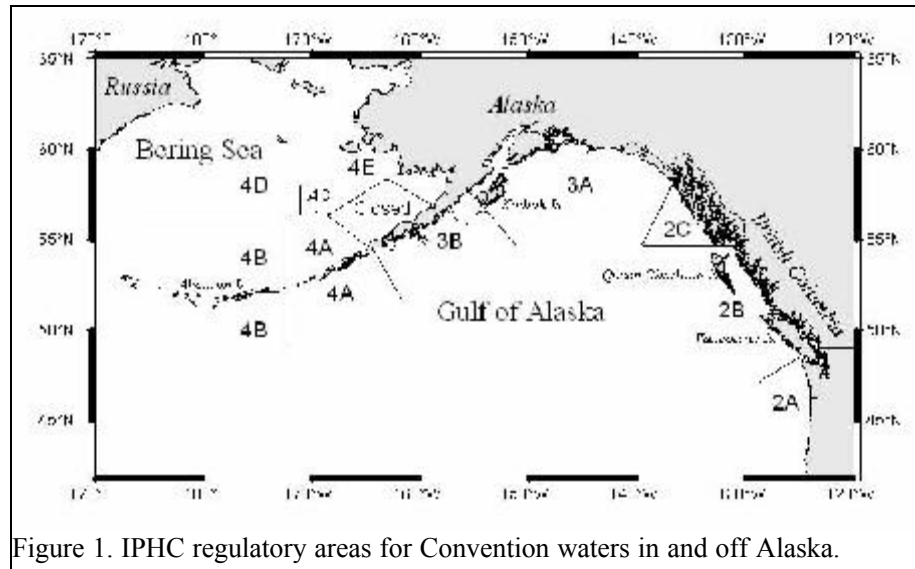
The Halibut Subsistence EA/RIR analyzes proposed changes to an October 2000 action to define the legal harvest of halibut for subsistence use in Convention waters in and off Alaska. That regulatory amendment is being prepared for Secretarial review. As part of that action, the Council requested that the State of Alaska Board of Fisheries reexamine its recommendations on: 1) legal gear; 2) daily limits; 3) reporting requirements; 4) customary and traditional use areas of tribes and rural communities; and 5) non-rural area definitions for halibut fishing areas. The Board forwarded its recommendations for changes affecting Areas 2C, Area 3, and Area 4 to the Council in June 2001. The Board's recommendation is to adopt more liberal limits for Areas 4C, 4D, and 4E; slightly more restrictive limits for Areas 3B, 4A, 4B, and most of Areas 2C and 3A; more restrictive limits in four local areas in Areas 2C and 3A (Sitka Sound, Kodiak and Chiniak Bay, Cook Inlet, and Prince William Sound). In response, the Council initiated this analysis for potential changes to its previous action on: 1) gear limits, 2) stacking of gear limits, 3) harvest limits, 4) proxy fishing, and 5) changing the Cook Inlet non-subsistence fishing area southern boundary.

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1.0 Introduction

This document assesses the potential economic impacts of a regulatory action to revise the Council's previous action to implement subsistence regulations for the Pacific halibut *Stenolepis hippoglossus* in Convention waters in and off Alaska. Convention waters are maritime areas off the west coast of the United States and Canada as described in Article I of the Halibut Convention.



This document provides an

analysis of the impacts of the alternatives considered by the Council to revise its previous action on the following issues: 1) gear limits; 2) harvest limits; 3) proxy fishing; 4) stacking of harvest limits; and 5) non-subsistence fishing area boundaries. This document, along with the Environmental Assessment/RIR prepared to support the previous action (NPFMC 2000a), will provide the basis for the Council's choice of a preferred alternative.

This regulatory analysis examines proposed changes to an October 2000 Council action to define the legal harvest of halibut for subsistence use in Convention waters in and off Alaska. As part of its previous action, the Council requested that the State of Alaska Board of Fisheries reexamine its recommendations on: 1) legal gear; 2) daily limits; 3) reporting requirements; 4) customary and traditional use areas of tribes and rural communities; and 5) non-rural area definitions for halibut fishing areas. The Board forwarded its recommendations for changes affecting Areas 2C, Area 3, and Area 4 to the Council in June 2001. The Board's recommendation is to adopt more liberal limits for Areas 4C, 4D, and 4E; slightly more restrictive limits for Areas 3B, 4A, 4B, and most of Areas 2C and 3A; more restrictive limits in four local areas in Areas 2C and 3A (Sitka Sound, Kodiak and Chiniak Bay, Cook Inlet, and Prince William Sound). In response, the Council initiated this analysis for potential changes to its previous action on: 1) gear limits, 2) stacking of gear limits, 3) harvest limits, 4) proxy fishing, and 5) changing the Cook Inlet non-subsistence fishing area southern boundary.

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A number of Federal and state agencies and divisions have management responsibilities for halibut. The IPHC management authority is provided by the *Convention Between the United States and Canada for the*

Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention) signed at Washington March 29, 1979, and the Northern Pacific Halibut Act of 1982, 16 U.S.C. §773 c (c) (Halibut Act). The Convention and the Halibut Act authorize the respective Councils established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976 to:

. . . develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both which are in addition to and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853(b)(6) of this title. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges...[16 U.S.C §773c(c)]

In general, the language in the Magnuson-Stevens Act, the Halibut Act and the Convention have been interpreted to assign to the Council the duty to advise the Secretary of Commerce on halibut management issues concerning allocations between various users of the halibut resources in and off the waters of Alaska. It is under this authority that the Council is considering alternatives to recognize and manage the subsistence halibut fishery. These acts, coupled with Executive Orders 12866 and 12962 and the National Environmental Policy Act (NEPA), mandate that certain issues be examined before a final decision is made. These analytical requirements are addressed in this Regulatory Impact Review (RIR).

The Halibut Act authorizes the regional fishery management councils having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. waters which are in addition to but not in conflict with regulations of the IPHC. While the IPHC has primary authority to manage the halibut resource for biological conservation purposes, the Council has authority to recommend policies affecting halibut resource allocation among U. S. fishermen in the maritime and coastal waters of Alaska and in the ocean waters over which the U.S. exercises fishery management jurisdiction. The Council does not have a fishery management plan (FMP) for halibut, however, the Council developed a limited access system involving individual fishing quotas (IFQs) and community development quotas (CDQs) for the halibut fishery. This system is implemented by Federal regulations under 50 CFR part 679 under the authority of the Magnuson-Stevens Act.

Federal regulations for Pacific halibut implemented by the National Marine Fisheries Service (NMFS) are found in 50 CFR part 300 and 50 CFR part 679, which were issued under the authority of the Magnuson-Stevens Act and the Halibut Act, respectively. Magnuson-Stevens Act and Halibut Act regulations recommended by the Council and IPHC, respectively, and implemented by NMFS describe Pacific halibut commercial and sportfish regulations. These include regulatory areas, licensing vessels, fishing periods, closed periods, catch limits, size limits, bag limits, logs, and sport fishing restrictions. Lastly, USFWS also has jurisdiction over halibut for public lands.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be

understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

This analysis addresses the requirements of both E.O. 12866 to provide adequate information to determine whether an action is “significant” under E.O. 12866 or will result in “significant” impacts on small entities under the RFA. The finding of no significance is provided in Section 1.9.

E. O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

A regulatory program is “economically significant” if it is likely to result in the effects described above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be “economically significant.”

Because the proposed actions do not substantially change the impact on the human environment, the trailing regulatory amendment has been proposed for a categorical exclusion (CE) under NAO 216-6 and the National Environmental Policy Act (NEPA) from both further environmental review and the requirement to prepare an environmental review document. Section 5.05b of NAO 216-6 states that, in determining the appropriateness of a CE, an action should be evaluated to determine if (1) a prior NEPA analysis for the “same” action demonstrated that the action will not have significant impacts on the quality of the human environment or (2) the action is likely to result in significant impacts as defined in 40 CFR 1508.27. If none of the factors listed above may be reasonably expected to occur, then the Regional Administrator may determine the applicability of a CE. An EA has not been prepared for the proposed actions pending the anticipated formal FONSI determination.

The EA/RIR/IRFA for the previous action (NPFMC 2001) concluded that none of the alternatives is expected to result in a “significant regulatory action” as defined in E.O. 12866 and none of the alternatives or their options under consideration would result in a significant impact on a substantial number of small entities.

Background

The Council defined subsistence standards for Pacific halibut in waters off Alaska in October 2000 based on an extensive EA/RIR/IRFA of halibut subsistence customary and traditional (C&T) practices by Alaska Natives and other rural residents (NPFMC 2001). It adopted a rural standard for primary eligibility as applied by the State of Alaska Board of Fisheries findings of halibut C&T uses and defined in the Alaska National Interest Land Claims Act (ANILCA) until its 1993 revision. The State defines a rural area as a community or area of the state in which the non-commercial, C&T use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area. Subsistence uses are identified as customary and traditional uses of fish and game by rural Alaska residents under ANILCA, but no longer specifically defines “rural.” As a result of adopting those criteria, the Council qualified 117 rural communities as being eligible for halibut subsistence use.

The Council further included members of 120 Alaska federally recognized Tribes (two Tribes are included in the previous action pending Federal recognition) with a finding of C&T use of halibut who: 1) reside in or move to an urban area; and/or 2) live in an area that has become or in the future becomes urban and will be allowed to fish in any IPHC regulatory area off Alaska. Only Alaska Native tribal members whose tribe is located in a rural area but who reside in an urban area, may conduct subsistence halibut fishing in the IPHC regulatory area, as listed in Table 2 (below) in which the tribal entity is located.

Legal gear was defined as set and hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging and hand-troll gear. Residents of Areas 4D and Area 4E may retain halibut less than 32 inches under the community development quota (CDQ) fishery. Legal-sized halibut caught while commercially fishing statewide must be counted against individual fishing quotas, but not against CDQs. Sale was prohibited, but trade was limited to an annual maximum of \$400 per fisherman. Non-monetary trade was allowed with anyone. Daily limits of 20 halibut per fisherman per day were adopted for most waters, except for Areas 4C and 4E which have no limits. Cooperative agreements between Tribal, the State of Alaska, Federal government and other entities are currently being developed for harvest monitoring and reporting.

The Council further requested the Alaska Board of Fisheries to recommend changes to the proposed regulations for gear, daily limits, reporting requirements, C&T designations for Tribes or rural communities, and non-rural area definitions for halibut fishing areas. The Board presented its recommendations to the Council in June 2001. The Council initiated this analysis of the Board’s proposed changes, with one modification, to its previous action. Those proposed changes are listed under Section 1.3.2 and 1.5.2.

The Council clarified in June 2001, that the proposed changes should not impede the Secretarial review process for its previous action. Council staff submitted the halibut subsistence EA/RIR, which was revised to reflect the Council’s preferred alternative, to NMFS -Alaska Region on September 26, 2001. NMFS staff is preparing the regulatory package for submission to the Secretary. The final rule, if approved by the Secretary, could be effective in 2002.

1.1 Statement of the problem

This analysis examines changes proposed by the Board to the Council’s previous action to define halibut subsistence for Alaska. These changes were intended to address local needs and issues. The problem statement from the original regulatory analysis noted: 1) the lack of Federal regulations that recognize the customary and traditional use of halibut for subsistence by Alaska Natives and non-Native rural residents and 2) the lack of accurate monitoring and reporting of subsistence harvests. The Council provided a specific

problem statement for Alternative 2, Part 4 related to gear, harvest (bag), and annual limits in the Sitka Sound local area management plan (LAMP) area. **The Council is requested to provide a problem statement(s) for Alternative 2, Parts 1 through 3.**

PROBLEM STATEMENT FOR SITKA SOUND LAMP AREA

The Sitka LAMP was adopted by the Council to address localized depletion of halibut in the Sitka Sound area and to enhance halibut harvesting opportunities for local residents. Since many residents are not equipped to target halibut with skates of gear, the Council is concerned that the proposed subsistence regulations could undermine Sitka LAMP goals. To prevent these goals from being undermined, the Council is considering: a) retaining existing personal use regulations for the Sitka Sound local area subsistence fishing of two hooks and two fish/day bag limit and/or b) Board recommendations relative to the Sitka Sound LAMP area (i.e., 2 hooks, 20 fish/day/year, with proxy).

1.2 Statement of objectives for the proposed action

This document assesses the potential impacts of a regulatory action to modify Pacific halibut *Stenolepis hippoglossus* subsistence. The objective of the proposed action is to address a number of concerns regarding the harvest of halibut in local areas as identified by the Board through public testimony from local users. These concerns include:

- 1) the small window of opportunity available for fishing due to the weather in areas 4C, 4D, and 4E,
- 2) bycatch of other species, principally rockfish, in areas 3A and 2C; and
- 3) recognition of the traditional subsistence fishing areas and fishing practices of federal qualified users.

1.3 Description of the alternatives

1.3.1 Alternative 1. No action.

The preferred alternative to define halibut subsistence in Convention waters in and off Alaska that was adopted by the Council during final action in October 2000 is considered the “no action” alternative in this analysis. The term “status quo” is not used here because the regulations to implement the Council’s previous action to define a halibut subsistence fishery is still under review by the Secretary. Subsistence fishing and hunting are well known in Alaska as customary and traditional practices of Alaska Natives and non-Natives, especially in rural areas with limited alternative food resources. As a means of survival long before the present time, subsistence is inextricably woven into the cultural fabric of Alaska Natives and the rural lifestyle. However, the regulatory regime that governs fishing for halibut in Convention waters off Alaska has not recognized the harvesting of subsistence halibut. The main goals of the five proposed actions are to better enable those Alaska residents who depend on the taking of halibut for food to continue that practice and to formalize the previously unrecognized fishery so that better harvest information can be gathered for stock assessment purposes. Specific elements of the halibut subsistence fishery as adopted by the Council in October 2000 and clarified in June 2001 follow.

1.3.1.1 Definition of subsistence

As stated earlier, the purpose of the October 2000 action is to provide regulations that would authorize a subsistence fishery for halibut in convention waters off Alaska. Subsistence refers to the act of collecting wild foods (i.e., halibut) by rural residents of Alaska or by members of Alaska Native tribes (defined in Section 1.3.1.2 below) for sustenance and cultural tradition. Therefore, the harvest of subsistence halibut means the

harvest of halibut by rural residents of Alaska or by members of Alaska Native tribes for direct personal or family consumption as food; for barter, or sharing for personal or family consumption as food; and for customary trade.

The Council determined that regulations were needed to authorize the long-term customary and traditional practices of fishing halibut for food for families in a non-commercial manner for non-economic consumption. The Council defined subsistence as “non-commercial fishing for food.” This definition is broad enough to capture both objectives referred to above (i.e., sustenance and cultural tradition), however, it limits behavior through the use of the term “non-commercial.” Non-commercial fishing means that halibut caught in the subsistence fishery cannot be sold or otherwise placed into the market for commercial purposes. However, the Council did include a provision authorizing customary trade of subsistence halibut for both non-commercial monetary (maximum annual limit of \$400 per person) and non-monetary exchange. The specific details of customary trade of subsistence halibut will be discussed under Section 1.3.1.5 below.

1.3.1.2 Definition of eligibility

The Council reviewed several options for eligibility, including the cultural, traditional, and material needs of Alaska Natives and non-Natives. Developing eligibility criteria for the halibut subsistence fishery was the most difficult determination for the Council. Among these methods were criteria established by the Federal Subsistence Board (FSB), the Alaska Board of Fisheries (Board), and ANILCA.

The Council crafted its own criteria for eligibility to fit the specific needs of the halibut subsistence program using the State of Alaska criteria for determining rural areas in which a subsistence lifestyle may be practiced (see Alaska Statute 16.05.258(c)) and FSB criteria derived from ANILCA. Eligible persons under the Council’s criteria are: (1) Residents of communities listed in Table 1; (2) all identified members of Alaska Federally recognized Native tribes with a finding of C&T uses of halibut listed in Table 2.

Only residents of communities in Table 1 (i.e., rural areas with customary and traditional uses of halibut) or members of Alaska Federally recognized tribes in Table 2 would be eligible to harvest halibut for subsistence purposes. The Council developed these lists based on findings of customary and traditional uses of halibut by the Board or the FSB for the groups listed in Tables 1 and 2. Residents of communities or members of tribes who believe they were inadvertently left off the lists, or seeking eligibility for the first time, must petition the appropriate body for a customary and traditional uses designation before petitioning the Council for eligibility.

1.3.1.3 Areas where harvest of halibut for subsistence purposes would be authorized

The Council also provided recommendations about where eligible persons would be able to harvest halibut for subsistence purposes. Generally, all eligible persons could only harvest halibut in subsistence areas, which are by definition all waters of IPHC halibut regulatory areas off Alaska not designated as non-subsistence areas. Except as specified, an eligible person can harvest halibut for subsistence purposes within the portion of any IPHC halibut regulatory area off Alaska not defined as a non-subsistence area. Figures 2-5 depict the designated non-subsistence areas for Ketchikan, Juneau, Valdez, and Anchorage/Matanuska-Susitna/Kenai.

Table 1. Alaska Rural Communities with Customary and Traditional Uses of Halibut within Specified Halibut Regulatory Areas

<u>Rural Community*</u>	<u>Organized Entity</u>	<u>Halibut Regulatory Area</u>
Regulatory Area 2C		
Angoon	Municipality	2C
Coffman Cove	Municipality	2C
Craig	Municipality	2C
Edna Bay	Census Designated Place	2C
Elfin Cove	Census Designated Place	2C
Gustavus	Census Designated Place	2C
Haines	Municipality	2C
Hollis	Census Designated Place	2C
Hoonah	Municipality	2C
Hydaburg	Municipality	2C
Hyder	Census Designated Place	2C
Kake	Municipality	2C
Kasaan	Municipality	2C
Klawock	Municipality	2C
Klukwan	Census Designated Place	2C
Metlakatla	Census Designated Place	2C
Meyers Chuck	Census Designated Place	2C
Pelican	Municipality	2C
Petersburg	Municipality	2C
Point Baker	Census Designated Place	2C
Port Alexander	Municipality	2C
Port Protection	Census Designated Place	2C
Saxman	Municipality	2C
Sitka	Municipality	2C
Skagway	Municipality	2C
Tenakee Springs	Municipality	2C
Thorne Bay	Municipality	2C
Whale Pass	Census Designated Place	2C
Wrangell	Municipality	2C
Regulatory Area 3A		
Akhiok	Municipality	3A
Chenega Bay	Census Designated Place	3A
Cordova	Municipality	3A
Karluk	Census Designated Place	3A
Kodiak City	Municipality	3A
Larsen Bay	Municipality	3A
Nanwalek	Census Designated Place	3A
Old Harbor	Municipality	3A
Ouzinkie	Municipality	3A
Port Graham	Census Designated Place	3A
Port Lions	Municipality	3A
Seldovia	Municipality	3A
Tatitlek	Census Designated Place	3A
Yakutat	Municipality	3A
Regulatory Area 3B		
Chignik Bay	Municipality	3B
Chignik Lagoon	Census Designated Place	3B
Chignik Lake	Census Designated Place	3B
Cold Bay	Municipality	3B
False Pass	Municipality	3B
Ivanof Bay	Census Designated Place	3B
King Cove	Municipality	3B
Nelson Lagoon	Census Designated Place	3B
Perryville	Census Designated Place	3B
Sand Point	Municipality	3B

Table 1. (Continued)

Regulatory Area 4 A		
Adakan	Municipality	4 A
Nikolski	Census Designated Place	4 A
Unalaska	Municipality	4 A
Regulatory Area 4 B		
Adak	Census Designated Place	4 B
Atka	Municipality	4 B
Regulatory Area 4 C		
St. George	Municipality	4 C
St. Paul	Municipality	4 C
Regulatory Area 4 D		
Gambell	Municipality	4 D
Savoonga	Municipality	4 D
Regulatory Area 4 E		
Alakanuk	Municipality	4 E
Aleknagik	Municipality	4 E
Bethel	Municipality	4 E
Brevig Mission	Municipality	4 E
Chefornak	Municipality	4 E
Chevak	Municipality	4 E
Clark's Point	Municipality	4 E
Council	Census Designated Place	4 E
Dillingham	Municipality	4 E
Diomedes (Inalik)	Municipality	4 E
Eek	Municipality	4 E
Egegik	Municipality	4 E
Elim	Municipality	4 E
Emmonak	Municipality	4 E
Golovin	Municipality	4 E
Goodnews Bay	Municipality	4 E
Hooper Bay	Municipality	4 E
King Salmon	Census Designated Place	4 E
Kipnuk	Census Designated Place	4 E
Kongiganak	Census Designated Place	4 E
Kotlik	Municipality	4 E
Koyuk	Municipality	4 E
Kwigillingok	Census Designated Place	4 E
Levelock	Census Designated Place	4 E
Manokotak	Municipality	4 E
Mekoryak	Municipality	4 E
Naknek	Census Designated Place	4 E
Napakiak	Municipality	4 E
Napaskiak	Municipality	4 E
Newtok	Census Designated Place	4 E
Nightmute	Municipality	4 E
Nome	Municipality	4 E
Oscarville	Census Designated Place	4 E
Pilot Point	Municipality	4 E
Platinum	Municipality	4 E
Port Heiden	Municipality	4 E
Quinhagak	Municipality	4 E
Scammon Bay	Municipality	4 E
Shaktolik	Municipality	4 E
Sheldon Point	Municipality	4 E
Shishmaref	Municipality	4 E
Solomon	Census Designated Place	4 E
South Naknek	Census Designated Place	4 E
St. Michael	Municipality	4 E
Stebbins	Municipality	4 E
Teller	Municipality	4 E
Togiak	Municipality	4 E
Toksook Bay	Municipality	4 E
Tuntutuliak	Census Designated Place	4 E
Tununak	Census Designated Place	4 E
Twin Hills	Census Designated Place	4 E
Ugashik	Census Designated Place	4 E
Unalakleet	Municipality	4 E
Wales	Municipality	4 E
White Mountain	Municipality	4 E

* Communities or areas of Alaska in which the non-commercial, customary and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area, as determined by the NPFMC

Table 2. Alaska Native Tribes with Customary and Traditional Uses of Halibut within Specified Halibut Regulatory Areas

Place With Tribal Headquarters	Organized Tribal Entity*	Halibut Regulatory Area
Regulatory Area 2C		
Angoon	Angoon Community Association	2C
Craig	Craig Community Association	2C
Haines	Chilkoot Indian Association	2C
Hoonah	Hoonah Indian Association	2C
Hydaburg	Hydaburg Cooperative Association	2C
Juneau***	Aukquan Traditional Council**	Any Rural Area
Juneau***	Central Council Tlingit & Haida Indian Tribes	Any Rural Area
Juneau***	Douglas Indian Association	Any Rural Area
Kake	Organized Village of Kake	2C
Kasaan	Organized Village of Kasaan	2C
Ketchikan***	Ketchikan Indian Corporation	Any Rural Area
Klawock	Klawock Cooperative Association	2C
Klukwan	Chilkat Indian Village	2C
Metlakatla	Metlakatla Indian Community, Annette Island Reserve	2C
Petersburg	Petersburg Indian Association	2C
Saxman	Organized Village of Saxman	2C
Sitka	Sitka Tribe of Alaska	2C
Skagway	Skagway Village	2C
Wrangell	Wrangell Cooperative Association	2C
Regulatory Area 3A		
Akhiok	Native Village of Akhiok	3A
Chenega Bay	Native Village of Chanega	3A
Cordova	Native Village of Eyak	3A
Karluk	Native Village of Karluk	3A
Kenai-Soldotna***	Kenaitze Indian Tribe	Any Rural Area
Kenai-Soldotna***	Village of Salamatoff	Any Rural Area
Kodiak City	Lesnoi Village (Woody Island)	3A
Kodiak City	Native Village of Afognak	3A
Kodiak City	Shoonaq' Tribe of Kodiak	3A
Larsen Bay	Native Village of Larsen Bay	3A
Nanwalek	Native Village of Nanwalek	3A
Ninilchik***	Ninilchik Village	Any Rural Area
Old Harbor	Village of Old Harbor	3A
Ouzinkie	Native Village of Ouzinkie	3A
Port Graham	Native Village of Port Graham	3A
Port Lions	Native Village of Port Lions	3A
Seldovia	Seldovia Village Tribe	3A
Tatitlek	Native Village of Tatitlek	3A
Yakutat	Yakutat Tlingit Tribe	3A

Table 2 (continued)

Regulatory Area 3B

Chignik Bay	Native Village of Chignik	3B
Chignik Lagoon	Native Village of Chignik Lagoon	3B
Chignik Lake	Chignik Lake Village	3B
False Pass	Native Village of False Pass	3B
Ivanof Bay	Ivanoff Bay Village	3B
King Cove	Agdaagux Tribe of King Cove	3B
King Cove	Native Village of Belkofski	3B
Nelson Lagoon	Native Village of Nelson Lagoon	3B
Perryville	Native Village of Perryville	3B
Sand Point	Pauloff Harbor Village	3B
Sand Point	Native Village of Unga	3B
Sand Point	Qagan Toyagungin Tribe of Sand Point Village	3B

Regulatory Area 4A

Akutan	Native Village of Akutan	4A
Nikolski	Native Village of Nikolski	4A
Unalaska	Qawalingin Tribe of Unalaska	4A

Regulatory Area 4B

Atka	Native Village of Atka	4B
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Regulatory Area 4C

St. George	Pribilof Islands Aleut Communities of St. Paul Island & St. George Islands	4C
St. Paul	Pribilof Islands Aleut Communities of St. Paul Island & St. George Islands	4C

Regulatory Area 4D

Gambell	Native Village of Gambell	4D
Savoonga	Native Village of Savoonga	4D

Regulatory Area 4E

Alakanuk	Village of Alakanuk	4E
Aleknagik	Native Village of Aleknagik	4E
Bethel	Orutsararmuit Native Village	4E
Brevig Mission	Native Village of Brevig Mission	4E
Chefornak	Village of Chefornak	4E
Chevak	Chevak Native Village	4E
Clark's Point	Village of Clark's Point	4E
Council	Native Village of Council	4E
Dillingham	Native Village of Dillingham	4E
Dillingham	Native Village of Ekuk	4E
Dillingham	Native Village of Kanakanak**	4E
Diomede (Inalik)	Native Village of Diomede (Inalik)	4E
Eek	Native Village of Eek	4E
Egegik	Egegik Village	4E
Egegik	Village of Kanatak	4E
Elim	Native Village of Elim	4E
Emmonak	Chuloonawick Native Village	4E
Emmonak	Emmonak Village	4E

Table 2 (continued)

Golovin	Chinik Eskimo Community	4E
Goodnews Bay	Native Village of Goodnews Bay	4E
Hooper Bay	Native Village of Hooper Bay	4E
Hooper Bay	Native Village of Paimiut	4E
King Salmon	King Salmon Tribal Council	4E
Kipnuk	Native Village of Kipnuk	4E
Kongiganak	Native Village of Kongiganak	4E
Kotlik	Native Village of Hamilton	4E
Kotlik	Village of Bill Moore's Slough	4E
Kotlik	Village of Kotlik	4E
Koyuk	Native Village of Koyuk	4E
Kwigillingok	Native Village of Kwigillingok	4E
Levelock	Levelock Village	4E
Manokotak	Manokotak Village	4E
Mekoryak	Native Village of Mekoryak	4E
Naknek	Naknek Native Village	4E
Napakiak	Native Village of Napakiak	4E
Napaskiak	Native Village of Napaskiak	4E
Newtok	Newtok Village	4E
Nightmute	Native Village of Nightmute	4E
Nightmute	Umkumiute Native Village	4E
Nome	King Island Native Community	4E
Nome	Nome Eskimo Community	4E
Oscarville	Oscarville Traditional Village	4E
Pilot Point	Native Village of Pilot Point	4E
Platinum	Platinum Traditional Village	4E
Port Heiden	Native Village of Port Heiden	4E
Quinhagak	Native Village of Kwinhagak	4E
Scammon Bay	Native Village of Scammon Bay	4E
Shaktoolik	Native Village of Shaktoolik	4E
Sheldon Point	Native Village of Sheldon's Point	4E
Shishmaref	Native Village of Shishmaref	4E
Solomon	Village of Solomon	4E
South Naknek	South Naknek Village	4E
St. Michael	Native Village of Saint Michael	4E
Stebbins	Stebbins Community Association	4E
Teller	Native Village of Mary's Igloo	4E
Teller	Native Village of Teller	4E
Togiak	Traditional Village of Togiak	4E
Toksook Bay	Native Village of Toksook Bay	4E
Tuntutuliak	Native Village of Tuntutuliak	4E
Tununak	Native Village of Tununak	4E
Twin Hills	Twin Hills Village	4E
Ugashik	Ugashik Village	4E
Unalakleet	Native Village of Unalakleet	4E
Wales	Native Village of Wales	4E
White Mountain	Native Village of White Mountain	4E

* Native entities recognized and eligible to receive services from the United States Bureau of Indian Affairs, cf., Federal Register, February 16, 1995, v. 60, no. 32, p. 9249-9255.

** Applying for recognized status.

***Urban tribes

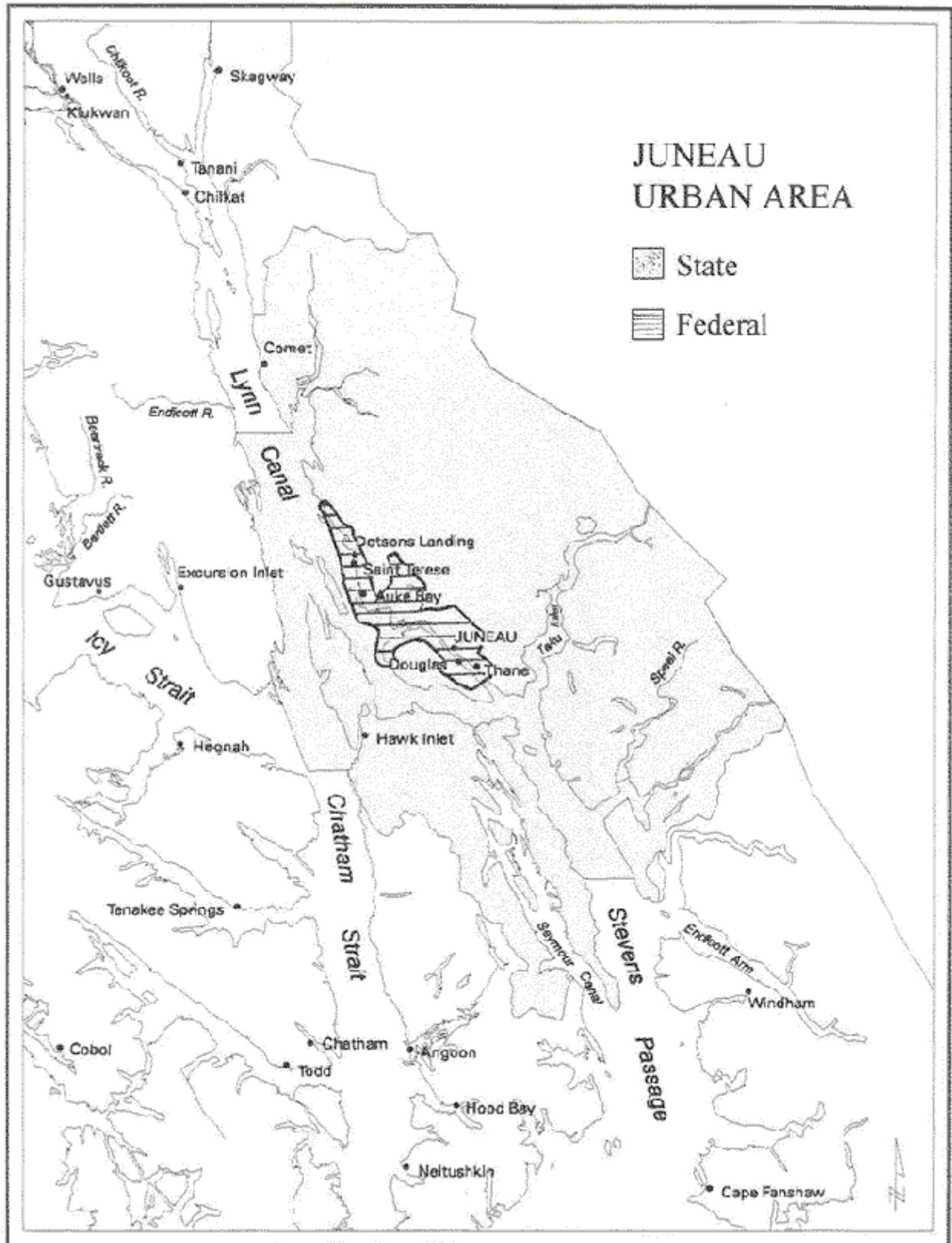


Figure 2. Juneau non-subsistence fishing area.

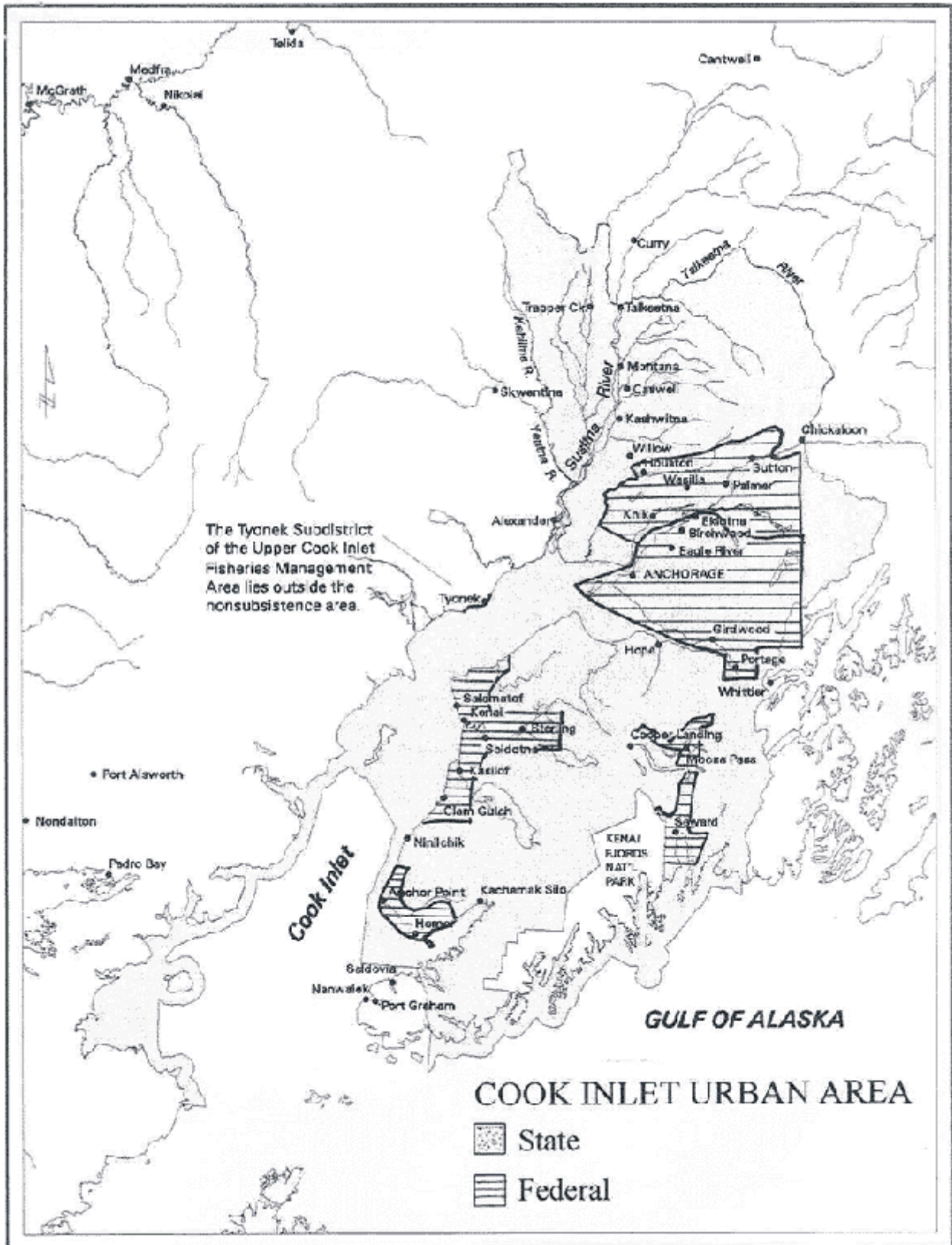


Figure 3. Cook Inlet non-subsistence fishing area.

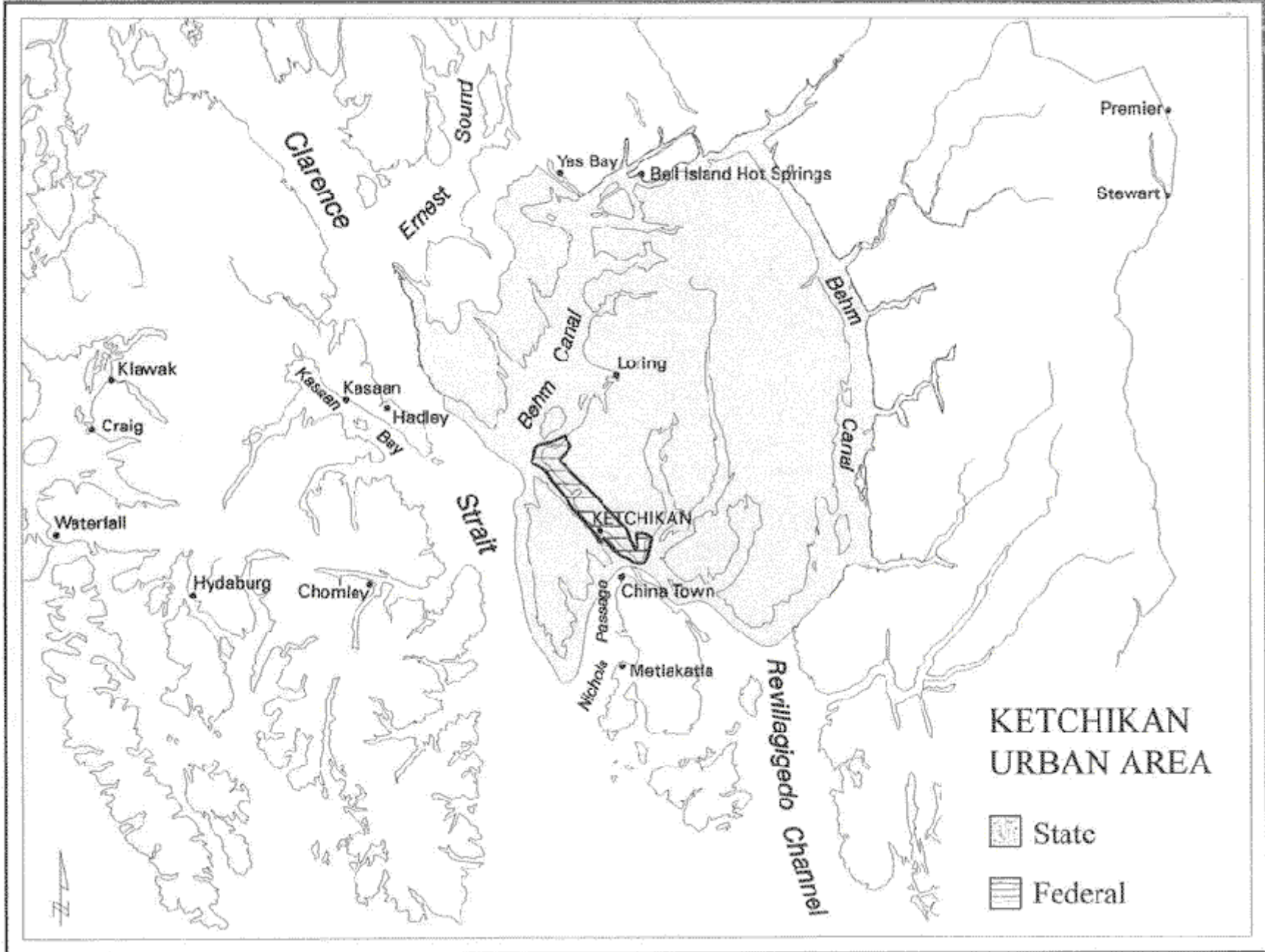


Figure 4. Ketchikan non-subsistence fishing area (Source: ADFG).

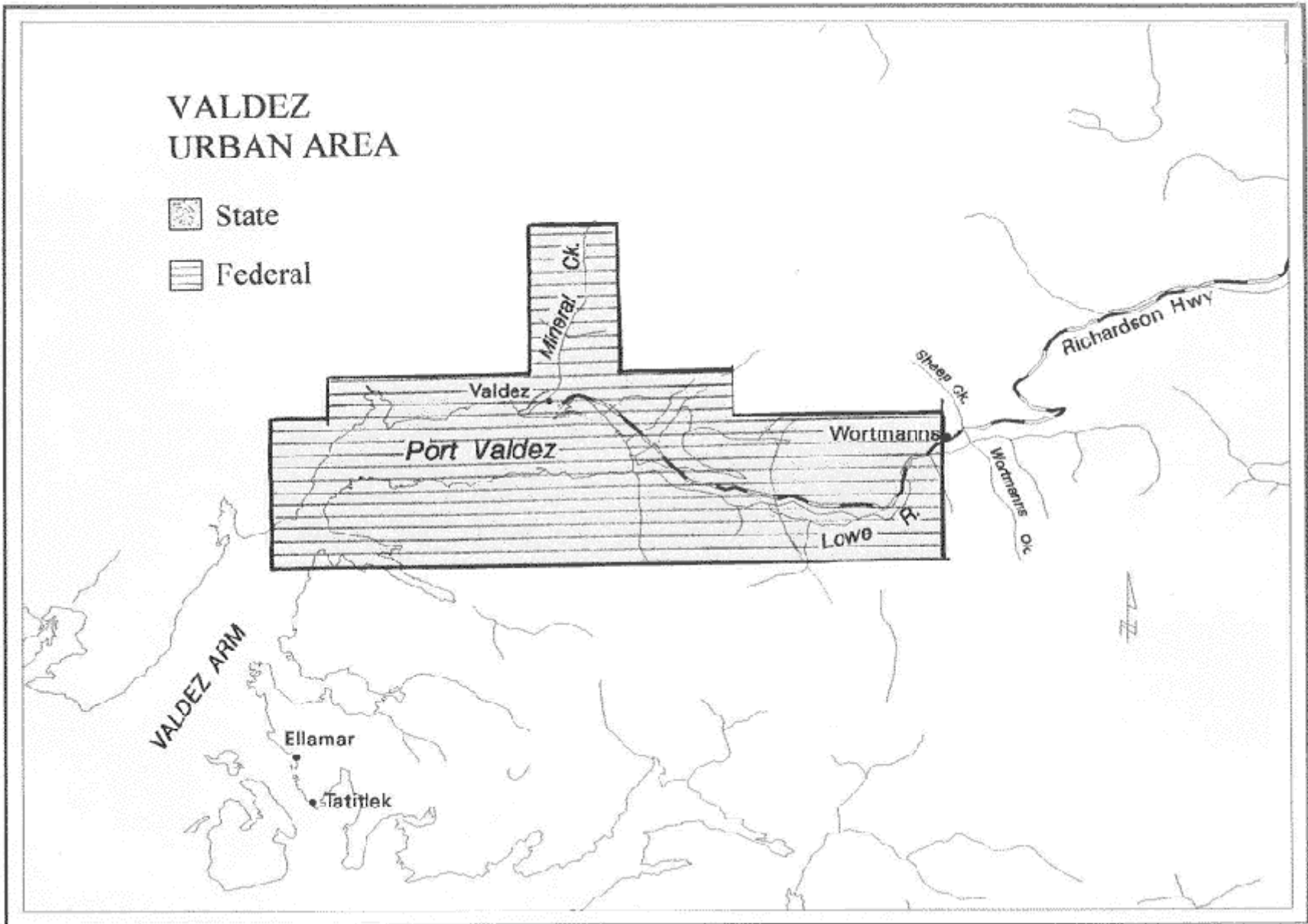


Figure 5. Valdez non-subsistence area (Source: ADFG).

1.3.1.4 Legal gear that can be used for harvesting halibut for subsistence purposes

The Council defined the gear that could be used to harvest halibut for subsistence purposes. The Council recommended that legal gear would be set and hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging and hand-troll gear.

Setline gear is defined at 50 CFR § 300.61. Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached. Longline gear, handline gear, jig gear, and hand troll gear are defined at 50 CFR § 679.2. Longline gear means hook-and-line, jig, troll, and handline or the taking of fish by means of such a device. Handline gear means a hand-held line, with one or more hooks attached, that may only be operated manually. Jig gear means a single, non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device. Hand troll gear means one or more lines, with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically powered device or attachment.

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

Currently, under regulations found at 50 CFR § 600.725(v), only hook and line is an allowable gear for the Pacific halibut fishery. The proposed regulations would revise 50 CFR § 600.725(v) to allow the use of setline gear, longline gear, rod and reels, and spears to harvest halibut for subsistence purposes.

The Council recommended the use of setline gear, longline gear, rod and reels, and spears based on public testimony and recommendations from its Halibut Subsistence Working Group that such gears have been and are used to harvest halibut for subsistence purposes. The Council recommended a limit “of not more than 30 hooks,” after deliberations on sufficient gear to accommodate persons who subsistence fish as a proxy for others who depend on subsistence resources. The analysis examined four possible limits: 2 hooks, 10 hooks, 30 hooks, and 60 hooks. The Council recommended a 30 hook limit because 2 hooks and 10 hooks limits would not provide proxy fishermen with sufficient gear to harvest halibut for subsistence purposes for an extended group or family, and 60 hooks would be too much gear for subsistence purposes and could lead to waste. The hook limit was considered together with daily bag limits, which the Council recommended should be 20 halibut per day. Allowing more than 30 hooks increases the chance that more halibut could be caught than allowed under this daily bag limit. For example, under a 30 hook limit, the ratio of halibut to hooks would have to exceed 67% to exceed the daily bag limit; however, under a 60 hook limit, the ratio of halibut to hooks would only have to be 34%.

1.3.1.5 Customary trade of subsistence halibut

The Council recommended to allow limited customary trade of subsistence halibut. Customary trade means the non-commercial exchange of subsistence halibut for money or any other thing other than items of significant value. Customary trade for money would be limited to \$400 per harvester annually. The relatively nominal level of the \$400 limit would not be thought of as fishing for profit.

During its deliberations on this issue, the Council suggested that subsistence halibut should be prohibited from the premises of commercial fish buying operations. Although the Council was very clear in its intent that customary trade of subsistence halibut should be allowed, the Council was also mindful of how easily subsistence halibut could be moved into the commercial sector. It was the movement of subsistence halibut

into the commercial sector that the Council intended to prevent when it suggested that subsistence halibut be prohibited from the premises of commercial fish buying operations. However, the Council did suggest that two existing practices be allowed as exceptions to the general rule of no subsistence halibut on the premises of commercial fish buying operations. First, the existing practice of handling and weighing of halibut less than 32 inches caught with CDQ halibut in IPHC regulatory area 4C will be allowed to continue. In Area 4C, halibut less than 32 inches may be retained as subsistence halibut. Second, a commercial fish buyer will be allowed to participate in the customary trade of subsistence halibut for personal use.

1.3.1.6 Daily bag limit

Other than in Areas 4C, 4D, and 4E, the daily limit for subsistence halibut is up to 20 halibut per harvester. Although harvesting for subsistence purposes is generally self-limiting, i.e., only so much halibut can be harvested and used for direct personal or family consumption as food, for barter, for sharing for personal or family consumption as food, and for customary trade, the Council determined that a daily harvest limit should be established for equity reasons among subsistence users and among the various user groups, i.e., subsistence, commercial, and recreational. However, no limit would be established for Areas 4C, 4D, and 4E because of safety concerns. First, the annual time period available to persons to fish for subsistence halibut in IPHC regulatory areas 4C, 4D, and 4E is reduced because of sea ice coverage. Second, once the sea ice has melted, the potential to fish for subsistence halibut is further reduced because of exposure to rough seas and inclement weather.

1.3.2 Alternative 2. Modify the previous action on halibut subsistence

- | | |
|--------------------------------------|--|
| Part 1: in Areas 4C, 4D, and 4E: | eliminate gear and harvest restrictions; |
| Part 2: in Areas 3B, 4A, and 4B, | allow stacking up to three times the number of hooks on a single unit of gear provided the subsistence user(s) are on board the vessel; |
| Part 3: in Area 3A, | |
| A) Kodiak Road Zone and Chiniak Bay: | <ol style="list-style-type: none"> 1) decrease the gear limit to 5 hooks, 2) create a 20 fish annual limit, 3) allow stacking up to three times the number of hooks on a single unit of gear, 4) allow proxy fishing; |
| B) Prince William Sound: | <ol style="list-style-type: none"> 1) decrease the gear limit to 5 hooks; 2) allow stacking up to three times the number of hooks on a single unit of gear; |
| C) Cook Inlet: | <ol style="list-style-type: none"> 1) decrease the gear limit to 5 hooks; 2) allow stacking up to three times the number of hooks on a single unit of gear, 3) increase the size of the Cook Inlet non-subsistence fishing area by adjusting its southern boundary; |
| Part 4: in Area 2C, | |
| Sitka: | <ol style="list-style-type: none"> 1) decrease the gear limit to 2 hooks, 2) create a 20 fish annual limit, 3) allow proxy fishing; 4) decrease the daily harvest limit to 2 fish (Council option). |

At its June 2001 meeting, the Council received a report from the Board chairman on gear, bag limits, subsistence fishing areas, and recordkeeping and reporting requirements. The findings and minutes from its May 2001 meeting at which the Board determined its recommendation on this issue are included in this analysis as Appendix 1. The Board noted many areas that are unexplored in its recommendations, such as whether to allow commercial vessels to have subsistence-caught halibut onboard, etc. The Board also noted the need to look at state regulations and adjust those regulations accordingly and in a timely manner.

Prior to the Board meeting on subsistence halibut, ADF&G staff met with the Commissioner to discuss the rockfish-ling cod bycatch question. The ADF&G position provided by the Commissioner (Appendix 2), was that there were no data indicating that bycatch from the Council’s proposed subsistence fishery would be significant or of a conservation concern, compared with the catches from existing sport or commercial fisheries. The only caveat was the possible concerns about groundfish stocks around the large communities of Sitka and Kodiak.

The Board held hearings in April 2001 in Sitka, Kodiak, Cordova, and Homer to solicit public testimony on halibut subsistence and local area management plans. The minutes from those hearings are attached as Appendix 3. They are the basis for much of the Board’s rationale for the proposed actions.

In response to the Board’s recommendations, the Council initiated this analysis to amend the proposed regulations that would implement its previous action. Final action is scheduled for December 2001 and separate rulemaking would result, with the intent that changes to the regulations be implemented as soon as possible (i.e., 2002). The following proposed changes were recommended by the Board (*except where noted below). Each type of change is presented as a separate action to the status quo alternative. There is a full record of decision from the original EA/RIR that is summarized for the status quo alternatives under each of the five proposed actions. The rationale for the proposed alternatives to the status quo under the five actions is summarized from the Board’s May 2001 findings and the Board’s May 2001 minutes. The minutes provide the rationale for the proposed action.

1.4 Description of participants directly impacted by proposed action

A detailed listing of the individuals by community and Tribal membership that are estimated to participate in the halibut subsistence fishery in Convention waters in and off Alaska by rural community and gear type is contained in the RIR that was the basis for the Council’s October 2000 action to adopt a preferred alternative that defined halibut subsistence (NPFMC 2001). In summary, the halibut subsistence program affects 82,000 Alaska residents (or 14 percent of total Alaska residents) in 117 rural communities with a finding of customary and traditional use of halibut (43% of whom are Alaska Native) and members of 120 Alaska Native Tribes whose headquarters are located in rural communities with a finding of customary and traditional use

Table 3. Individuals affected by the proposed action.

<u>Waters</u>	<u>Community</u>	<u>Population</u>
Area 4	All eligible	33,850
Area 3	All eligible	21,100
Kodiak	Akhiok	80
	Kodiak City	6,334
	Kodiak Island Borough	13,913
	Larsen Bay	115
	Karluk	27
	Ouzinkie	225
	Port Lions	256
Cook Inlet	Nanwalek	117
	Port Graham	171
	Seldovia	286
	Seldovia Village	144
	PWS	Chenega Bay
	Tatitlik	107
	Cordova	<u>2,454</u>
Area 2C	All eligible	27,200
Sitka	Sitka	8,835
		82,150

of halibut. The proposed action would affect those eligible fishermen whose fishing practices occur in the action area. Table 3 lists the numbers of individuals eligible to subsistence fish halibut that live in communities adjacent to the action area and who would be affected by the proposed action. It particularly lists the number of individuals in the Areas 2C and 3A local areas who would be under the most restrictive measures.

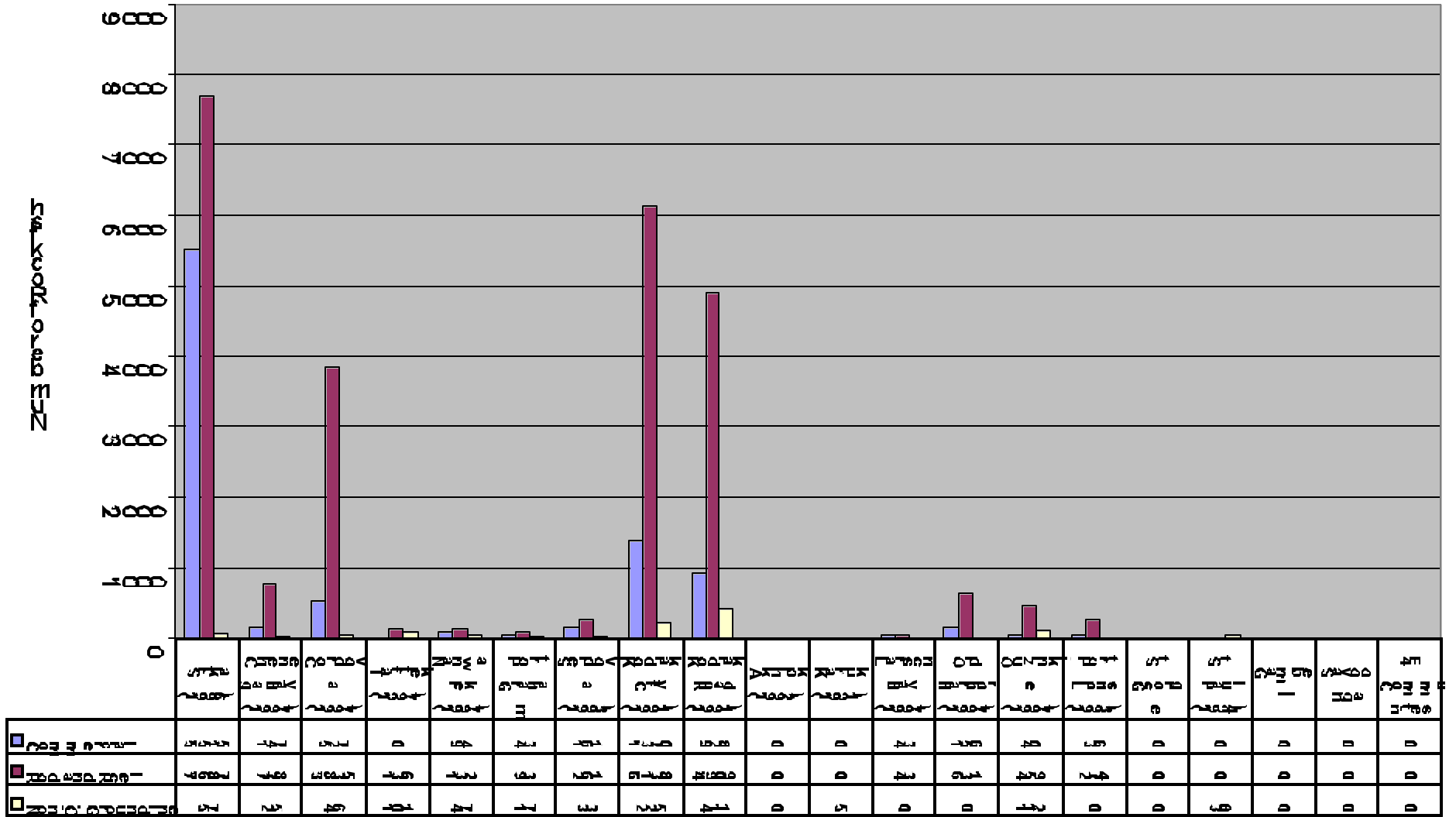
Nearly all eligible halibut subsistence users may subsistence fish for halibut in any waters in and off Alaska, so the population estimate reflects those most likely to fish in the affected area. The next most likely group to fish in the affected area is an unknown number of Alaska Natives whose Tribes are eligible but are now living in an urban area (e.g., Anchorage or Juneau). The total number of eligible Alaska Native Tribal members is approximately 42,000, which would be the upper limit of those additional harvesters possibly fishing in those waters.

The total annual halibut harvest for local use in the 117 rural communities is approximately 1,500,000 lb net weight from all gear types (angling, non-commercial groundlines, and retention from commercial catches for home use), with much of the annual harvest by angling currently counted as a sport harvest. Enhanced recordkeeping and reporting will provide more accurate subsistence removals to improve the annual halibut stock assessments. Total subsistence removals are estimated to be less than 1% of the total halibut biomass. The previous analysis (NPFMC 2000a) reported that Alaska Natives expressed a desire to retain all fish harvested while subsistence halibut fishing, including rockfish (a detailed description of C&T uses of halibut can be found in that analysis).

Since the actual subsistence halibut harvests are unreported, estimates of groundfish bycatch are incomplete. Figure 6 depicts the results of household surveys in some Alaska Native communities. Rockfish harvests by Sitka residents cannot be broken out by discrete area. The harvests are likely from the waters surrounding Sitka, but the portion in or out of the Local Area Management Plan area cannot be determined. No household surveys have been conducted in Gambell and Savoonga, so Figure 6 indicates that no data exist for rockfish harvests in those locations. Based on household surveys in a number of communities in District 4E, rockfish are not harvested in District 4E communities. This is based on surveys in Clark's Point, Dillingham, Egegik, King Salmon, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, South Naknek, Alakanak, Emmonak, Kotlik, Quihagak, Sheldon Point, Tununak, and Ugashik. Accordingly, the table summarizes the rockfish harvest in District 4E as zero (R. Wolfe, pers. commun.).

High population centers (2000 census estimates of residents: Sitka - 8,835; Kodiak City - 6,334; Cordova - 2,454) have the highest self-reported rockfish subsistence harvests from both commercial and rod and reel gear. These communities also have established commercial fisheries and high non-Tribal populations. The survey asks a household how many rockfish were harvested during the previous 12 month period with each type of gear. One cannot say from these data what portion of the subsistence rockfish catches with rod and reel or with longline were taken as part of a halibut-rockfish fishery, or what portion was taken as a directed rockfish fishery (that is, a person went out solely to get rockfish, and not some other type of fish). Rockfish retained from a commercial catch is an incidental catch from a non-rockfish commercial fishery (likely the commercial halibut fishery), but some rockfish might come from some other commercial fishery (such as a salmon fishery), depending upon location (R. Wolfe, pers. commun.).

TABLE 5. Comparison of the number of jobs created by the private sector and the public sector in the United States, 1990-2000. The number of jobs created by the private sector is shown in the top row, and the number of jobs created by the public sector is shown in the bottom row. The total number of jobs created is shown in the middle row.



1.5 Expected effects of each alternative

1.5.1 Alternative 1. No action.

Alternative 1 is the Council's October 2000 action to define halibut subsistence in Alaska waters. The expected effects of the entire action are described in greater detail in the original analysis (NPFMC 2001). In summary, no harvest or cost information is available to assess the environmental or economic effects of the halibut subsistence fishery as originally proposed. The Council accepted the premise that its action legalized customary and traditional practices related to taking halibut to feed the families of subsistence harvesters and others in rural communities. The analysis estimated halibut subsistence removals at less than one percent of total halibut biomass and the Council accepted a second premise that its action would not increase halibut subsistence removals. Therefore, its previous action resulted in no change in benefits or costs to subsistence and non-subsistence users. The following subsections describe the effects of not taking the proposed action listed in Alternative 2.

Gear. The original halibut subsistence analysis of gear limits examined a broader range of suboptions (0 to 60 hooks) when it adopted the previous action (30 hook) gear limit. As part of its decision-making, the Council could choose any or all of the suboptions as legal subsistence gear. The Council adopted its preferred alternative from among the following suboptions that were considered and rejected.

Suboption A. Define hand held gear as:

1. Rod and reel gear
2. Spear
3. Hand troll gear

Suboption B. Define hook-and-line gear (including set and hand-held gear) with a range of:

1. 2 hooks;
2. 10 hooks;
3. 30 hooks;
4. 60 hooks.

Suboption C. Allow tribal governments to contract with NMFS to allow proxies to be used by designated fishermen to fish for the community using:

1. 1 - 3 skates of gear, up to 60 hooks each;
2. any gear type

Under the previous action, the Council identified legal gear for subsistence halibut fishing as set and hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging and hand-troll gear. Retention of subsistence halibut less than 32" while commercial fishing is allowed only in Regulatory Area 4D and 4E. Legal-sized halibut could be retained for subsistence purposes statewide, but not counted against a CDQ account only in IPHC Area 4D.

Under the previous action, the basic "rule" would be that no subsistence halibut could be retained on a vessel at the same time as commercial halibut is being retained. Two exceptions to the basic "rule" against commingling commercial and subsistence halibut would appear in the proposed rule. First, sub-legal or short halibut could be retained for subsistence purposes while commercial fishing only in IPHC Areas 4D and 4E. Second, legal-sized halibut could be retained for subsistence purposes and not counted against a CDQ account

only in IPHC Area 4D (primarily Savoonga; Gambell does not engage in commercial halibut fishing (NMFS 2001)). A legal-sized halibut retained while commercial fishing would be counted against either an IFQ or CDQ in all areas, except Area 4D where it would be counted against an IFQ (if one were possessed by the fisherman). The Council clarified that commingling of subsistence halibut and sport halibut on the same vessel would be prohibited. The Council clarified that it did not intend for subsistence halibut fishing to be conducted from a charter boat even if no sport fishing for halibut was conducted at the same time.

The Council recommended a 30 hook limit because 2 hooks and 10 hooks would not provide proxy fishermen with sufficient gear to harvest halibut for subsistence purposes for an extended group or family, and 60 hooks would be too much gear for subsistence purposes and could lead to waste. The 30-hook limit was chosen to accommodate proxy fishing, instead of directly designating proxy fishing. The hook limit was considered in combination with daily bag limits, which the Council recommended to be 20 halibut per harvester. Allowing more than 30 hooks increases the chance that more halibut could be caught than allowed under this daily bag limit. For example, under a 30 hook limit, the ratio of halibut to hooks would have to exceed 67% to exceed the daily bag limit; however, under a 60 hook limit, the ratio of halibut to hooks would only have to be 34%. Groundfish bycatch was addressed in the previous analysis but the Council did not modify the gear limit based on that limited information.

Stacking. The previous action does not restrict stacking, either in the number of hook-and-line (longline) strings of gear on a single vessel or the number of hooks on a hook-and-line string on a single vessel, as long as the total number of hooks does not exceed 30 hooks for each eligible harvester aboard the vessel.

Harvest limits. The Council defined the daily limit for subsistence halibut in rural areas as 20 halibut, except there is no limit in Regulatory Areas 4C, 4D, and 4E. These exemptions were made due to safety concerns for small boat fishermen fishing in exposed weather in rough seas in these remote waters and lack of available fishing grounds due to sea ice coverage. The recommended daily bag limit is presumed to apply to each subsistence halibut fisher individually.

Under the previous action, bag limits of 0-19 fish were considered and rejected by the Council in its selection of 20-fish daily limit. The original range for analysis was selected by the Council based on personal knowledge by Council members and public testimony. Currently, non-commercial fishermen are subject to a Federal bag limit of two fish per day and State sport, personal use, and subsistence regulations.

No data exist to analyze an appropriate bag or harvest limit, since no data on daily “subsistence” harvests have been collected. The original analysis identified a bag limit as being of limited use for defining subsistence. It is not part of customary and traditional practice of any Alaska tribe. It is more frequently applied in sport fisheries to limit harvest. However, the Council responded to concerns that additional residents of communities deemed eligible would enter the subsistence fishery and expand the current level of halibut and groundfish bycatch “subsistence” harvests under liberal harvest limits. The Council adopted a daily harvest limit because insufficient information is available to assess the actual levels of removals to prevent what some community members have identified as local depletion of halibut, rockfish, and ling cod by eligible subsistence users.

Proxy fishing. The Council considered and rejected proxy fishing and instead adopted liberal harvest limits. Suboption C would have allowed ‘designated’ fishermen to fish halibut for the community using: (1) up to 3 skates, with up to 60 hooks per skate or (2) any gear type. The designated fisherman might hold in hand the designated “proxy” for others in that community. Rather than permitting proxy fishing, the Council recommended a gear limit “of not more than 30 hooks,” after deliberations on sufficient gear to accommodate persons who subsistence fish as a proxy for others who depend on subsistence resources.

Non-subsistence fishing areas. The Council adopted the State of Alaska non-subsistence fishing areas for defining four closed areas for halibut subsistence fishing in Convention waters adjacent to Ketchikan, Juneau, Valdez, and Anchorage/Matanuska-Susitna/Kenai (Figures 2-5). An eligible person can harvest halibut for subsistence purposes within the portion of any regulatory area off Alaska not defined as a non-subsistence area.

1.5.1.1 Economic impacts of Alternative 1

Little biological or economic data were available to guide the Council on its previous action. No information is available to assess the economic costs of substituting other foods for halibut. The Council relied on household surveys conducted by ADF&G Subsistence Division, which characterized customary and traditional fishing, sharing, and trading practices, and public testimony by halibut subsistence users. The Council foremost considered that ‘true’ subsistence fishing, that is fishing to feed families, likely would remain at current per capita levels regardless of the allowed gear or harvest limit. An appropriate daily harvest limit was adopted based on personal knowledge of customary and traditional fishing practices by Council members and public testimony. No data exist to analyze the range, since no data on “subsistence” harvests have been collected. A liberal limit of 20 halibut per fisherman per day was adopted instead of a proxy system. The analysis identified that bag limits may be of limited use for limiting subsistence harvests. It is not part of customary and traditional practice of any Alaska tribe, and is more frequently applied in sport fisheries to limit harvest. If halibut are truly to be harvested to feed families, those rates of consumption should not increase measurably due to harvesting efficiency. Regardless of the gear or harvest limits that will define the halibut subsistence program, an individual and his extended community can consume only a finite amount of halibut. Neither an annual limit nor gear stacking was considered by the Council.

1.5.2 Alternative 2. Modify the previous action on halibut subsistence.

- Part 1: in Areas 4C, 4D, and 4E: eliminate gear and harvest restrictions;
- Part 2: in Areas 3B, 4A, and 4B, allow stacking up to three times the number of hooks on a single unit of gear provided the subsistence user(s) are on board the vessel;
- Part 3: in Area 3A,
 - A) Kodiak Road Zone and Chiniak Bay:
 - 1) decrease the gear limit to 5 hooks,
 - 2) create a 20 fish annual limit,
 - 3) allow stacking up to three times the number of hooks on a single unit of gear;
 - 4) allow proxy fishing;
 - B) Prince William Sound:
 - 1) decrease the gear limit to 5 hooks;
 - 2) allow stacking up to three times the number of hooks on a single unit of gear;
 - C) Cook Inlet:
 - 1) decrease the gear limit to 5 hooks;
 - 2) allow stacking up to three times the number of hooks on a single unit of gear,
 - 3) increase the size of the Cook Inlet non-subsistence fishing area by adjusting its southern boundary;
- Part 4: in Area 2C, Sitka:
 - 1) decrease the gear limit to 2 hooks,
 - 2) create a 20 fish annual limit,
 - 3) allow proxy fishing;
 - 4) decrease the daily harvest limit to 2 fish (Council option).

Alternative 2 is presented as a total package, that is, the Board recommended *all* of the listed changes for each regulatory area as complementary measures. For instance, the Board recommended proxies for some areas where it also recommended reduced harvest limits and recommended annual limits. The Council may, of course, modify any or all of the proposed changes and develop its own rationale for the changes or reject them entirely and reaffirm its previous action. Appendix 1 includes a matrix labeled 'RC39' that was prepared by the Board. It summarizes the recommendations as being more liberal, the same, or less liberal than the previous action and aids in understanding the following explanatory text.

Alternative 2, Part 1 (Figure 7) would eliminate gear and harvest restrictions in Areas 4C, 4D, and 4E. The rationale for this change is provided in the draft Board findings (Appendix 1) and excerpted below:

“With regard to gear, the board discussed subsistence halibut fishing in areas 4C, 4D, and 4E and recognized the small window of opportunity available for fishing due to the weather and the fact that halibut must be harvested in one trip if possible. As such the board focused on liberalizing regulations in these areas in order to accommodate the subsistence use in these areas.

Therefore, in areas 4C, 4D and 4E the board recommended no gear restriction and no limit on the number of hooks. The board recognized the fact that it was unable to hold hearings in these areas so it received limited input. The board also recognized that the NPFMC recommended no harvest limits for the area. The board believes a gear limit makes no sense if there is no harvest limit.”

Alternative 2, Part 2 would change the previous action to allow gear stacking for Areas 3B, 4A, and 4B. The rationale for this change is provided in the draft Board findings:

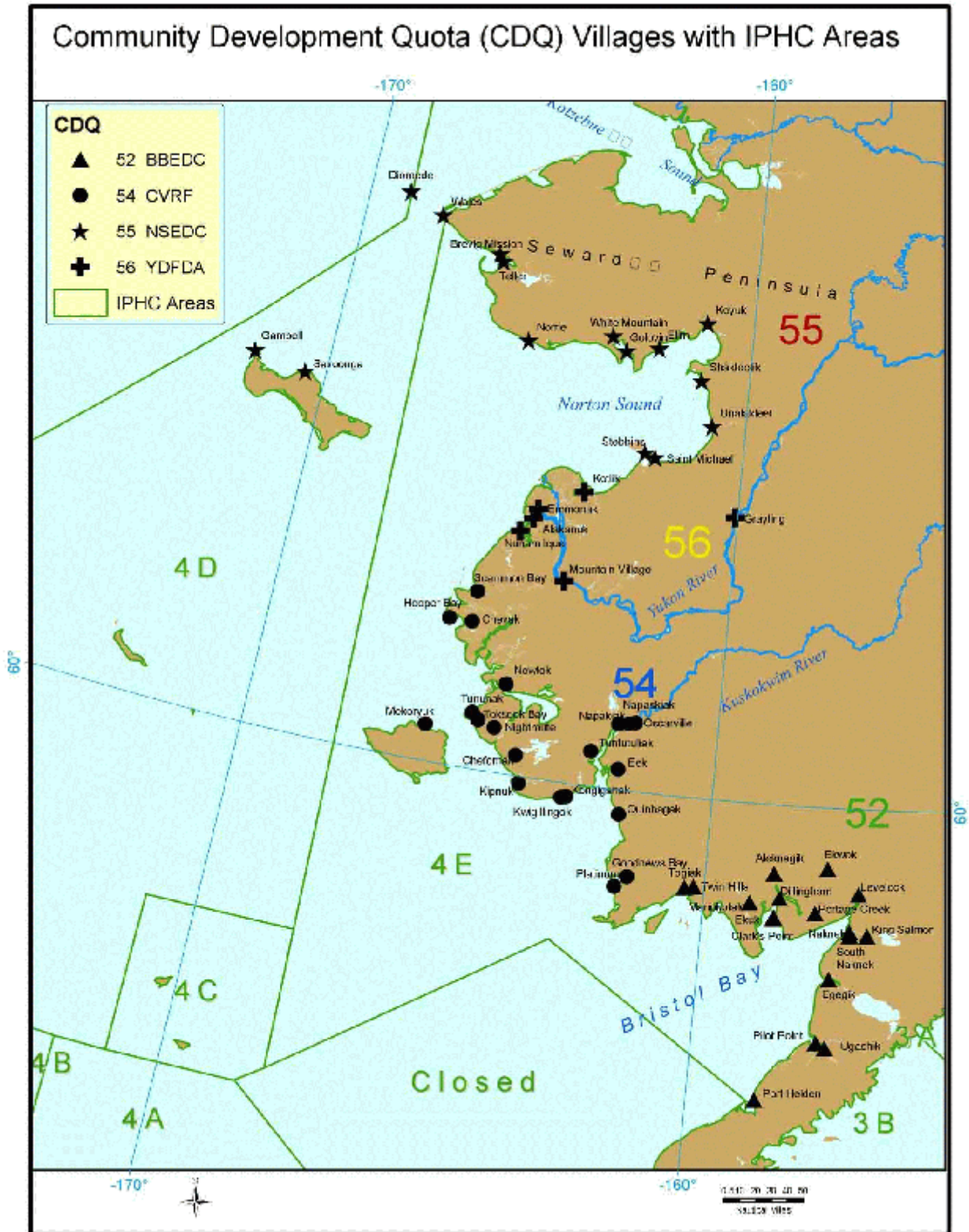
“In areas 3B, 4A, 4B and areas 3A and 2C, except for the four specified areas noted above, the board agrees with the NPFMC option of a 30 hook limit. In addition, stacking gear up to three units of gear is recommended, provided that the subsistence user(s) are onboard the vessel. Allowance for stacking gear acknowledges traditional ways the fishermen go out to get their fish.

Regarding harvest limits, the board recommends no harvest limit for areas 4C, 4D, and 4E. In areas 3B, 4A, 4B, and 3A and 2C except for the specific areas noted above, the board recommends a harvest limit of 20 halibut per day with no annual limit.”

Alternative 2, Part 3 presents changes to the previous action for three local areas in Areas 3A (Figure 8) that are proposed for local area management plan status: Kodiak Road Zone and Chiniak Bay (Figure 9), Prince William Sound, Cook Inlet. Alternative 2, Part 3(A) would change the previous action off the Kodiak Road Zone and Chiniak Bay to decrease the harvest limit to 5 hooks, create a 20 fish annual limit, allow stacking up to three times the number of hooks on a single unit of gear, and allow proxy fishing. Alternative 2, Part 3(B) would change the previous action in Prince William Sound to decrease the harvest limit to 5 hooks; allow stacking up to three times the number of hooks on a single unit of gear. Alternative 2, Part 3(C) would change the previous action in Cook Inlet to decrease the harvest limit to 5 hooks; allow stacking up to three times the number of hooks on a single unit of gear, increase the size of the Cook Inlet non-subsistence fishing area (Figure 10) by adjusting its southern boundary.

Figure 7.

(Source: ADFG)



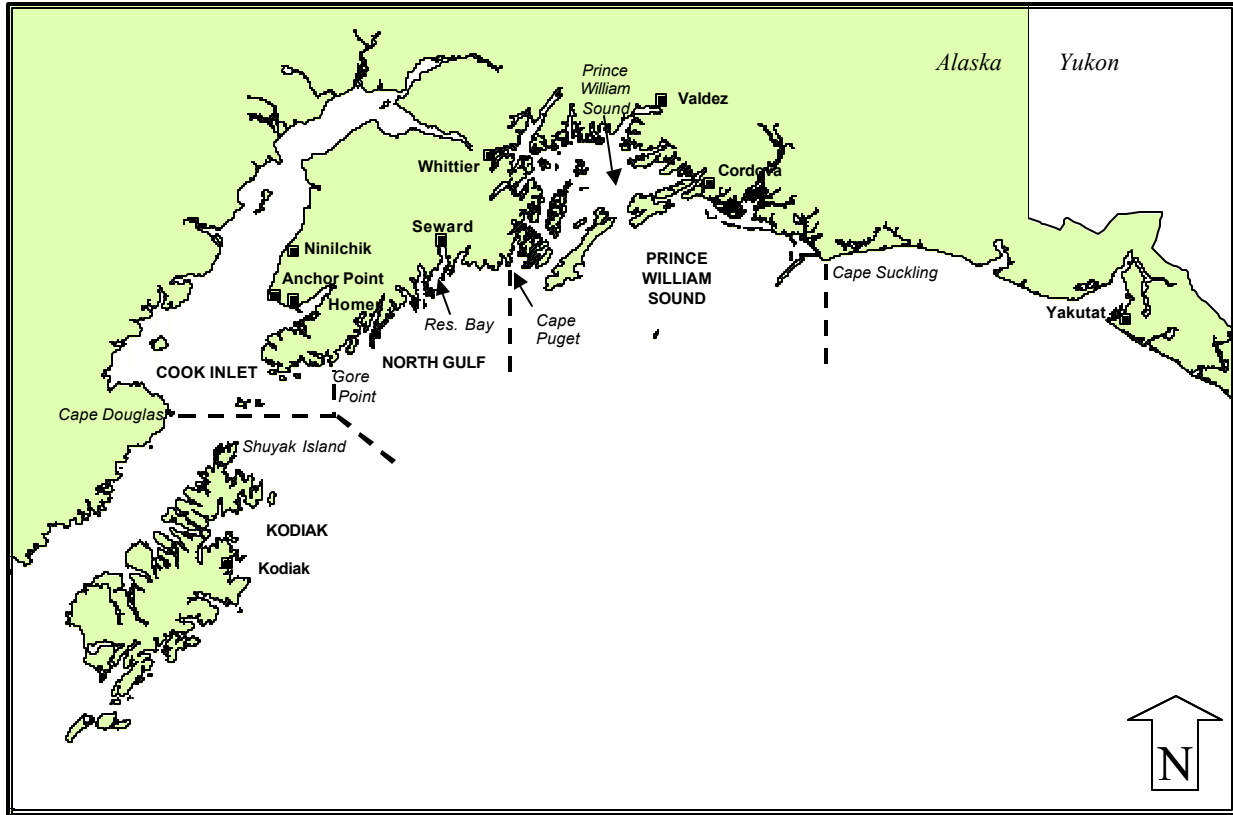


Figure 8. Subarea boundaries for aggregation of rockfish and lingcod sport harvest estimates from the Statewide Harvest Survey (SWHS).

Figure 8.

(Source: ADFG)

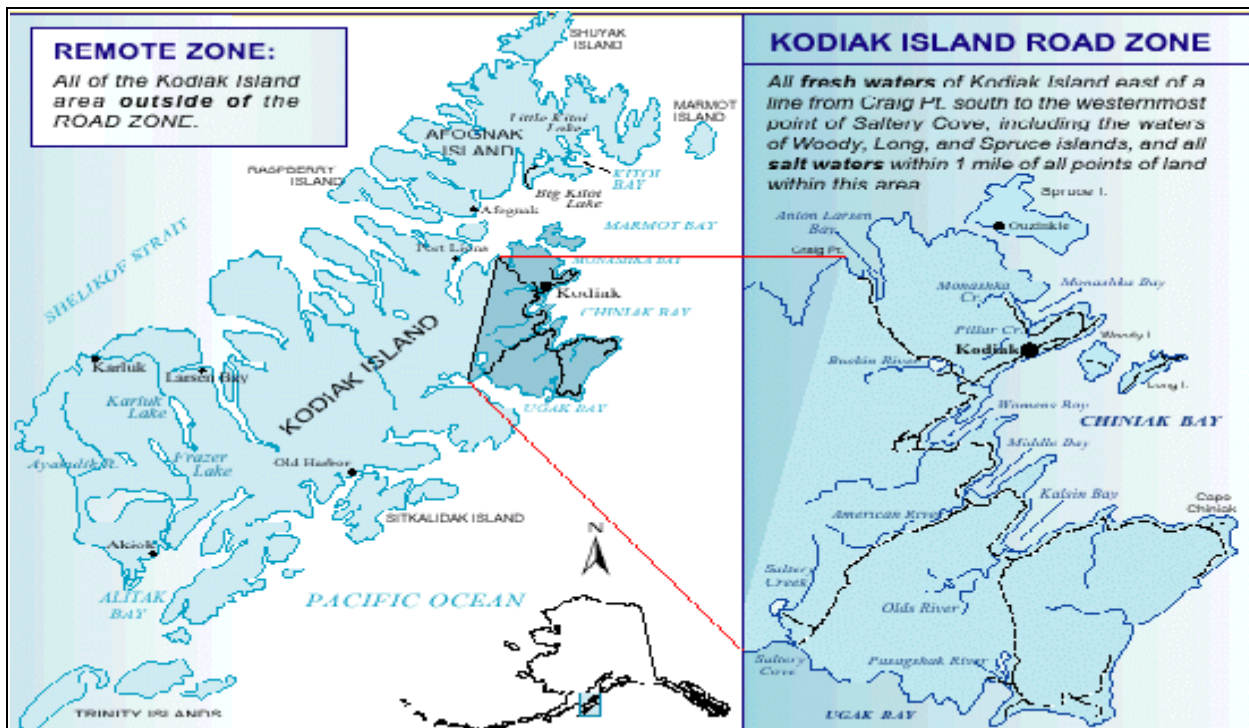


Figure 9. Kodiak Road Zone and Chiniak Bay. (Source: ADFG)

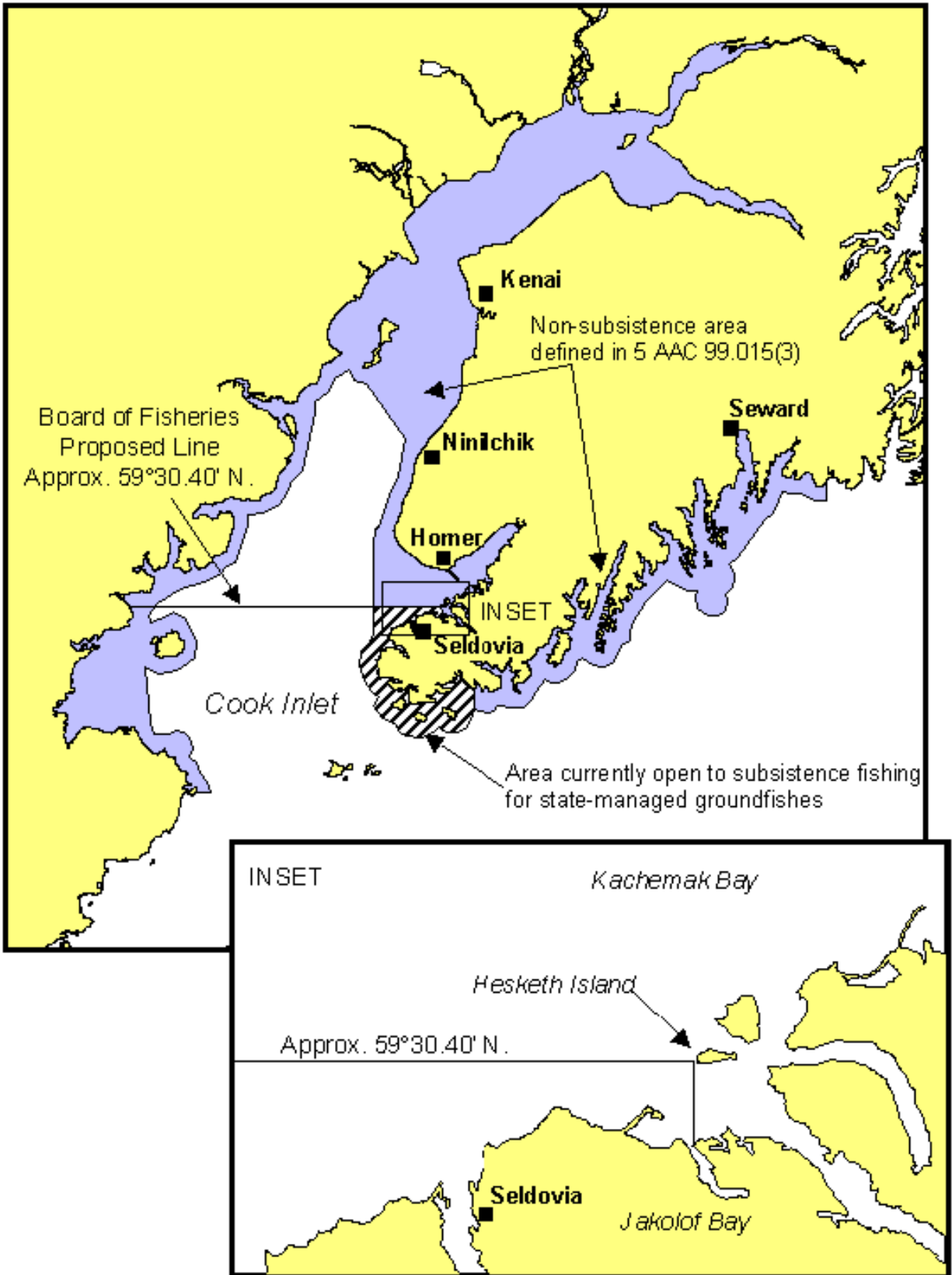
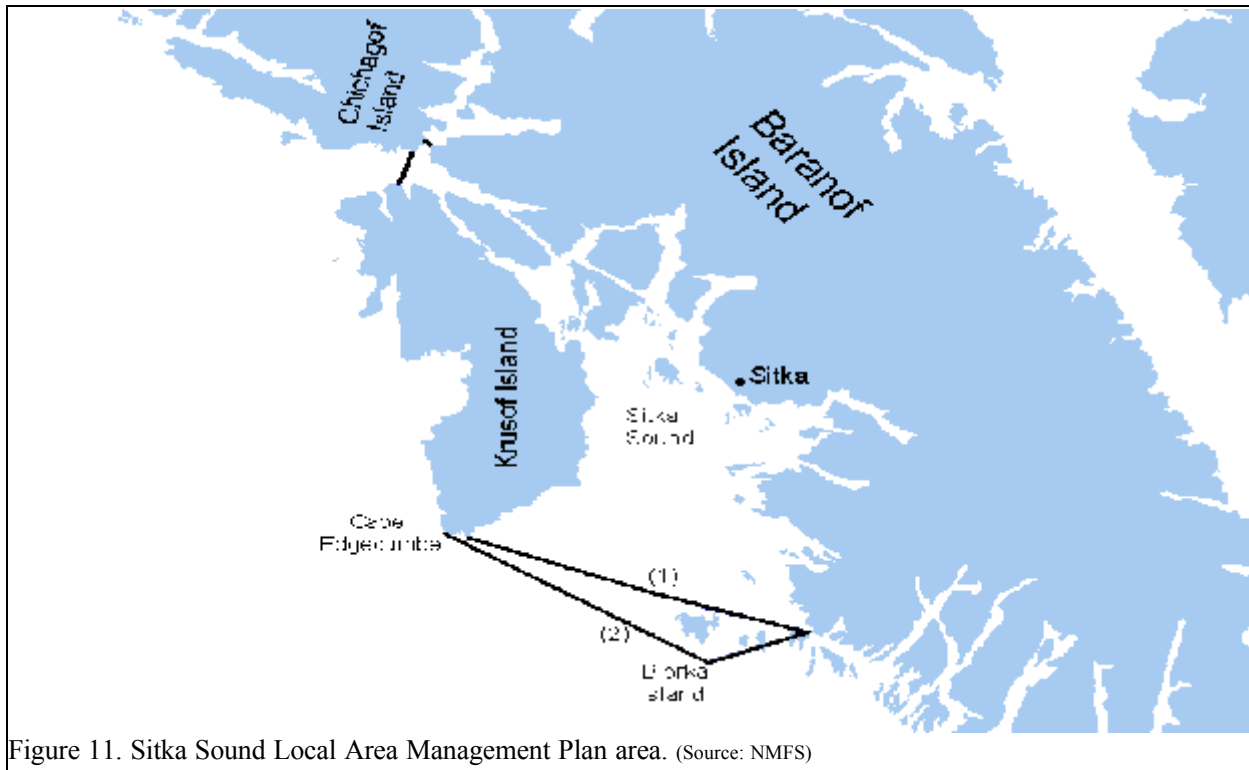


Figure 10. Proposed boundary change for the Cook Inlet non-subsistence use area (Source: ADFG)



Alternative 2, Part 4 (Figure 11) would change the previous action to reduce the gear limit in the Sitka Sound LAMP area to 2 hooks, create a 20 fish annual limit, and allow proxy fishing. This recommendation was based on public testimony at the Board’s April 1 hearing in Sitka (Appendix 3).

The rationale for its recommendations for Areas 2C and 3A is provided by the Board in its draft findings and presented below:

“Regarding the four specific areas of Sitka Sound, Cook Inlet, Kodiak and Prince William Sound, the board identified a concern with bycatch of other species. It is unknown how large the potential pool of participants will be in Cook Inlet, Prince William Sound, Kodiak road zones and Sitka due to the definition of eligibility adopted by the NPFMC. Due to a concern for a potential conflict with the state’s conservation concern on species such as rockfish, the board focused on more cautious recommendations for gear, harvest limits, etc., while still recognizing and providing for subsistence use of halibut in the four specific areas described above.

The board recommendation for gear for the four specific areas include: Sitka Sound LAMP area: two hooks; Kodiak road zone and Chiniak Bay: five hooks; Prince William Sound: five hooks; and Cook Inlet: five hooks. Stacking gear is not recommended for Sitka Sound LAMP area. The board does recommend allowing stacking gear in the specific Kodiak, Prince William Sound and Cook Inlet areas at three times the number of hooks on a single unit of gear. The board recognizes allowing stacking of gear acknowledges traditional ways the fishermen go out to get their fish.

The board recommendation in the Sitka Sound LAMP area is based on recognition of the extensive work that went into the LAMP and the conservation aspects of that plan. Also, conservation concerns exist for rockfish and other species.

With regards to the board recommendation for Cook Inlet and Prince William Sound, the board recognized that state subsistence regulations in these areas include a five hook limit based on conservation concerns for rockfish. The board also recognized concerns for rockfish bycatch by nonlocal users who would be qualified to come to the area to fish but not possess the local knowledge necessary to avoid rockfish while longlining for halibut.

In areas 3B, 4A, 4B and areas 3A and 2C, except for the four specified areas noted above, the board agrees with the NPFMC option of a 30 hook limit. In addition, stacking gear up to three units of gear is recommended, provided that the subsistence user(s) are onboard the vessel. Allowance for stacking gear acknowledges traditional ways the fishermen go out to get their fish.

Regarding harvest limits, the board recommends no harvest limit for areas 4C, 4D, and 4E. In areas 3B, 4A, 4B, and 3A and 2C except for the specific areas noted above, the board recommends a harvest limit of 20 halibut per day with no annual limit.

The board committee heard consensus and/or support during the hearings in Sitka and Kodiak for an annual limit. No annual limit was supported for Prince William Sound or Cook Inlet. The board noted that no proxy fishing is needed in areas where there is no annual limit. Therefore, the board recommends the following harvest limits for the specific areas: Sitka Sound LAMP area, and Kodiak Road Zone and Chiniak Bay: 20 fish per day, 20 fish annual limit with allowance for proxy fishing without the necessity of the other person being onboard the vessel; Prince William Sound and Cook Inlet: 20 fish per day with no annual limit.”

On gear stacking (defined as allowing three times the number of hooks on a single unit of gear), the Board recommended the following in its May 2001 meeting,

“Stacking gear is not recommended for Sitka Sound LAMP area. The board also recommends allowing stacking gear in the specific Kodiak, Prince William Sound and Cook Inlet areas at three times the number of hooks on a single unit of gear. Allowance for stacking gear acknowledges traditional ways the fishermen go out to get their fish.”

The rationale provided by the Board in the minutes from its May 2001 meeting amplifies its support of the proposed changes as follows.

“In the Sitka Sound LAMP area (portion of area 2C), the board agreed with the restrictions during May, June, and July that are currently set in that LAMP. Discussion included concerns that a 30-hook skate may increase the number of rockfish caught, both inside and outside the LAMP area. The board noted that the marine sanctuary in the pinnacles off Sitka is closed to fishing already. The board asked the department if there is a different pattern of bycatch of rockfish from jigging versus longline gear. The department has not done an analysis of rockfish caught by halibut fishermen, but noted that the amount of rockfish taken by villages is small compared to the commercial fisheries. There is a possibility that the analysis will show that the potential exists for a larger bycatch with the use of handheld gear versus longline gear.

Currently a 5-hook limit restriction for subsistence exists in Cook Inlet and Prince William Sound. The board noted that if a fisherman is jigging and catching rockfish, it is easier to move off of the rockfish and fish in another place for halibut. It is harder with longline gear because a fisherman does not know what the gear is being set on until the line is pulled up. The board is confident in the user who knows the local area because that user knows where to go for halibut, but the board is worried about the nonlocal user who is qualified to come to an area to fish and does not have that knowledge.

The final recommendation for gear for the four specific areas includes: Sitka Sound LAMP area: 2 hooks; Kodiak road zone and Chiniak Bay: 5 hooks; Prince William Sound: 5 hooks; and Cook Inlet: 5 hooks”

Gear Limits. The proposed gear limits for the different regulatory areas are self evident. Alternative 2 would eliminate gear limits in Areas 4C, 4D, and 4E due to hazardous weather and sea conditions and the need to land subsistence halibut in as few trips as possible. Eliminating the gear limits in Areas 4C-E should increase the ability of subsistence users to meet their subsistence needs and the needs of others in their communities.

Alternative 2 also would maintain the 30-hook limit and allow stacking of up to three gear limits (see below) in Areas 3B, 4A, and 4B. This is less liberal than the previous action, since the previous action does not prohibit stacking. It also does not allow for proxy fishing in these areas as the Board determined that it was not necessary as it was not part of customary and traditional practice in those areas. Placing limits on stacking in Areas 3B, 4A, and 4B and placing limits on stacking in three local areas and prohibiting stacking in one area and restricting gear limits in all four local areas could constrain the ability of subsistence fishers to meet their needs. Effects of stacking limits are addressed further below.

Alternative 2 also would reduce the gear limit to 5 hooks per person in the Kodiak Road Zone and Chiniak Bay, Prince William Sound, and Cook Inlet and to 2 hooks per person in the Sitka Sound LAMP area. Sitka Tribe representatives opposed any change to the Council’s previous action. Other Sitka residents support the proposed changes due to concern about local halibut and rockfish populations (see Appendix 3).

Stacking. Sharing subsistence harvests is much more likely to occur in circumstances where a fisherman is able to harvest fish in excess of his or her immediate needs in a single trip. Sharing may be reduced by restrictions on single trip harvests. Alternative 2 proposes to allow stacking of gear limits up to three limits in Areas 3B, 4A, and 4B so long as all fishermen are aboard the vessel and in three local areas in Area 3A with no onboard requirements. There are no recommendations to limit the total amount of gear fished from a single vessel. That is, a single string of gear is limited to no more than 90 hooks (30 hooks times 3 fishermen) in Areas 3B, 4A, and 4B and no more than 15 hooks the three local areas of Area 3A. However, there is no recommendation to limit a vessel to only one string of gear or to limit the number of individual gear limits (e.g., six limits of 30 hooks per string of gear in Western Alaska or 5 limits of 5 hooks per string off Kodiak).

The Council may wish to clarify the intent of the proposed stacking limit and the different onboard requirements for Western and Southcentral Alaska. Perhaps there is an inherent assumption that for the stacking limit, the catching power of 15 hooks, in Kodiak for example, on a single string of longline gear is less, the same, or greater than 15 hooks on three sets of gear of 5 hooks each. Fishermen believe that an “end hook effect” is associated with longline catching power (G. Williams, pers. commun.). The end hook is reported to fish a larger crescent-shaped area of the water exceeding that of previous hooks which may compete with each other to hook the target fish, although there is no empirical evidence of this phenomenon. If true, this effect may be less likely to occur with a small string of gear.

Restricting the stacking of gear limits on a single vessel could negatively affect subsistence harvest practices in four local areas. Subsistence harvests are typically distributed to several persons in a community. The restrictions proposed would limit stacking to one gear limit per vessel in one area and three harvest limits per vessel in three other areas, although not affecting individual gear limits being fished from the same vessel.

Further, the Board recommendations do not comment on the relationship between its gear stacking and proxy recommendations for waters off Sitka and Kodiak. Restricting gear stacking could constrain the ability of subsistence fishers to engage in proxy fishing.

Harvest Limits. Alternative 2 proposes to eliminate harvest limits for Areas 4C-E due to hazardous weather and sea conditions and the need to land subsistence halibut in as few trips as possible. It added an annual limit of 20 fish for Sitka and Kodiak because of the potential impact of increased halibut and rockfish removals on local fish populations in waters adjacent to large population bases. To address similar concerns (see the Sitka Sound problem statement), the Council added an option to decrease the daily harvest limit in the Sitka Sound LAMP area to 2 fish. This daily bag limit reduction may have economic and/or social consequences to halibut subsistence users who traditionally have fished in the LAMP area to feed their families. Sitka Tribal representatives and other local residents did not concur on the proposed changes (see Appendix 3).

Proxy. The Board noted that proxy fishing is unnecessary in areas without annual limits. So, the Board recommended proxy fishing only in areas with annual limits (Sitka and Kodiak). The Council identified an additional option to use the State of Alaska proxy system as a model for the proposed federal proxy system. In considering this option, the Council may wish to consider whether the limitations on the use of proxies in that system are

appropriate for the halibut subsistence fishery. The State (sport fish) proxy system permits proxy fishing only for persons who are 70 percent or greater disabled, 65 years old or older, or legally blind. The State system also only allows a fisher to act as a proxy for a single beneficiary at a time. An alternative system could be developed that is more consistent with current C&T subsistence fishing practices. Such a system might permit a designated fisher to engage in proxy fishing on behalf of several others in the community (without restriction).

Note that the previous action did not include a proxy system since the bag limit was determined to be sufficient for sharing. Under Alternative 2, the bag limit would be reduced to 2 fish and an annual limit of 20 fish in Sitka Sound and an annual limit of 20 fish off Kodiak would be implemented, with no gear stacking. These measures were recommended in these areas because they are two densely populated areas. Alternative 2 would include proxy fishing in those two areas to liberalize the effects of the annual limits. The

SPORT FISHING BY PROXY

(Source: ADFG)

Alaska residents may proxy sport fish, proxy personal use fish, and/or proxy subsistence fish for other Alaska residents who are **(1)** 70% or greater disabled (physician's affidavit required); **(2)** 65 years old or older; or **(3)** legally blind (physician's affidavit required). **No person may give or receive remuneration to be a beneficiary or a proxy.** Request a Proxy Information Form from any ADF&G office, or download it from www.state.ak.us/adfg/sport/geninfo/proxy/proxy.htm. Return the form to any ADF&G office for certification. You must provide your sport fishing license number, age (if under 16), or ADF&G Permanent ID card number, and original signatures of both parties. When presenting the Proxy Information Form for certification, you must also provide proof of fishing license or ADF&G Permanent ID card; and, if the reason for the proxy is "physically disabled," proof of 70% or greater physical disability. The Proxy Information Form is valid from the date of ADF&G certification for the time period designated on the form. The proxy fishing program allows you to take your own bag limit and your beneficiary's bag limit in the same day. You may not fish with more than one legal limit of gear. The beneficiary may **not** take or attempt to take fish or shellfish at the same time as his/her proxy. When proxy fishing, you must have in your possession the ADF&G-certified Proxy Information Form, your fishing license or ADFG Permanent ID card, the original fishing license or ADF&G Permanent ID card of your beneficiary, and any original permits and harvest record cards (if necessary) for yourself and for your beneficiary.

Council proposed an option to use the State (sport fish) proxy system as a model for federal regulations, but the State system does not appear to be widely used for “subsistence” purposes (at least, not by the ADF&G Subsistence Division (M. Pete, pers. commun.).

ADF&G staff reported that although proxies are issued, the effort or catch of proxy fishermen are not tracked. One sample response is from the manager in Norton Sound where in the Nome subdistrict subsistence salmon fishery, one or two proxies were issued in the past three years for the Tier II chum subsistence fishery. Everyone uses the appropriate proxy form and the completed form is attached to the subsistence permit (in the case of subsistence fisheries) with the associated catch reported under the actual permit holder. In other words, the subsistence catch or sport effort is noted through the permit/license holder, but the proxy effort and catch is not differentiated in any database. The forms are attached as Appendix 4.

ADF&G Sportfish Division provided information on 1999 and 2000 proxy applications by area (Table 4). Approximately 1,900 proxies were awarded in 1999; 2,000 were awarded in 2000. Proxies awarded in areas affected by Alternative 2 totaled 438 (36% of total proxies) in 1999 and 473 (24% of total proxies) in 2000. Of total proxies in 1999, 6% were held for more than one beneficiary; in 2000, 5% were held for multiple beneficiaries. In 1999, 95% of multiple proxies overlapped in time; 78% of multiple proxies overlapped in 2000. No additional information is available to evaluate the economic impacts of proxy fishing.

Cook Inlet non-subsistence boundary. At its May 2001 meeting, the Board recommended adjusting the southern boundary of the Cook Inlet non-subsistence fishing area based on public testimony at its April 25 and 26, 2001 hearing on halibut subsistence and LAMPs. An excerpt from the minutes from that meeting follows.

“The department provided the board with the current nonsubsistence use areas defined in regulation. The board discussed the Anchorage/Mat-Su/Kenai nonsubsistence use area and recommended that for subsistence use of halibut this area should be altered to capture the traditional areas of federal qualified users. A latitudinal line from Seldovia continued west across the inlet closes upper Cook Inlet but leave open waters traditionally used by villages on the peninsula.

The board discussed subsistence halibut fishing in areas 4C, 4D, and 4E and recognized the small window of opportunity available for fishing due to the weather. Halibut must be harvested in one trip if possible. As such, the board focused on liberalizing regulations in these areas in further discussions of gear, harvest limits, etc. in order to accommodate the subsistence use in this area.

The board also expressed concern with bycatch of other species in areas 3A and 2C. It is unknown how large the potential pool of participants will be in Cook Inlet, Prince William Sound, Kodiak and Sitka due to the definition of eligibility adopted by the NPFMC. A potential conflict could occur with the state’s conservation concern on species such as rockfish while trying to provide reasonable opportunity for subsistence users to get halibut. Due to this concern the board focused on more cautious recommendations for gear, harvest limits, etc. while still recognizing and providing for subsistence use of halibut in four specific areas: Sitka Sound LAMP area, Kodiak road zone and Chiniak Bay, Prince William Sound, and Cook Inlet (as redefined above).”

The Board’s findings reflect its recommendation on current nonsubsistence use areas defined in state regulation, except that in the Anchorage/Mat-Su/Kenai nonsubsistence use area the board recommended that the subsistence use area for halibut should be defined as those waters south of a latitudinal line west across Cook Inlet from the northernmost point of the current state subsistence area. This recommendation leaves open the customary and traditional use area of the villages qualified for halibut subsistence by the October

Table 4. ADF&G proxy data.			Bold indicates communities affected by local area restrictions under Alternative 2.		
Proxies by issuing office			No. Proxies held by the proxy.	1999	2000
Office	1999	2000			
			1	1035	1787
Anchorage	255	876	2	62	84
Big Lake	2	13	3	7	12
Chitina	61	9	4	2	2
Cordova	6	0	5	2	0
Delta Junction	7	12	6	0	1
Douglas	10	4	License number pending	7	5
Fairbanks	155	215			
Glennallen	16	23		1999	2000
Haines	0	1	Total holders of >1 proxy	73	99
Homer	143	129	% of overlapping proxies	95%	78%
Juneau	9	21			
Ketchikan	0	3	No. Proxies employed by a Beneficiary	1999	2000
Ninilchik	1	0	1	960	1523
Palmer	244	340	2	36	59
Petersburg	0	1	3	7	6
Seward	3	3	4	1	1
Sitka	5	13	License number pending	148	259
Soldotna	288	328			
Wrangell	0	7		1999	2000
unrecorded	0	11	Total beneficiaries with >1 proxy	44	66
Total	1205	2009	% of overlapping proxies	95%	82%

2000 NPFMC action. The nonsubsistence use area north of this line recommended by the board consists of waters not customarily and traditionally used by the qualifying users defined by the October 2000 NPFMC action. These areas were defined in 1993 based on reports from subsistence users regarding C&T use areas.

If it adopts this part of Alternative 2, the Council may wish to provide additional rationale for the selection of the specific proposed southern geographic boundary.

1.5.2.1 Needed Clarifications

Additional clarification on selected aspects of proposed changes to the program for certain eligible fishermen and associated community members under Alternative 2 has been requested from the Board, as listed below. These clarifications will aid the Council in its deliberations of the specific aspects of Alternative 2.

Stacking gear limits

- The Board recommended a gear stacking limit of three in certain areas. **Why was three chosen and not other limits (2, 4, 7)?**
- Fishermen appear to be required to be aboard the vessel in Areas 3B, 4A, and 4B, but not in the three local areas in Area 3A. **What is the rationale for onboard requirements in some areas, but not others?**
- There is an apparent gear stacking limit for a single string of longline gear, but no total gear limit per vessel. That is, a single string of gear is limited to no more than 90 hooks (30 hooks times 3 fishermen) in Areas 3B, 4A, and 4B and no more than 15 hooks in the three local areas of Area 3A. However, there is no recommendation to limit a vessel to only one string of gear or to limit the number of individual gear limits (e.g., six limits of 30 hooks per string of gear in Western Alaska or 5 limits of 5 hooks per string off Kodiak). Perhaps there is an inherent assumption that for the stacking limit, the catching power of 15 hooks, in Kodiak for example, on a single string of longline gear is less, the same, or greater than 15 hooks on three sets of gear of 5 hooks each. **What is the rationale for the gear stacking limit?**
- The Board recommendations do not comment on the relationship between gear stacking and proxies for waters off Kodiak. Restricting gear stacking could constrain the ability of subsistence fishermen to engage in proxy fishing. **Is the stacking limit without the onboard requirements for fishermen off Kodiak the same as limiting the proxy allowance to three? If not, please clarify how these management measures would interact.**

Proxies

- The Council identified the State of Alaska proxy system as a model for the proposed federal proxy system. The State (sport fish) proxy system permits proxy fishing only for persons who are 70 percent or greater disabled, 65 years old or older, or legally blind. The State system also only allows a fisher to act as a proxy for a single beneficiary at a time. **Are these restrictions too binding for the halibut subsistence program that is more consistent with current C&T subsistence fishing practices?**

Cook Inlet non-subsistence area geographic boundary

- The Board's findings report that its recommendation leaves open the customary and traditional use area of the villages qualified for halibut subsistence by the October 2000 NPFMC action. The non-subsistence use area north of this line consists of waters not customarily and traditionally used by those qualifying users. **Additional discussion of the *specific* latitude chosen by the Board (compared with another latitude) would aid the Council in adopting this recommendation.**

1.5.2.2 Qualitative Benefit Cost Analysis

The proposed action addresses a social or policy decision to redefine regulations that provide for certain Alaska residents to provide wild food to feed their families. The amendments balance the interests and needs of these families against a public interest in protecting rockfish stocks in certain areas. Few data concerning subsistence harvests, costs, the costs of substitute foods, and non-market values of subsistence fishing have been collected. For this reason, neither a quantitative cost/benefit examination of the proposed alternatives, nor a derivation of comparative net benefits may be concluded to contrast the several competing alternatives and options. The proposed action, however, attempts to achieve an increase in the net national benefits by balancing the perceived benefit to rockfish stocks against the increased cost and loss of benefits to subsistence harvesters of area restrictions.

Changes in net benefits to the nation cannot be determined with a gross revenue analysis. However, given that the proposed action is intended to balance the added cost and loss of benefits resulting from regulation of customary and traditional practices against the perceived benefit to rockfish stocks of those regulations, it is reasonable to conclude that the net benefits to the US economy would not decrease by \$100 million annually. Therefore, based on this criteria, none of the alternatives under any of the five actions constitutes a 'significant' action under E.O. 12866.

1.5.2.3 Economic Impacts of Alternative 2

The rationale for selecting Alternative 2 is to comport with a request by the Board to adopt federal halibut subsistence regulations that would better match local community needs for meeting both subsistence food requirements and protection of local halibut and rockfish populations. Proposed measures in the four local areas in Areas 2C and 3A would complement State regulations that limit gear where the public perceives that local halibut and rockfish abundances may be negatively impacted from local fishing effort .

The State of Alaska has not provided biological evidence of risk of impacting the viability of any rockfish population in State or Federal waters. The Board originally adopted daily harvest limits as a precautionary measure in response to public perceptions of local impacts on halibut and rockfish populations and subsequent subsistence harvests in Southeast and in Southcentral Alaska that arose due to the inability to predict the level of those populations off local communities. The Board recommended conservative gear, daily and annual harvest limits as a precautionary management approach to conserve those halibut and rockfish stocks where local harvest and biomass information is not be available. Concerns over ling cod also occur off Sitka.

State and federal scientists believe that rockfish removals in the halibut subsistence fishery are very low. Rockfish are not a target of halibut subsistence harvesters; however, most will take rockfish to feed their families if rockfish are caught on their halibut subsistence gear. There is no evidence that subsistence harvests are negatively impacting halibut or rockfish stocks.

Although little data are available to assess the cost of reduced subsistence harvests resulting from the proposed actions, a few general insights into the value of subsistence harvests can be made. In 1999, the total harvest of commercial rockfish by catcher vessels in hook and line fisheries in the Gulf of Alaska was 1 million pounds. Subsistence harvests are believed to be a very small fraction of commercial harvests. In commercial terms, the "value" of subsistence harvests would also be a very small fraction of the commercial harvest revenues. Yet, the purpose of subsistence harvests is not commercial but to feed families and maintain traditional lifestyles. Consequently, the non-market value of subsistence harvests may be substantially greater than estimates of their commercial value. In addition, the use-benefit from both halibut

and rockfish subsistence harvests is believed to extend beyond the harvesters and their immediate families to many community members and perhaps even persons outside the community. Highly productive subsistence fishermen commonly distribute their subsistence-caught fish among a wider range of households, through non-commercial systems of sharing and trade (see NPFMC, 2001). These considerations suggest that the economic value of subsistence harvests is prone to underestimation and estimates of the number of beneficiaries are prone to be under inclusive.

Alternative 2, Parts 1 and 2 are designed to accommodate remote rural subsistence users. Alternative 2, Parts 3 and 4 are designed to reduce rockfish harvests off of four local areas, with the most restrictive measures recommended off of two densely populated areas. A consequent reduction in halibut harvests is expected from all measures that restrict subsistence halibut harvests. Sharing of subsistence harvests is much more likely to occur in circumstances where a fisher is able to harvest in excess of his or her immediate needs in a single trip. Sharing may be reduced by restrictions on single trip harvests. In addition, the restrictions on gear limits could also increase the cost to subsistence fishers of harvesting fish because such limits are most constraining on days when harvest rates are highest. These are also the days on which subsistence benefits would be the greatest as the harvester would have the most fish to share with others.

When compared with taking no action, the economic costs of the proposed actions result from reduced rockfish and halibut harvests in all areas and any additional costs associated with switching gear types or moving to other areas to maintain the level of harvests. The Council is being asked to weigh these costs to halibut subsistence fishermen against the potential benefit to the nation of increased rockfish abundances in local areas.

In summary, there are no biological or economic data to guide the Council on this action. The alternatives before the Council would restrict harvests, which could reduce the benefits of subsistence activities and increase the cost of achieving subsistence benefits. The cost of these restrictions must be weighed against the benefit of the possible increase in rockfish and halibut stocks, which are largely speculative given the current knowledge of the fisheries and stocks at issue.

1.6 Administrative, Enforcement and Information Costs

Relatively minor changes to existing gear limits, daily harvest limits, and a geographic boundary in terms of administration and enforcement are proposed under Alternative 2 compared to the previous action. No additional administrative or enforcement costs are expected to occur.

1.7 Affected Environment and Environmental Impacts of the Alternatives

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in a significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

The purpose of this EA is to analyze the environmental impacts of the proposed Federal actions to modify the Council's previous action to define a subsistence fishery for Pacific halibut on the human environment and provide sufficient evidence to determine the level of significance. The human environment is defined by CEQ (40 CFR 1508.14) as including the natural and physical environment and the relationships of people with that

environment. This means that economic or social effects are not intended by themselves to require preparation of an EIS. However, when an EIS is prepared and economic or social and natural or physical environmental impacts are interrelated, the EIS must discuss all of these impacts on the quality of the human environment. No known significant interactions between the halibut subsistence fishery in Alaska and the human environment were identified in the following analysis.

The first subsistence Environmental Assessment/Regulatory Impact Review (NPFMC 20001) to define a halibut subsistence fishery in Convention waters in and off Alaska is currently under NMFS Regional review. It is anticipated that the Secretary will make a Finding of No Significant Impact (FONSI) determination upon publication of the final rule based on Section 3.6 of that analysis. The factors for consideration at Section 6.02 of NAO 216-6 are: (1) the action may be reasonably expected to jeopardize the sustainability of any target or non-target species that may be affected by the action; (2) the action may be reasonably expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitats under the MSA and identified in FMPs; (3) the action may be reasonably expected to have a substantial adverse impact on public health or safety; (4) the endangered or threatened species, marine mammals, or critical habitat of these species; (5) the action may be reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species; (6) the action may be expected to have a substantial impact on biodiversity and ecosystem function within the affected area; (7) if significant social or economic impacts are interrelated with significant natural or physical environmental effects then an EIS should discuss all of the effects on the human environment; and (8) the degree to which the effects on the quality of the human environment are likely to be highly controversial. None of the alternatives to define a subsistence fishery for Pacific halibut in Convention waters would be expected to have a significant impact on the environment.

The proposed actions considered in this analysis would change the following aspects of the proposed halibut subsistence regulations:

- gear limits 2 hooks in the Sitka Sound LAMP area only;
 5 hooks in Kodiak, Prince William Sound, Cook Inlet only;
 no gear restrictions in Areas 4C, 4D, 4E.
- harvest limits no daily bag limits in Areas 4C, 4D, 4E;
 20 fish annual limits in the Sitka Sound LAMP area and Kodiak;
 2 fish bag limit in Sitka (added by the Council).
- proxy fishing allow in the Sitka Sound LAMP area and Kodiak;
 examine State proxy system as a model;
- stacking do not allow stacking (multiple harvest limits per vessel) in the Sitka Sound LAMP area;
 limit stacking Areas 4A, 4B, 3B, 3A, and 2C except for the Sitka Sound LAMP area;
- fishing areas redefine the geographic boundaries of the Cook Inlet non-subsistence fishing area.

Sections 3.1 - 3.4 in the previous analysis contained extensive information regarding the Pacific halibut stock, the commercial fishery, sport fishery, other non-commercial uses. In summary, the Pacific halibut stock is healthy, but declining from recent peak abundance. The species is fully utilized by commercial, sport, guided sport, and subsistence users. Harvests are not always easily distinguished as to their intended uses. The distinctions between them are clouded by differing legal and cultural interpretations of subsistence by both resource managers and users, although current gear restrictions may be used to post facto assign a user category to a landing. Subsistence fishing is a traditional use in Alaska primarily for food use by domestic family groups, including noncommercial sharing and distribution systems. The IPHC does not have a formal

regulatory definition of subsistence or retained catch, however, it does attempt to track subsistence taken under a personal use category, leaving only sport harvests under the sportfishing category.

Section 3.5 described the biological concerns. The primary concern related to the lack of reporting of halibut subsistence harvests for inclusion in stock assessments; however, it is recognized that removals may be as little as one percent of total removals as estimated from the number of subsistence users and their per capita consumption levels. The previous analysis assumed that these extremely low levels of harvest have a trivial effect on marine habitat relative to other removals. The halibut subsistence fishery is expected to have no impact on direct incidental takings of marine mammal species or any endangered or threatened species, as concluded in the previous analysis. There have been no changes to the species listed as threatened or endangered. And there have been no changes to the species that range into the action area.

Further, the environmental effects of four of the five proposed actions were analyzed in the previous analysis. Two proposed management measures are new to this analysis: 1) annual limits for subsistence users in the Sitka Sound LAMP area, and 2) stacking - allowing up to three daily harvest limits per vessel. An annual limit of 20 fish has been proposed for 8,835 Sitka residents, limiting the potential harvest to a maximum harvest level of less than 177,000 fish. It is unlikely that the maximum will be harvested, since that annual limit was recommended to allow for traditional practices such as sharing (it is not expected that a harvester would consume 20 fish each year). The second new measure is stacking. The Board recommended two changes to the proposed program: 1) no stacking (or 1 daily harvest limit per vessel) in the Sitka Sound LAMP area and stacking of three daily harvest limits in Cook Inlet, Prince William Sound, and off Kodiak to reflect traditional fishing practices. Both of these measures are proposed to address local area management needs and balance the needs of halibut subsistence users and concern for rockfish and lingcod populations that are likely to be harvested as bycatch in these fisheries.

More than 30 rockfish species of the genus *Sebastes* inhabit the action area. Rockfish have been divided into three management assemblages in the Gulf of Alaska since 1988 based on their habitat and distribution: slope, pelagic shelf, and demersal shelf rockfish. These assemblages were based on species distribution and habitats well as commercial catch composition data. The species composition within each assemblage has changed over time, as new information was available.

Most rockfish are slow growing and long-lived. They have a closed swim bladder that makes them susceptible to embolism mortality when brought to the surface from depth. Therefore all rockfish caught, including discarded bycatch in other fisheries, are usually fatally injured and are counted against the TAC, thereby reducing that amount made available for directed commercial fisheries.

Slope Assemblage

Aurora rockfish (*S. aurora*)
Blackgill rockfish (*S. melanostomus*)
Boccacio (*S. paucispinus*)
Chilipepper rockfish (*S. goodei*)
Darkblotch rockfish (*S. crameri*)
Greenstriped rockfish (*S. elongatus*)
Harlequin rockfish (*S. variegatus*)
Northern rockfish (*S. polyspinus*)
Pacific Ocean Perch (*S. alutus*)
Pygmy rockfish (*S. wilsoni*)
Redstripe rockfish (*S. proriger*)
Rougheye rockfish (*S. aleutianus*)
Sharpchin rockfish (*S. zacentrus*)
Shortbelly rockfish (*S. jordani*)
Shortraker rockfish (*S. borealis*)
Silvergray rockfish (*S. brevispinus*)
Splitnose rockfish (*S. diplopro*)
Stripetail rockfish (*S. saxicola*)
Vermilion rockfish (*S. miniatus*)
Yellowmouth rockfish (*S. reedi*)

Demersal Shelf Assemblage

Canary Rockfish (*S. pinniger*)
China Rockfish (*S. nebulosus*)
Copper rockfish (*S. caurinus*)
Quillback rockfish (*S. maliger*)
Redbanded rockfish (*S. babcocki*)
Rosethorn rockfish (*S. helvomaculatus*)
Tiger Rockfish (*S. nigrocinctus*)
Yelloweye rockfish (*S. ruberrimus*)

Pelagic Shelf Assemblage

Dusky rockfish (*S. ciliatus*)
Widowrockfish (*S. entomelas*)
Yellowtail rockfish (*S. flavidus*)

Slope rockfish are those species of *Sebastes* that, as adults, inhabit waters of the outer continental shelf and continental slope of the Gulf of Alaska, generally in depths greater than 150-200 m. In 1991, the slope assemblage was divided into three management subgroups: Pacific ocean perch (POP), shortraker and rougheye rockfishes, and all other species of slope rockfish. In 1993, a fourth management subgroup, northern rockfish, was also created. These subgroups were established to protect them from possible overfishing. In contrast, shelf rockfish inhabit shallower, more inshore waters of the shelf. Based on these criteria, 21 species of rockfish are classified into the slope rockfish assemblage. The assemblage is dominated by POP, which has historically been the most abundant rockfish in this region and has provided most of the commercial catch.

The demersal shelf rockfish (DSR) assemblage is now comprised of the seven species of nearshore, bottom-dwelling rockfishes. These fishes all occur on the continental shelf, reside on bottom, and are generally associated with rugged, rocky habitat. Yelloweye rockfish, *Sebastes ruberrimus*, is the dominant species in the DSR fishery.

Pelagic shelf rockfish are those species of *Sebastes* that inhabit waters of the continental shelf of the Gulf of Alaska, and that typically exhibit a midwater, schooling behavior. Dusky rockfish is the most important species in the assemblage, whereas yellowtail and widow rockfish are generally considered minor species in Alaska waters.

Status of Stocks

A summary of the status of rockfish stocks from federal stock assessments is shown below (NPFMC 2000). Very little stock abundance and biomass data have been collected by ADF&G for Southeast or Southcentral rockfish populations in state waters; however, ADF&G biologists categorize state rockfish fisheries as

relatively stable and sustained (W. Bechtol, pers. commun.). As described in Appendix 5, commercial fishery restrictions have increasingly constrained the fishery harvest and the sport fishery has reduced bag and possession limits relatively recently. Port sampling occurs for the recreational harvest and, to a lesser extent, for the commercial harvest. Some species, such as rougheye rockfish, are sampled regularly by ADF&G trawl and longline surveys.

Relative abundance (biomass) of GOA groundfish.

Low	Medium	High
thornyhead	other slope, demersal shelf, northern, shortraker, rougheye	pelagic shelf, Pacific ocean perch

Demersal shelf rockfish have been taken as bycatch in domestic longline fisheries, particularly the halibut fishery, since the turn of the century. Pelagic shelf rockfish (excluding its former members black and blue rockfish) have been caught almost exclusively with bottom trawls. Historically, bottom trawls have accounted for nearly all the commercial harvest of slope rockfish. In recent years, however, a sizeable percentage of the shortraker/rougheye rockfish catch has been taken by longlines, and a sizable portion of the Pacific ocean perch catch has been taken by pelagic trawls. More pelagic rockfishes are taken on jig gear. Vertical longline gear take more of the schooling rockfishes such as black and yellowtail rockfish. These are not targets of commercial or sport fisheries, but are landed mostly as bycatch. The DSR species are targets of trawl gear by sizable commercial and sport fisheries, so even small subsistence catches add to a high level of fishing effort on these species. It is important to remember that most rockfish are dead when caught. Commercial discards are counted against the commercial quota, thereby reducing the directed fishery apportionment.

The key to controlling bycatch is minimizing the ratio of rockfish to halibut caught on a unit of gear (R. Bentz, pers. commun.). If using a large unit of gear, say a longline with 30 hooks, the fisherman can unwittingly set in a hot rockfish area and exceed the bag limit with one unit of gear. If using rod and reel, the user can move as needed to areas with fewer rockfish to minimize rockfish bycatch. Therefore, the bycatch potential is much higher with 20 hooks attached to a longline than two hooks attached to a handheld line. Commercial fisheries staff reports that there is a potential for the bycatch to be different species (T. O’Connell, pers. commun.). A harvester is more likely to catch pelagic rockfish on vertical gear and demersal species on longline gear, based on their biology and distribution. Sportfish Division staff reports that the BOF-proposed solution of 5 hooks per person, and allowing them to stack gear depending on the number of fishermen aboard, was a reasonable compromise to conserve rockfish while allowing for subsistence harvesters to feed their families.

Context: The setting of the action is the subsistence halibut fisheries of Convention waters. Any effects of the proposed action are limited to four local areas: the Sitka Sound LAMP area, the Kodiak Road Zone and Chiniak Bay, Prince William Sound, and Cook Inlet. The effect on society within these areas is isolated to the direct participants in the halibut subsistence fisheries. There are no major changes to subsistence fishing practices, as the intent of the proposed action is to balance the needs of halibut subsistence users and conservation of rockfish stocks. The principal consequence of the proposed actions is to redefine and limit halibut subsistence fisheries in and off Alaska.

Intensity: A listing of considerations to determine intensity of the Effects required in 40 CFR § 1508.27 (b) was presented in Section 3.6.1 of the previous analysis (NPFMC 2001). The proposed actions do not change the conclusions made in that summary.

1.8 Environmental impacts of the alternatives

The environmental effects of Alternative 1 were analyzed in the original analysis (NPFMC 2001). It is anticipated that the Secretary will make a Finding of No Significant Impact (FONSI) determination upon publication of the final rule based on Section 3.6 of that analysis.

Alternative 2 reflects the need to meet the needs of halibut subsistence users to feed their families by authorizing customary and traditional halibut subsistence fishing practices in all areas. Further, Alternative 2 addresses perceived concerns about rockfish stocks. The checklist to identify marine fisheries management issues from the previous analysis is unchanged by the proposed actions. No known significant environmental impacts have been identified as a result of any of the proposed alternatives to manage the halibut subsistence fishery. No adverse impacts to the halibut resource or the human environment are expected. The proposed measures are intended to better match halibut subsistence regulations with customary and traditional fishing practices in Convention waters in and off Alaska and to enhance the status of halibut and rockfish populations in waters off Areas 2C and 3A dense population centers.

1.9 Conclusions or Finding of No Significant Impact

In summary, none of the alternatives to define a subsistence fishery for Pacific halibut in Convention waters would be expected to have a significant impact on the environment, warranting a Finding of No Significant Impact (FONSI). In view of the analysis presented in this document, I have determined that the proposed action would not significantly affect the quality of the human environment. Based on this determination, the preparation of an environmental impact statement for the proposed action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

Assistant Administrator for Fisheries, NOAA

1.10 References

- NMFS. 2001. DRAFT Environmental Assessment/ Regulatory Impact Review/Initial Regulatory Flexibility Analysis for a Regulatory Amendment to Modify Harvest Restrictions in Western Alaska Community Development Quota Fisheries for Pacific Halibut in Areas 4D and 4E of the Bering Sea. NMFS, P.O. Box 21668, Juneau, Alaska 99801. 39 p.
- NPFMC. 2000a. DRAFT Environmental Assessment and Regulatory Impact Review for a Regulatory Amendment to Define a Halibut Subsistence Fishery Category in Convention Waters. NPFMC, 605 W. 4th Ave., Suite 306, Anchorage, Alaska 99501. 204 p.
- NPFMC. 2000b. SAFE Report for the GOA Groundfish Fisheries. NPFMC, 605 W. 4th Ave., Suite 306, Anchorage, Alaska 99501. 480 p.
- NPFMC. 2000c Economic SAFE Report for the BSAI and GOA Groundfish Fisheries. NPFMC, 605 W. 4th Ave., Suite 306, Anchorage, Alaska 99501. 99 p.

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APPENDIX 1. Board of Fisheries Recommendations on Halibut Subsistence

- 1) FINDINGS**
- 2) RC-39**
- 3) MAY 2001 MINUTES**

Alaska Board of Fisheries
Findings for Recommendations on Subsistence Halibut Regulations
#2001-206-FB

In October 2000 the North Pacific Fishery Management Council (NPFMC) adopted options concerning subsistence halibut regulations for specific areas of the state that defined eligibility, gear and daily limits. The NPFMC requested that the Alaska Board of Fisheries (board) provide recommendations relating to legal gear, daily limits, reporting requirements, customary and traditional use areas of tribes and rural communities, and nonrural area definitions for halibut fishing areas. These recommendations were presented to the NPFMC at its June 2001 meeting in Kodiak.

A committee comprised of three members of the board held four regional public meetings at Sitka, Kodiak, Cordova and Homer to hear from the public about these issues. The committee presented its report to the full board and the board developed recommendations represented in a matrix covering area, gear, harvest limits, permits and reporting requirements, and proxies. The matrix focused board discussion on whether to recommend to the NPFMC that the proposed option be liberalized, be the same, or be less liberalized than the first set of options given to the board to review in October 2000.

The board recommended current nonsubsistence use areas defined in state regulation, except that in the Anchorage/Mat-Su/Kenai nonsubsistence use area the board recommended that the subsistence use area for halibut should be defined as those waters south of a latitudinal line west across Cook Inlet from the northernmost point of the current state subsistence area. This recommendation leaves open the customary and traditional use area of the villages qualified for halibut subsistence by the October 2000 NPFMC action. The nonsubsistence use area north of this line recommended by the board consists of waters not customarily and traditionally used by the qualifying users defined by the October 2000 NPFMC action.

With regard to gear, the board discussed subsistence halibut fishing in areas 4C, 4D, and 4E and recognized the small window of opportunity available for fishing due to the weather and the fact that halibut must be harvested in one trip if possible. As such the board focused on liberalizing regulations in these areas in order to accommodate the subsistence use in these areas.

Therefore, in areas 4C, 4D and 4E the board recommended no gear restriction and no limit on the number of hooks. The board recognized the fact that it was unable to hold hearings in these areas so it received limited input. The board also recognized that the NPFMC recommended no harvest limits for the area. The board believes a gear limit makes no sense if there is no harvest limit.

Regarding the four specific areas of Sitka Sound, Cook Inlet, Kodiak and Prince William Sound, the board identified a concern with bycatch of other species. It is unknown how large the potential pool of participants will be in Cook Inlet, Prince William Sound, Kodiak road zones and Sitka due to the definition of eligibility adopted by the NPFMC. Due to a concern for a potential conflict with the state's conservation concern on species such as rockfish, the board focused on more cautious recommendations for gear, harvest limits, etc., while still recognizing and providing for subsistence use of halibut in the four specific areas described above.

The board recommendation for gear for the four specific areas include: Sitka Sound LAMP area: two hooks; Kodiak road zone and Chiniak Bay: five hooks; Prince William Sound: five hooks; and Cook Inlet: five hooks. Stacking gear is not recommended for Sitka Sound LAMP area. The board does recommend allowing stacking gear in the specific Kodiak, Prince William Sound and Cook Inlet areas at three times the number of hooks on a single unit of gear. The board recognizes allowing stacking of gear acknowledges traditional

ways the fishermen go out to get their fish.

The board recommendation in the Sitka Sound LAMP area is based on recognition of the extensive work that went into the LAMP and the conservation aspects of that plan. Also, conservation concerns exist for rockfish and other species.

With regards to the board recommendation for Cook Inlet and Prince William Sound, the board recognized that state subsistence regulations in these areas include a five hook limit based on conservation concerns for rockfish. The board also recognized concerns for rockfish bycatch by nonlocal users who would be qualified to come to the area to fish but not possess the local knowledge necessary to avoid rockfish while longlining for halibut.

In areas 3B, 4A, 4B and areas 3A and 2C, except for the four specified areas noted above, the board agrees with the NPFMC option of a 30 hook limit. In addition, stacking gear up to three units of gear is recommended, provided that the subsistence user(s) are onboard the vessel. Allowance for stacking gear acknowledges traditional ways the fishermen go out to get their fish.

Regarding harvest limits, the board recommends no harvest limit for areas 4C, 4D, and 4E. In areas 3B, 4A, 4B, and 3A and 2C except for the specific areas noted above, the board recommends a harvest limit of 20 halibut per day with no annual limit.

The board committee heard consensus and/or support during the hearings in Sitka and Kodiak for an annual limit. No annual limit was supported for Prince William Sound or Cook Inlet. The board noted that no proxy fishing is needed in areas where there is no annual limit. Therefore, the board recommends the following harvest limits for the specific areas: Sitka Sound LAMP area, and Kodiak Road Zone and Chiniak Bay: 20 fish per day, 20 fish annual limit with allowance for proxy fishing without the necessity of the other person being onboard the vessel; Prince William Sound and Cook Inlet: 20 fish per day with no annual limit.

In considering staff reports, the status of the resource, public hearings and written comments, the board recommends the harvest strategy outlined above for subsistence use of halibut.

Adopted _____, 2001

Ed Dersham, Chair
Alaska Board of Fisheries

INSERT RC-39

2ND PAGE

Alaska Board of Fisheries
WORK SESSION
Halibut Subsistence and LAMPs
Summary of Actions
May 8 and 9, 2001
WestCoast International Inn, Anchorage

Halibut Subsistence Excerpt

This summary of actions is for information purposes only and is not intended to detail, reflect or fully interpret the reasons for the board's actions.

Subsistence Use of Halibut

In October 2000 the North Pacific Fishery Management Council (NPFMC) adopted options concerning subsistence halibut regulations for specific areas of the state that defined eligibility, gear, and daily limits. The NPFMC requested that the board provide recommendations relating to legal gear, daily limits, reporting requirements, customary and traditional use areas of tribes and rural communities, and nonrural area definitions for halibut fishing areas. These recommendations will be presented to the NPFMC at its June 2001 meeting in Kodiak. In addition to subsistence halibut recommendations, the board will report to the NPFMC on the status of local area management planning (LAMP) in various areas of the state.

A committee, comprised of members of the board, held four regional public meetings at Sitka, Kodiak, Cordova, and Homer to hear from the public about these issues. The committee presented its report to the full board and the board developed recommendations represented in a matrix covering Area, Gear, Harvest Limits, Permits/Reporting Requirements, and Proxies. The matrix focused board discussion on whether to recommend to the NPFMC that the proposed options be liberalized, be the same, or be less liberal than the first set of options given to the board to review in October 2000.

The board also discussed whether member Dersham may have a conflict of interest in giving recommendations on the Cook Inlet area due to his business there. The chairman found that no conflict of interest exists because Dersham would not gain any business or personal interest by any recommendation the board will make. The information concerning patterns of use that the board will rely upon comes from the department; and this recommendation is advisory, not regulatory, to the NPFMC.

AREA

The department provided the board with the current nonsubsistence use areas defined in regulation. The board discussed the Anchorage/Mat-Su/Kenai nonsubsistence use area and recommended that for subsistence use of halibut this area should be altered to capture the traditional areas of federal qualified users. A latitudinal line from Seldovia continued west across the inlet closes upper Cook Inlet but leave open waters traditionally used by villages on the peninsula.

The board discussed subsistence halibut fishing in areas 4C, 4D, and 4E and recognized the small window of opportunity available for fishing due to the weather. Halibut must be harvested in one trip if possible. As such, the board focused on liberalizing regulations in these areas in further discussions of gear, harvest limits, etc. in order to accommodate the subsistence use in this area.

The board also expressed concern with bycatch of other species in areas 3A and 2C. It is unknown how large the potential pool of participants will be in Cook Inlet, Prince William Sound, Kodiak and Sitka due to the

definition of eligibility adopted by the NPFMC. A potential conflict could occur with the state's conservation concern on species such as rockfish while trying to provide reasonable opportunity for subsistence users to get halibut. Due to this concern the board focused on more cautious recommendations for gear, harvest limits, etc. while still recognizing and providing for subsistence use of halibut in four specific areas: Sitka Sound LAMP area, Kodiak road zone and Chiniak Bay, Prince William Sound, and Cook Inlet (as redefined above).

GEAR

In areas 4C, 4D, and 4E, the board recommended no gear restriction/no limit on the number of hooks. Again, these users are limited by weather, and therefore time, in obtaining their halibut. There would likely not be a way to get fish out to sell on commercial markets. The board discussed the fact that it was unable to hold hearings in these areas so it received limited input. However, the board also saw in the NPFMC initial options that a "no harvest limit" is recommended for this area. A gear limit did not make sense if there is no harvest limit.

In areas 3B, 4A, and 4B, and areas 3A and 2C except for the four specific areas noted above, the board agrees with the NPFMC option of a 30-hook limit. In addition, "stacking" gear up to three units of gear is acceptable provided the subsistence user(s) are onboard the vessel. Allowance for stacking gear acknowledges traditional ways the fishermen go out to get their fish.

In the Sitka Sound LAMP area (portion of area 2C), the board agreed with the restrictions during May, June, and July that are currently set in that LAMP. Discussion included concerns that a 30-hook skate may increase the number of rockfish caught, both inside and outside the LAMP area. The board noted that the marine sanctuary in the pinnacles off Sitka is closed to fishing already. The board asked the department if there is a different pattern of bycatch of rockfish from jigging versus longline gear. The department has not done an analysis of rockfish caught by halibut fishermen, but noted that the amount of rockfish taken by villages is small compared to the commercial fisheries. There is a possibility that the analysis will show that the potential exists for a larger bycatch with the use of handheld gear versus longline gear.

Currently a 5-hook limit restriction for subsistence exists in Cook Inlet and Prince William Sound. The board noted that if a fisherman is jigging and catching rockfish, it is easier to move off of the rockfish and fish in another place for halibut. It is harder with longline gear because a fisherman does not know what the gear is being set on until the line is pulled up. The board is confident in the user who knows the local area because that user knows where to go for halibut, but the board is worried about the nonlocal user who is qualified to come to an area to fish and does not have that knowledge.

The final recommendation for gear for the four specific areas includes: Sitka Sound LAMP area: 2 hooks; Kodiak Road Zone and Chiniak Bay: 5 hooks; Prince William Sound: 5 hooks; and Cook Inlet: 5 hooks. Stacking gear is not recommended for Sitka Sound LAMP area. The board also recommends allowing stacking gear in the specific Kodiak, Prince William Sound and Cook Inlet areas at three times the number of hooks on a single unit of gear. Allowance for stacking gear acknowledges traditional ways the fishermen go out to get their fish.

HARVEST LIMITS

The board recommends no harvest limit for areas 4C, 4D, and 4E. In areas 3B, 4A, 4B, and 3A and 2C except for the specific areas noted above, the board recommends a harvest limit of 20 halibut per day with no annual limit.

The board committee heard consensus and/or support during the hearings in Sitka and Kodiak for an annual limit. No annual limit was supported for Prince William Sound or Cook Inlet. The board noted that no proxy fishing is needed in areas where there is no annual limit. Therefore, the board recommends the following harvest limits for the specific areas: Sitka Sound LAMP area, and Kodiak Road Zone and Chiniak Bay: 20 fish per day, 20 fish annual limit with allowance for proxy fishing without the necessity of the other person being onboard the vessel; Prince William Sound and Cook Inlet: 20 fish per day with no annual limit.

PERMITS AND REPORTING REQUIREMENTS

The board committee heard general support from the public for permits and reporting requirements, including reporting of bycatch species. The department does not have the funding to implement a permit system nor a reporting system. The board recommends that the federal agencies develop one, working with the tribal or local entities wherever possible, and working with the federal subsistence board as appropriate.

OTHER

The board noted many areas that are unexplored in these recommendations, such as whether to allow commercial vessels to have subsistence-caught halibut onboard, etc. The board does recommend to the NPFMC that adoption of the federal regulations governing subsistence use of halibut occur all at once and not in a piecemeal fashion. The board also noted the need to look at state regulations and adjust those regulations accordingly and in a timely manner.

APPENDIX 2. ADF&G Recommendations on Federal Subsistence Halibut Regulations (RC25)

insert RC 25

page 2

APPENDIX 3. April 2001 Board of Fisheries Hearing Summaries on Halibut Subsistence/LAMPS

- 1) SITKA SOUND**
- 2) KODIAK**
- 3) CORDOVA**
- 4) COOK INLET**

SITKA PUBLIC MEETING HALIBUT LAMPS & SUBSISTENCE

Pursuant to the Board of Fisheries Charge Statement to the Local Area Management Plan (LAMP) Task Force Groups (#2000-201-FB), the Joint Protocol between North Pacific Fishery Management Council/Board of Fisheries (dated February, 1998) and the North Pacific Fishery Management Council Action on Halibut Subsistence Issues, a Committee of the Alaska Board of Fisheries met in Sitka, Alaska on April 1, 2001 at the Shee Atika Hotel, held a public hearing on the issues of LAMPs and subsistence halibut. The Committee members include Ed Dersham, chairman, Dan Coffey and Grant Miller.

Initially, Ed made opening comments relative the process, how the committee would conduct its business and the underlying purpose of the public hearings.

Next, Jane DiCosimo, Council staff gave a report. NMFS staff is currently preparing subsistence regulations. A draft of these regulations will be presented to the Council at the Council's June, 2001 meeting. During the course of developing these regulations, the staff has discovered issues and concerns, which will also be presented to the Council.

Jane noted that any recommendations from the Board would not be included in these draft regulations. If the recommendations are viewed favorably, then additional staff work will be required. This work would involve an analysis of any changes to the regulatory scheme from what the Council has already adopted. The Board process should develop the rationale for what the Board proposes. The Committee and the Board should focus on biological, sociological and economic facts to support any recommendations it might make to the Council.

Chairman Dersham next talked briefly about the LAMP process, what the Board has done to date and what it intends to do to complete the process.

Next, Tom Brookover (ADF&G) reported that he had prepared some written material for the Board and the public's consideration. Copies are available. Then Bob Wolf (ADF&G, Subsistence Division) provided a brief summary of what the Council has done to date. The elements adopted by the Council, are currently being drafted into regulatory language. In this regard, see the Council's Action dated October 7, 2000 on Halibut Subsistence Issues.

There was a discussion with staff on the issues raised by the charge to the Board from the Council. The charges that create the most difficulty involve licensing/permitting, enforcement, areas closed to fishing and areas open for fishing. A lot of these issues are unresolved at the staff level as well, even as they are drafting regulations for the Council's consideration in June 2001.

After the staff reports and the discussions between members of the committee and the staff, the committee took public testimony.

The first testifier was from the Sitka AC. The Sitka AC minutes were in the Board materials. The main point of his discussion was the divisive nature of the subsistence issue and the interplay with the LAMPs process. In response to questioning from the committee, the AC chair asked about putting together a task force to help resolve this divisive issue. The committee is concerned first about the resource and secondly about how the subsistence needs can be met with the recognition of need to protect the resource and to preserve the LAMP for Sitka Sound.

The Sitka AC chair then provided his personal testimony. He is concerned about the bag limit of 20 halibut today. He believes that unlimited fishing opportunity is damaging to the resource. He supports reporting requirements and he supports the LAMP process. He is a charter sport fisherman.

Next, the committee heard from a representative of the Alaska Longline Fishermen's Association. She reported that her association worked with the AC to come up with a consensus position, but has not come up with any consensus. People are concerned about the 20 fish per day bag limit. It could be abused. Make it a daily limit and an annual limit. Another possibility might be a boat limit. Specific to Sitka Sound, there is concern for the recovery of the halibut stocks in the Sound. Local depletion is a concern and many people will not be able to fish with long line. The LAMP process limitation for the Sound should be maintained. If the 30 hook long line and 20 per day bag limits are adopted, the resource will not recover and that, as a result, subsistence users will not be able to have their needs met in their local area (Sitka Sound). She does not believe that the problem is a biological problem (the one stock concept), but does believe that it is a social problem.

The next person to testify, a member of the SE RAC, submitted lengthy written comments to the Committee on subsistence and the LAMP process. Included were two proposals just submitted to the RAC on permitting and reporting. The speaker noted that the AC process involved a very spirited debate, mostly over the eligibility requirements.

According to this speaker, there is a very real need for halibut subsistence monitoring. As noted, a proposal along these lines is attached to his written testimony. Also requested the FSB to issue a halibut (groundfish) permit which will help account for the harvest of halibut and other ground fish. The speaker is requesting the Board of Fisheries support for these two proposals.

The speaker also addressed the Option 6 items. This testimony follows his written submittal.

- Item 1: 60 hooks on a skate is long-term practice. 30 hooks on long line is a reduction from long standing practice. There is a public record supporting the use of sixty (60) hooks on long line.
- Item 2: daily limit of 20 fish is appropriate.
- Item 3: reporting requirements. See written testimony about FSB permitting and monitoring.
- Item 4 and 5: use ANILCA for use areas.

The environmental record recognized the absence of complete data, all subsistence harvest accounts for less than one percent (1%) of all halibut harvested.

The speaker then talked about the Sitka Sound LAMP. Again, his written testimony is complete in this regard.

Grant Miller asked about reasonable opportunity for those in the Sitka area in light of localized depletion. The speaker believes that using 30 hooks is not unreasonable in Sitka Sound even with local depletion. Does not believe that the LAMP process will solve the local depletion problem. Believes that there are other ways to solve these problems. If the Board recommends that regulations for Sitka Sound under the LAMP, which are more restrictive than for the rest of the Southeast area, this would violate the subsistence priority.

The Wrangell AC was the next person to testify. The AC submitted minutes of their recent meeting at which they did not have a quorum. On LAMPs, the community does not have a local depletion problem yet. However, with IFQs there is a shift of effort closer to town. The local community should be the source of the LAMP. It should not be imposed by anyone outside of the area such as the Board of Fisheries or the North Council.

The Petersburg AC was the next person to testify. His AC just met and was also short of a quorum as well. Therefore, the meeting was conducted as a fact-finding meeting with no action being taken. It was noted that there were no people at the meeting to talk specifically to subsistence issues. People in Petersburg get their consumptive fish from either the sport or the commercial harvest.

In Petersburg, there is local depletion as well, although not at the level of Sitka. With the IFQ program, there is actually more pressure on the grounds than before. Many small IFQ quota holders fish closer to Petersburg. The idea of LAMPs will be a topic of discussion in the future.

On the subsistence issues, the idea of using long line gear is not a problem. There were some who thought that 30 hooks might not be enough. The discussion of the issues is outlined in the AC written report. An annual bag limit might make more sense, rather than/in addition to a daily bag. It is difficult to set the amount. In depth reporting is very important, even though the harvest may be very small.

Next, the committee heard from a local person who lives a subsistence lifestyle. He is a member of Sitka AC, holding the subsistence seat on the AC. Many people are out harvesting herring eggs on this day, which is very nice and is a weekend day. For this reason many people are not able to attend this meeting.

This speaker supports the LAMPs process. LAMPs took years to develop and allow more local people to catch fish. Recognize both the small boat commercial and the sport fishing fishers. He goes outside of Sitka Sound to catch his halibut and those halibut that he catches for others. In subsistence there is the catcher, the provider, the proxy system and the gatherer. This speaker would like to see these practices recognized in the subsistence regulations.

Next, the biologist for Sitka Tribe of Alaska spoke. He is here to talk about LAMPs and subsistence harvest. No more compromise on halibut subsistence in Sitka Sound. The proposed use of skates with 30 hooks is consistent with the Sitka Sound LAMP program. Concurs with the testimony of others in regard to long lines, number of hooks and daily bag limit of 20.

Next, a representative of the Hoonah Indian Association. Has held many meetings with his members. They want to return to and continue their customary and traditional ways of getting halibut for themselves, their friends and relatives and their community. Traditional areas are into Glacier Bay, Port Frederick, Excursion Inlet, northern coastline along Chichagof Island areas around Indian islands and north into Cross Sound. Could be as far north as Dry Bay. The 32" limit on smaller halibut is a valid lower limit. Also, limit at the upper end to allow the spawners to continue to spawn. There should also be a limit in the sport fishery. No limits, daily or annual, were not agreed upon. They need to be allowed to take whatever they need to take for their consumptive use. Also, the gear used should not be restricted as there are catcher/providers. To impose a limit on them is not appropriate. The fishery is self-limiting and there are laws on the books for those who abuse the fishery. Also, considering the concept of LAMPs because of localized depletion. Sat in on the AC meeting for Icy Strait, but they are not here.

A local resident and a member of the Sitka Tribe testified next. Basically, he supports the stands taken by the Sitka Tribe as expressed in the testimony of prior speakers. The subsistence plan for all of the state is appropriate for all of the state. It should not be changed in any form. In Sitka area, including the Sound, this version should be the way in which it is done. As we get better reporting, then we can refine the regulations. We definitely need better reporting.

Next a commercial fisherman and resident of Kake testified. Traditionally, the halibut has been a native food. Kake is concerned about Sumner Strait, Fredrick Sound and the southern end of Chatham Strait. His people have used long line gear for years and years. The ocean is their super market and they take care of their super market. Everything is not on sale every day. They harvest what they need on a need basis; sometimes for smoking and sometimes fresh. They do not have waste in Kake. They share with everyone. The subsistence harvest is not much compared to the sport harvest. Has seen the boxes of fish being shipped out of Alaska from the sport harvest. Concerned on limitations and restrictions on Alaska people. Does not want more restrictions on the super market. Sharing and caring is a good belief and a good practice for all of us. This is not a native/white issue. This hits all of us, although maybe native people more. We have been talking about LAMP, but have not brought this forward yet.

A Sitka Tribe member testified next. She talked about the school she runs which involves, among other things, harvesting halibut and teaching traditional ways of life. Over time, they have had problems catching halibut. Since 1997 on ward have had real problems catching halibut for their food and their school.

Another local person testified next. He is in favor of the 30 hooks. It's a good idea. Talked about the specifics of this fishery. One hook every 3 fathoms, a 100-fathom skate with two anchors and two buoys. This is hard work. If you have the equipment then you'll probably leave the LAMP area to get your fish. If you don't have the equipment, you will probably use rod and reel.

This concluded the public testimony and the committee adjourned for the day.

OPEN DISCUSSION DAY 2 OF THE PUBLIC MEETING

Initially, Chairman Dersham outlined how today's meeting would proceed. However, before we began, one individual, who thought the meeting would begin today (one early notice said that the committee would begin on Monday), was given an opportunity to speak. He was concerned about monitoring the subsistence catch, the potential sale of subsistence caught halibut, the gear and the amount of fish to be harvested.

The open discussion then began. The first speaker was an original member of the LAMPs task force. The process took five (5) years for a consensus to develop. When the Council approved the LAMP for Sitka Sound, it adopted the recommendations of the local people, but deleted the one-year review process. The question that most concerns him is whether subsistence is part of the LAMP process.

The next speaker noted that all people had agreed to close monitoring of the subsistence catch. The question is who does this monitoring is very important. ADF&G doesn't have the resources to do this. Where does the money come from?

Dan Coffey asked about the necessity for and the effectiveness of monitoring programs. Several speakers addressed the issue of monitoring and tracking.

One speaker is concerned about the sale of subsistence caught halibut. Although he did not participate in the process, he also believes that the LAMP process in Sitka did not take into its consensus building process, the concerns of the public fishermen who simply want to catch a halibut for their own consumption.

With the help of staff (Jane DiCosimo and Bob Wolf), there was a discussion on barter and trade and on the difference between barter and trade and commercial activity. Also, an explanation was given by staff as to the particulars of the proposed regulations. There are enforcement mechanisms in the proposed regulations.

Dan Coffey then asked about the question of which body would be appropriate for consideration of the monitoring/permitting proposal. There are questions of overlapping jurisdiction between the various federal agencies. These questions are not resolved, but according to Jane DiCosimo, there is little likelihood that there will be one set of regulations for all waters and all species given the diversity of the jurisdictions. Dave Johnson, the federal subsistence coordinator for the Tongass National Forest spoke on the regulatory system in place for the Federal Subsistence Board. The regulations under discussion before the Board and the Council are not subject to the regulations under the FSB.

According to Jane DiCosimo, the regulatory agencies all support the record keeping/data gathering concept. The agencies are working with the tribes to develop a way of getting out permits to the harvesters. Several speakers then talked about the need for good record keeping process. Use a permit and maybe a punch card system in conjunction with an annual limit. One speaker suggested using the postal system for the issuance and return of the permits. A Sitka Tribe member said that the native community is very good about monitoring. Questions were asked about who collects the data and who issues the permits? For example, one person thought that since the state has a system for permitting subsistence activities, we should probably use the same system. Some believe that the best system of reporting is through the existing reporting system on the salmon subsistence reporting system. Some people are worried about the accuracy of any voluntary reporting system. Also, the issue of who would make a determination of qualifications for any permit. This general discussion about the pros and cons and the pluses and minuses of various ways to do this continue for some time.

In response to a question from Dan Coffey, Bob Wolf talked about the numerous reporting systems and the need for a single and simple counting system. There is a substantial amount of double counting which currently occurs. When asked about the detail in the data collection, Bob Wolf responded as to the efficacy of various accounting methods, the costs of any monitoring program and the need, if you want really accurate data, to be in the villages with face to face interviews which is, of course, very expensive.

The Committee then directed a series of questions on the permitting/data gathering concept in an effort to arrive at consensus:

- | | |
|--|-------------------------|
| 1) Is there a need for a permit? | Yes |
| 2) Is there a need to report catch? | Yes |
| 3) Who should issue the permit? | ADF&G |
| -rod and reel subsistence | -vs.- |
| -only tribal members/all users | Fed Agencies |
| -funding issues for agencies | -vs.- |
| | Tribes |
| 4) Should the permit be used everywhere? | Yes, but keep it simple |
| -localized vs. everywhere? | At least local |

-done in the LAMPs system?
-information must be area specific

Possible
Absolutely

The group then returned to the issue of the subsistence regulations and the LAMP process and the relationship between the two. Jane DiCosimo talked about the distinction between the current subsistence regulatory process and the LAMP process. However, it was noted that the two are intertwined and interrelated although it is unclear how this will work out.

After the background discussion with staff and the Committee, Eric Jordan then made a very interesting and enlightening presentation about LAMPs in general, how the LAMP process worked for Sitka Sound and how this process could fit in with subsistence. Eric will make a handout of his presentation.

Next, there was a general discussion about the goals of the Sitka Sound LAMP, which was primarily to restore abundance of halibut in Sitka Sound and make it available to local people for their own consumption. At that time, local people were limited to rod and reel fishing. Subsistence users were part of that process and agreed to the LAMP for the Sound.

Bob Wolf then asked questions about assessment/measurement of the success of the LAMP in the Sound. There was to be annual monitoring and reporting back to the AC. There are problems with getting data because of IPHC reporting areas versus the local area subject to the LAMP. One speaker then commented upon the concept of increasing the abundance of halibut in the Sound. Concerned about whether or not the concept works in light of the plan adopted by the local people. Another speaker believed that the development of the LAMP using the consensus basis was very important. Unfortunately, the Council did not adopt the plan as written because the Council eliminated the annual review.

A question was asked of Council staff if one group or one person could get a change in a LAMP. The response was that the consensus approach to LAMPs was a very major consideration and that without generalized consensus, the Council would be unlikely to change any LAMP. Other's agreed with this statement.

One speaker is concerned about the amount of halibut under the proposed regulation. He wants a two fish daily limit with using the LAMP process to increase the limit. Another speaker wants to use the LAMP process to reduce the limit. The first speaker thought his approach was more conservative.

The problem is that subsistence has a priority over all other uses under Alaska law. An annual limit might be a better approach over a daily limit. Others talked about this concept as well as the approach of limiting people to hand hauled long line in the LAMP area. There is support for an annual limit from others who do not like the daily limit without an annual limit. This speaker has no problem with an annual limit, but believes if there is high removal on a daily basis, this can impact local take. There should be a local option on annual and daily limits. On the other hand, many people are opposed to annual limits because they and others fish for many others who are dependent upon the halibut resource and because of their customary and traditional use of halibut their culture. Others talked about a limit being an individual limit, not a limit for people who are fishing for others.

One speaker referenced the subsistence statute about reasonable opportunity and harvest restrictions. Both Ed Dersham and Dan Coffey responded to this comment explaining how subsistence restrictions can be implemented while still afford a reasonable opportunity to subsistence users while restricting other users.

Several people talked about the lack of information. In particular, what is the halibut long line harvest in Sitka Sound? We don't know, but it is likely to be low because the harvest is low. Dan Coffey asked the question what should we do in light of this fact: should we allow 30 hooks and 20 fish a day knowing that this number of fish will not be caught or should we recommend a reduction of this method and means and this bag limit.

In response to Coffey's question, one speaker commented that he thought that the idea of limiting the subsistence fishery only during the three (3) months when there is no long lining in Sitka Sound. The Sitka Tribe is opposed because the federal limits are already a reduction from what have been higher historic levels of harvest.

Grant Miller asked what is the problem with using the LAMP solution to the subsistence issues, i.e., no long lining in June, July and August. According to some, the Sitka Tribe is right to maintain in its position based upon what the Council has already done. The group then discussed the subsistence issue and the LAMP process and how personal use and subsistence (customary and traditional) use relate when, in subsistence areas such as Sitka, there is no personal use fishermen, there are only subsistence fishermen.

One person maintains that subsistence was not part of the LAMP process. Rather, the LAMP process was intended to make sure that local people have the opportunity to harvest halibut. It was noted that the FSB adopted the same regulations for subsistence harvest for resident species (trout), as were in effect under the state regulations for sport fishing. Thus, the Council could adopt regulations that are the same for both sport and subsistence in the halibut fisheries. The SE RAC member said that this was based on conservation issues and, while he believes that there is a localized depletion issue for Sitka Sound, there is not a conservation problem with halibut that are migratory fish.

Next, the group discussed the issue of other species, rockfish and ling cod for example. This is part of the concern with the long line gear option. There was a brief general discussion of the effect of long line as a harvest practice on other species. Again, there is not a lot of information on these species according to the Department.

Chairman Dersham then called for summary comments. The first speaker's position is that the Board should recommend to the Council that there be a 2 fish daily limit with rod and reel and that thru the LAMP or the AC process this could be adjusted. The second speaker commented that season should be 12 months long, with a size minimum of 32-inches and by catch may be retained. The Wrangell AC supports the positions set out in its minutes. Another speaker commented on the LAMPs process and the subsistence process. The Hoonah representative stated that the subsistence users of Hoonah desire no limits and that subsistence be differentiated from personal use. The Petersburg AC noted that the minutes of the Petersburg AC speak for themselves. He also supported the 32-inch limit. One speaker said that the 32-inch limit is not biological, but is to accommodate the processors. Another speaker stated that the 32-inch limit was to protect the smaller halibut so that you would have a better fishery in the long haul. The next speaker sticks by his written testimony and urged the Committee to give the proposed regulation a try without any variation from the proposed regulations. Another speaker restated the commitment of all participants to a simple permitting, monitoring and reporting system for groundfish and halibut. A Sitka Tribal member stated that the Sitka Tribe is sticking with its position on method and means (30 hooks on a long line) and on the 20 fish per day bag limit. The Sitka Tribe agrees with a permit/reporting system.

COMMITTEE ISSUES/DISCUSSION POINTS

The Committee at the conclusion of the public hearings developed the following discussion points. The Committee acknowledges that there are many unresolved questions/issues. The Committee also believes that many if not most of these questions are best addressed at the local and regional level where local knowledge and experience can be brought to bear on the issues. As Eric Jordan noted in his presentation, with local involvement in the process of developing a regulatory plan, invariably the plan is better for having gone thru the local process. This Committee strongly encourages the local Advisory Committees and the Regional Advisory Committees to work on these issues and to develop local consensus if possible. Also, the ACs and the RACs should identify other issues as appropriate and bring them to the Committee's attention.

1. The reporting/monitoring/permitting system. No objection from the public.
 - who should issue the permit?
 - who determines eligibility for a permit and what proof is required to show eligibility?
 - what data/information is required/needed and who should collect the data?
 - what should be the consequence of not reporting?
 - where does the money come from to fund this permitting and reporting process?
2. The concept of integration of LAMPs and the subsistence harvest.
 - How do these two (2) processes work together or do they even work together?
 - What, if anything, needs to be done to deal with subsistence issues in areas where there are no LAMPs? Work with the RACs/ACs? What is the relationship of RACs to the Council process?
3. Should there be a differentiation between different areas?
 - should the gear be different in different areas?
 - should the bag limits be different in different areas?
 - these questions relate primarily to the Sitka Sound area where a LAMP is in effect, but there could be distinctions else, particularly if other areas become engaged in the LAMP process. Many speakers said that their communities were considering this process.
4. Should the Board/Council encourage the LAMP process?
 - it appears that the LAMP process is the best way to afford local people an opportunity to address their local concerns thru the Board to the Council.
 - Should the subsistence process be incorporated under the LAMP process? Obviously,

eligibility has been decided. However, the other issues that the Council referred to the Board are not totally resolved. However, do subsistence users want to participate in a LAMP process where undoubtedly, they will be under pressure to accommodate other users? What other processes do subsistence users have open to them? How does the Council want this to proceed? Many questions for discussion.

In Conclusion, the Committee wants to thank the public participants, the staff of the Department and the Council and the federal officials for their participation. It is our hope that these minutes will spark further discussion and that, when the matter comes before the Board in May and the Council in June, the stakeholders are satisfied with the process and well informed on the issues.

Respectfully submitted,

Dan K. Coffey
Committee Member

**ALASKA BOARD OF FISHERIES
HALIBUT LAMPS & SUBSISTENCE
KODIAK PUBLIC MEETING, APRIL 6 & 7, 2001**

Pursuant to the Board of Fisheries charge statement to the Local Area Management Plan (LAMP) Task Force Groups (#2000-201-FB), the Joint Protocol between North Pacific Fishery Management Council/Board of Fisheries (dated February, 1998) and the North Pacific Fishery Management Council action on halibut subsistence issues, a committee of the Alaska Board of Fisheries met in Kodiak, Alaska on April 6 & 7, 2001 at the Best Western Hotel, and held a public meeting on the issues of LAMPs and subsistence halibut. The committee was comprised of Ed Dersham and Dan Coffey.

In response to a request by a Kodiak legislator, the public was advised of a noon teleconference on the LAMPs process.

ADF&G provided materials to the committee and the public. (Copies are available at the Juneau Boards Support office.)

One of the major concerns in the Kodiak area is the effect on other species, lingcod and rockfish, if the gear in the federal regulations is approved. This is of lesser concern in Chignik, the Alaska Peninsula and the Aleutian Islands.

There is currently a finfish and shellfish reporting system in effect. The permit must be with the person when fishing and the permittee must report annually. The department manages permitting and reporting.

PUBLIC TESTIMONY

The Kodiak Advisory Committee representative gave a history of halibut harvest in Kodiak from the 1960s until present. The AC has not discussed halibut subsistence due to lack of funding. However, the representative has knowledge about the issues from involvement in fisheries. The major concern is “commercializing” subsistence by allowing the sale of subsistence caught halibut.

The Kodiak AC has been involved with LAMPs. A task force worked on the issue with representatives from Kodiak and surrounding area including native villages such as Old Harbor and Larson Bay. The AC felt there would be a lot of problems if the island got divided up. There is no documented problem in Kodiak; however, Kodiak would like established boundaries for a generalized LAMP for Kodiak Island. Other discussions were to regulate charter boats in the LAMP area differently than other areas. There should be an exclusive charter boat area. The AC knew about the decline in Sitka that led to its LAMP and the AC has not seen the same type of problems in this area. The Kodiak LAMP committee is composed of three people from the commercial section, three from charter boats and three from the public.

The issue of subsistence method and means, effect on other species, and permitting/reporting of harvest was discussed. The NPFMC is trying to create a regulatory scheme that reflects existing practice in Kodiak, but the use of longline with 30 hooks has not been a common practice. There is concern about practices that might result in halibut being harvested for nonlocal consumption. The AC representative responded that it would be difficult to predict what the effect of 30-hook longline might be on the resource, allowing this method will cause irreversible damage such as people selling subsistence halibut for cash.

The Sand Point AC reviewed the October 2000 NPFMC action. The AC believes that any reasonable amount of gear should be allowed. There was concern about mixing sport-caught and subsistence-caught

halibut. It is better to have an annual pound limit rather than a count limit because of the variation in halibut size. The AC discussed the cash aspect of barter and trade. With low population, there is not much risk from sales. Finally, the AC discussed cooperative agreements with tribal organizations and permitting and reporting. (Note: All written comments and testimony submitted will be available from the Boards Support Section upon written request.)

The board committee heard testimony about the LAMPs process and how it could incorporate the subsistence process. Concerns were expressed about conservation of the resource and that subsistence should be done under sport fishing regulations with a two halibut per day limit. Federal regulations will put increased pressure on the halibut in Chiniak Bay. This is in the face of increased sport and commercial harvest and an increase in the effort necessary to harvest halibut, which can result in localized depletion. Chiniak Bay may never reach 100% agreement on any plan

There is evidence of localized depletion in Chiniak Bay, both anecdotal and in the ADF&G statistics. Sport and commercial halibut harvests have increased in Chiniak Bay.

The board committee heard of a need for LAMP in the Aleutian East Borough and the subsistence fishery to take place with the tribe issuing the permits and monitoring the take. Proactive measures are needed before there is an influx of people coming westward to fish for halibut. Other testimony included concerns with a 30-hook skate and a 20 fish daily bag limit. Permitting and reporting are important; use a tribal officer in places where there is no ADF&G office. Localized depletion will not be a problem in Sand Point. The increase in charter boats in Sand Point has not been a problem. Currently, one boat goes out and supplies six or seven families.

The board committee learned that some areas are not subject to the IFQ, they can continue to grow even if IFQs are imposed elsewhere. With regards to halibut subsistence, Kodiak has a rural/urban division. In the Kodiak town area, the 30 hooks will probably result in localized depletion. In other areas, the longline with a hook limit is the previous action and can continue to be done without negative impact. The concept of a 20 fish daily limit is a problem. Add a seasonal limit to the daily limit. The range of 20-25 halibut for an annual limit was discussed. The average weight of halibut in the area is 22 lbs., which would lead to 400 to 500 pounds per person annually. Permitting and reporting is important. All uses of a public resource must be reported and it should be contemporaneous with the harvest.

Other testimony noted the areas involving customary and traditional use are complex and should be dealt with in the LAMPs process. In Old Harbor, for example, the charter operators have respected the customary and traditional subsistence grounds. However, in Larson Bay, the contrary is true and there has been some localized depletion. The customary barter and trade and the \$400.00 cash amount is more of a concern in an urbanized area such as Kodiak town than in rural Kodiak.

The rural communities on Kodiak have had proposals in front of the Board of Fisheries. The board heard that the position on LAMPs is threefold. The area needs to be defined. Cook Inlet charter fishers are spilling into Kodiak areas. Within the areas, there needs to be superexclusive registration. This allows each LAMP area to solve their local problems without concern about others moving into the area. Then, areas of localized concern (e.g. Chiniak Bay), can be addressed by the local ACs. If the LAMP areas on a three year track, it might take as much as five (5) years, so the Board of Fisheries should initially deal with LAMPs on an annual basis. Localized halibut depletion is occurring in some areas. This creates problems for subsistence users. This situation calls out for sub-area LAMPs.

LAMPs should be a consensus building process but needs stimulus from the board to do so. The idea is that either the local people solve the problem or the board will solve the problem. This would take place after

the problem is identified and the local people are given an opportunity to solve their own problems.

Following public testimony the board committee attended a legislative session on LAMPs where the board committee participated in the discussion and answered questions from legislators and the public.

OPEN DISCUSSION DAY 2 OF THE PUBLIC MEETING

Topics the board committee heard discussion about includes:

- There is no localized depletion
- A 20 fish daily limit is “ripe for abuse”
- The area outside of Kodiak is different than Sitka
- The current LAMPs proposal seems to be designed to exclude commercial fishermen from an area

On the subsistence issue, the concern is that people would over harvest. The committee asked whether, once a person has their needs and the needs of their family and friends met, would they continue to fish? Several people agreed that, in their area, the fishery would be self-limiting.

The chairman stated that what the NPFMC proposed will undoubtedly work for more remote, less populated areas, but it may be problematically in more urbanized, heavily populated areas. There may be more users who are not truly versed in subsistence practices. The idea of the federal regulations was to authorize existing practices.

Halibut subsistence should be within the LAMPs process. It is impossible to develop a LAMP without including the subsistence fishermen. It was noted that there were subsistence users who used a longline to harvest halibut. In both this area and out westward there is no concern for bycatch.

The board committee discussed geographic differentials in the regulations based upon where the population is greater. For example, do we not allow longline fishing in Chiniak Bay, but allow longlines elsewhere? It is clear that the practice westward is to use longlines. It is also clear that this practice westward is truly a subsistence practice of long standing. However, in Chiniak Bay and around the more urbanized areas here Kodiak, the practices have been very different. The use of hand-line and a two fish bag limit has been the customary practice. However, using longline might be acceptable in the Chiniak Bay area if fishing is monitored and limited by an annual bag limit. It seems that the higher limit is just beyond what is really needed. A proxy can be used to allow for a high limit if you are fishing for someone else in addition to yourself. The idea of 20 fish a day for Kodiak is problematic because of the potential for abuse. Would like to see a 20 fish annual limit.

Next, there was a discussion about “chartering” for subsistence. If charter people can advertise subsistence charters, then the face of fishery might very well be changed. If there is going to be a \$400.00 cash sale/reimbursement, then there should be a limit of \$400.00 per vessel, which would eliminate the subsistence charter issue. Again, it was noted, “one size doesn’t fit all.” We need to have different plans for different geographic areas. A committee member suggested that the AC or a task force define the geographic areas for Kodiak Island. A subsistence user can give his or her halibut to anyone. This can lead to abuse. Also, some of the villages on the island have people getting into the charter business. You could see a qualified subsistence person in one of these villages using a differential bag limit to advertise the availability of subsistence fish. This argues against a differential bag limit on the island of Kodiak.

Reporting requirements were discussed. At a minimum, the system should mirror the one in place for salmon and shellfish. Get a card, record the harvest contemporaneous with the harvest and report the harvest. ADF&G should be the source of the permit and the agency that collects and compiles the data.

A concern was expressed that by creating a regulatory scheme such as being proposed is that the usage/harvest will increase and, when there is a downturn in halibut, the subsistence take will become a much greater part of the harvest. There is also a need for an annual halibut limit for subsistence, sport, guided sport and personal use. With only a daily bag limit, the system is open to abuse. The recommendation for an annual limit is 20 fish per individual with a proxy system to allow a greater harvest by an individual who fishes for others for subsistence. Permitting, reporting and an annual limit probably dismisses the need for drawing lines on the map. The reporting should be date, place, quantity and vessel ID and, if there is an annual limit, a punch card, along with proxy reporting as is currently practiced. The vessel ID would provide information on sharing. It might also be worth considering a gear limit per vessel, e.g. 60 hooks total. Do not use six people on a vessel with 180 hooks in the water.

ADF&G commented that the current regulations allow a 5-hook longline for rockfish and lingcod. This conflicts with the 30-hook longline for halibut. The department will submit a proposal so that this can be addressed in cycle when the board deals with Kodiak.

The group talked about the concept of exclusive registration for charter boats. This led to a discussion about IFQs and GHLs. In a GHL system, there are systems imposed based upon the catch. If the GHL is exceeded, restrictions come on next year and the restrictions could come into effect the next year. Charter operators would move to another area if they were restricted. If IFQs were adopted, then there would no longer be a need for GHLs. Any registration would be for a season only. There are other alternatives to IFQs, such as moratoriums, but since there is latent capacity in the charter industry, this does not tie the charter boat harvest to the health of the resource. The issue of IFQs still plays into the LAMPs process because of localized depletion. If there is no IFQ for charter, then the need for LAMPs becomes even greater.

One of the major problems with IFQs is the ownership forever when the only qualification for ownership is participation. The answer is that we have an ownership-based system in place and we need to continue with that system. We need to consider three elements in any IFQ system: (1) the initial allocation of the rights (inclusive of all participants); (2) how the system functions year-to-year (transfer of rights, harvesting the resource); and (3) how the system will be structured in two generations (e.g., concentration of ownership). Were the problems which came out of the IFQ for commercial halibut fishermen addressed in the proposals for IFQs for charter operators? Equity issues are very difficult. Questions on the efficacy of the logbooks, award of IFQs to the lodges, crew and skipper shares. It was also noted that various plans are still in the development stage before the council, but these plans are within the analysis by the NPFMC and therefore the IFQ plan can be adopted.

COMMITTEE ISSUES/DISCUSSION POINTS

1) The reporting/monitoring/permitting system.

-who should do the permit?	ADF&G
-who should collect the data?	AD
-where does the money come from to fund this permitting and reporting process?	IPHC NMFS ADF&G

2) The concept of integration of LAMPs and the subsistence harvest. How do these two processes work together or do they even work together?

-They are an integral part of one another, but no LAMP process is needed to have a subsistence regulation.

3) Should there be a differentiation between different areas?

-should the gear be different in different areas?	Yes
-should the bag limits be different in different areas?	Yes
-does annual limit along with permitting/reporting obviate the need for geographic differentiation?	Yes

4) Should the board/NPFMC encourage the LAMP process? Yes

**Board of Fisheries Hearing
Cordova, AK
April 16 - 17, 2001**

Pursuant to the Board of Fisheries charge statement to the Local Area Management Plan (LAMP) Task Force Groups (#2000-201-FB), the Joint Protocol between North Pacific Fishery Management Council/Board of Fisheries (dated February, 1998) and the North Pacific Fishery Management Council action on halibut subsistence issues, a committee of the Alaska Board of Fisheries met in Cordova, Alaska on April 16 and 17, 2001 at the Bidarki Recreation Center, and held a public meeting on the issues of LAMPs and subsistence halibut. The committee was comprised of Ed Dersham and Grant Miller.

An overview of the two previous regional meetings was given by the board committee as well as an ADF&G report on halibut and groundfish subsistence regulations in Southcentral Alaska.

PUBLIC TESTIMONY

(Note: All written comments and testimony submitted will be available from the Board Support Section upon written request.)

The chairman of the Copper River/PWS AC reported on the Friday, April 13, 2001 advisory committee meeting. Some immediate concerns addressed were that if the entire state qualifies for subsistence PWS will sustain a major impact. Another concern was the burden on the longline fleet having meetings this time of year. The fishermen prefer to deal with politics in the fall or winter months. Other issues discussed were: concerns of potential abuse of sale of subsistence halibut; timely reporting; permitting issues; and the impact of the proposed 30 hook limit on rockfish. The chairman stated that it was hard work to get these species number back up.

There was also discussion on developing a problem statement to justify LAMPs. The problem in PWS is that reporting data is not as good as it used to be since subsistence came into effect. Other issues surrounding LAMPs were: Only small local areas around communities should be considered as a LAMP, not an entire region; if longline gear is excluded from any area, the charter fleet should also be excluded; and historical harvest levels. Also, the advisory committee dictated a preference that the six PWS LAMP proposals be defeated and that the board and the council have consensus on joint protocol.

The board committee explained that protocol calls for LAMP process to take place "in cycle" and that protocol must begin with a problem statement that all users are in agreement on. There is no deadline on LAMPs, the board committee is looking for direction from the communities to bring to the council and the board is not going to push any LAMPs that the community does not have consensus on.

The Yakutat Advisory Committee chairman testified that Yakutat has its own subsistence area separate from the Southcentral or Southeast region. The Yakutat LAMP program will be done before the fall of 2001 and the local people support the program. The chairman explained the dynamics of the Yakutat sport and commercial fisheries and stated that with regards to LAMPs the user groups are not far from consensus on the major issues.

The Valdez Advisory Committee discussed halibut subsistence and also testified on behalf of the Valdez Charter Boat Association. The advisory committee has nearly completed its work on the IFQ issue and feels that LAMP proposals for a moratorium in the charter fleet are relevant. With regards to the LAMPs, avoidance of gear conflicts and charter boat issues were the main focus. Charter vessels use a large portion

of Prince William Sound, and depletion of the resource is their concern as well as the main concern of unguided anglers. It was pointed out that most recreational halibut fishing in the sound is done in less than 300 feet of water.

The Whittier Advisory Committee supports the subsistence lifestyle, proxy fishing, and the 20 fish per day limit. However, the advisory committee does not support barter as a part of subsistence and pointed out that the native village of Chenega has been able to meet its subsistence needs under current regulations. The advisory committee agreed with others that the 30-hook option raises bycatch concerns for lingcod and rockfish and that a seasonal limit is warranted. The advisory committee also discussed the local halibut charter fleet and how it operates; there has been an increase in the charter fishery. There is consensus that there is a local depletion problem and that with recent improved access to Whittier the problem will be exacerbated. There is very little commercial harvest in the local area.

The board committee heard testimony from several members of the public about LAMPs and how to incorporate subsistence into that process. Questions of consistency between state and federal regulations were discussed in public testimony. The issue of enforcement and funding were also discussed.

Members of the public had concerns regarding process. It was felt that the process to create a LAMP should not be restricted to a certain time limit, but should be more concerned with consensus of all users. It was pointed out that the larger the area involved, the more stakeholders, and therefore more data needed and it is less likely to find consensus. There was also discussion about the number of qualifying subsistence users

There was similar testimony from several members of the public regarding legal gear and bycatch issues although not all testifiers supported a subsistence halibut fishery. Testifiers stated that LAMPs are protection for local folks and that a number of people in small open skiffs participate in the halibut fishery and that restrictions of more than six or seven miles out in the Sound would put an undue burden on some participants. Limiting the area for smaller boats would be satisfactory but putting those boats 60 - 70 miles from port is not acceptable. Others felt that LAMPs are currently geographic, not local and that the current LAMPs proposals are more exclusive economic zoning than anything.

Testifiers that supported halibut subsistence felt that accurate reporting becomes more important as more lenient gear is used because the increased number of hooks warrants concern for over-harvest. A small area without competition from commercial vessels is desirable and annual limits should be the same as the daily limit. It was pointed out that it is more economical to harvest your subsistence catch in one day and that a good proxy system could satisfy multiple needs although it may be expensive to administer such a system.

Those that did not support a halibut subsistence fishery felt that current sport fishing regulations are adequate to provide halibut for most families and sharing of the resource occurs under the previous action sport regulations. Both supporters and nonsupporters of a halibut subsistence fishery felt that the proposed 20 fish per day bag limit seems high without an annual limit and that size of family should be considered in limits. Also, members of the public were very concerned about the barter aspect of the proposed subsistence fishery. It was generally agreed on that subsistence halibut should not be sold. Related concerns regarding the sale of subsistence caught halibut ranged from potential for subsistence caught halibut being sold commercially to health and enforcement issues. Another concern was eligibility requirements for participation in subsistence halibut fishing.

One member of the public testified that the recent drop in halibut numbers warrants a biological concern. Another stated that part of the problem with local depletion is too many charter boats in Valdez Arm. Commercial fisherman should not be pushed out because of over-depletion of another user group especially when some of the charter boats are more efficient than commercial vessels and may even have more range.

OPEN DISCUSSION DAY 2 OF THE PUBLIC MEETING

During the open discussion portion of the meeting, many process questions were discussed and developed. Participants felt that a three or four month time frame would allow for local stakeholder discussion and would also allow LAMPs to be discussed in-cycle (proposals submitted for April 10, 2002 deadline). Rules of engagement for the LAMPs process are requested to answer such questions as who calls the meetings, protocols, funding, sideboards, etc. In the past the board looked to local advisory committees to facilitate the process. A handy-dandy outlining the advanced Sitka LAMPs process was requested. One member of the public asked about the intention of the Knowles administration regarding the LAMPs.

One participant indicated that a statement from the department concerning impact on other fisheries would benefit these discussions. However, the department stated the LAMPs process has created a whole new burden for staff. User groups must develop the problem statement first, so staff time is managed effectively. The department cannot spend time trying to identify problems for the users. This is supposed to be a user-generated process. However the department could provide some data for PWS although there are limitations on the sport data vs. commercial data. The department requested that a core group submit what type of data will be needed. A participant felt that opportunity is a good point to start discussion; if near-shore depletion is a concern, perhaps the ADF&G needs to look at this issue statewide.

The charter boat industry generated much discussion during the round-table dialogue. Charter boat operators do not want to displace smaller commercial vessels so charter operators are fishing further out than in the past. Charter boats are constrained by 12 hour daily limit and the fact that 300 - 400 feet is the maximum depth customers are generally willing to fish. Consideration of areas where charter operators can conduct business was requested. If subsistence regulations pass, there is even more need for regulations for the charter industry. The charter industry understands this will take time and cooperation with the other stakeholders. A moratorium for charter industry should be looked at.

The history of commercial fishing in Prince William Sound was discussed during the round-table discussions. Commercial fishermen provide fish for the public to purchase therefore both commercial and charter industry provide access to the resource.

Protection of the halibut stock was also a topic that some felt was being ignored. A size limit on halibut is warranted in all fisheries. Fish over 100 pounds should be released and there should also be a lower size limit as in the commercial fishery.

Specific to subsistence, opposition was expressed about the sale of halibut and the 30-hook limit. The practice of selling subsistence caught halibut goes against the purpose and intention of the subsistence fishery. Halibut intended for the freezer of the subsistence user ends up somewhere else. One member of the public asked where subsistence halibut comes out of? The board committee responded it comes off the top of the TAC. Other subsistence issues were: annual limits; inconsistency between state and federal regulations; and defining record keeping and permit system.

The recommendations of the round-table discussion are:

- Take Valdez Charter/AC proposals off the table and start over
- Time frame of two to four months to work out recommendations locally
- State funded regional meeting to develop a problem statement and work out
- Copper River/PWS AC does not believe they need a LAMP for the local area at this time
- Small LAMPs should not be contingent upon a larger plan
- Impact of volume of users
- Protection for the local subsistence user

The board will take the recommendations to the council and will give strong consideration to those. There will be an opportunity for the public to testify to the council directly in June.

**ALASKA BOARD OF FISHERIES
ADDENDUM TO CORDOVA HEARING REPORT
APRIL 16-17, 2001**

Halibut Subsistence-Summary

- 1) Regarding halibut subsistence the public members present expressed consensus for the following points.
- 2) 30 hooks on a longline is too much and will likely cause high bycatch of rockfish species that have a conservation concern.
- 3) An annual limit of 20 on subsistence caught halibut.
- 4) Consensus for good record keeping through a permit with a regulation attached.

Further, the majority of those present felt current regulations were sufficient to provide for subsistence needs.

LAMPs-Summary

Regarding LAMPs, Cordova stakeholders present believe that the LAMP proposals that had been carried over from two years ago in the proposal book were a threat to commercial fishermen and created a climate that was not productive to future consensus building between commercial and charter users in Prince William Sound.

Board members explained that the proposals had been carried over year to year only as a procedural matter to keep the PWS lamp process alive, and that the board had no intention of acting on them before completion of a LAMP process that met the board-council protocol.

On day two of the hearing, a break occurred so that commercial and charter users could speak directly to each other about the LAMP process. At the conclusion of the break majority agreement was reached on a plan for proceeding with the LAMP process. Users believe that if Cordova and Valdez ACs could begin separately this fall and work on LAMPs for small local areas around their communities, and then after two to four months each Prince William Sound AC could recommend members to a task force that with board facilitation/funding could meet to discuss PWS-wide issues under a LAMP format. Users agreed that commercial and charter stakeholders had areas of common concern (such as impacts of expanding use of the PWS through access at Whittier) that could be a foundation for discussion. The Cordova AC representative said that he would have to present this approach to his members before giving an AC position on the idea.

Board committee members stated that they would recommend to the full board that the tabled proposals did not need to be carried over to the next cycle to keep the PWS lamp process alive and that Valdez participants could reintroduce them to the above described process at the proper time.

**ALASKA BOARD OF FISHERIES
HALIBUT LAMPS & SUBSISTENCE
HOMER PUBLIC MEETING, APRIL 25 AND 26, 2001**

Pursuant to the Board of Fisheries charge statement to the Local Area Management Plan (LAMP) Task Force Groups (#2000-201-FB), the Joint Protocol between North Pacific Fishery Management Council/Board of Fisheries (dated February, 1998) and the North Pacific Fishery Management Council action on halibut subsistence issues, a committee of the Alaska Board of Fisheries met in Homer, Alaska on April 25 and 26, 2001 at the Lands End Hotel, and held a public meeting on the issues of LAMPs and subsistence halibut. The committee was comprised of Ed Dersham and Grant Miller. (Note: Some members of the public were dismayed that the chairman of the board was not present)

An overview of the three previous regional meetings was given by the board committee as well as an ADF&G report on halibut and groundfish subsistence regulations in Southcentral Alaska.

PUBLIC TESTIMONY

(Note: All written comments and testimony submitted will be available from the Board Support Section upon written request.)

The advisory committees from Central Peninsula, Anchorage and Homer testified at the meeting. There was little support for the halibut subsistence plan as currently written and the comments regarding LAMPs were not very optimistic. There was no consensus to have a LAMP – some of the advisory committees do not see one as necessary. The Central Peninsula AC is in support of a LAMP and has made quite a bit of progress toward one for the Ninilchik area. The Homer AC is against LAMPs because they feel science doesn't support localized depletion in Cook Inlet. The Homer AC also opposes any change for halibut subsistence and believes the current system/method/numbers adequately provide for subsistence. However, if we do go to another system the advisory committee wants annual limit instead of daily limit. If we do a daily limit, the Homer AC feels that the current two fish limit is adequate.

The Anchorage AC believes that any LAMP should be initiated by a local area rather than from pressure from a state or federal agency. Some see little consistency in user patterns in Cook Inlet and that the situation in Cook Inlet is different than in Kodiak and Sitka. The situation is more homogenous in Sitka compared to Lower Cook Inlet, yet it took more than three years to get Sitka's plan in place so it will likely take much longer for Cook Inlet. A major difference is that in Lower Cook Inlet two-thirds of halibut charters are by residents whereas in Sitka the majority of clients are nonresidents. The Anchorage AC believes that the Cook Inlet area is too large and should not be managed as a region but should instead be broken into smaller pieces for LAMPs.

The advisory committees did not support 20 halibut per day or use of a longline because of bycatch concerns and the advisory committees were in general agreement opposing trade, barter, or sale of subsistence halibut. The advisory committees were, however unanimous in supporting recording of subsistence caught fish including all bycatch. Some reporting ideas were that subsistence fish should be marked as subsistence (as in salmon), and subsistence users should have an ID on them while fishing showing they are subsistence fishers. Also, harvest ticket with total number of fish available to a fisher that year with renewal requirement that past year's report must have been turned in to get a current year permit. Federal money should pay for enforcement and monitoring of the program. The permit system for subsistence should be thorough but user friendly. Seasonal reporting might work, like the dip net permit system in the Ninilchik area.

Other issues discussed by the advisory committees were to eliminate customary and traditional designation for those who do not live in an area (e.g., tribe members who do not live in communities any longer). The number of hooks should be limited to reduce bycatch and gear loss and be consistent with other groundfish regulations. The advisory committees also discussed safety issues especially concerns about rough waters that are difficult and unsafe to fish. Some see the only way LAMPs will work is to have an IFQ system in place. The advisory committees were unanimous in wanting to be involved in the halibut subsistence process even if they did not agree with it because they believe that if the board is involved that it was their right to be involved as well.

A Seldovia Village tribe member testified that Seldovia is a federally recognized tribe and fishes subsistence for halibut in portions of Cook Inlet. The village supports co-management, although the Homer AC does not support cooperative agreements with tribes because the subsistence users include just tribal members. Seldovia also supports longline, handline, rod-and-reel, and bycatch by pots. Some members of the public do support cooperative agreements with tribes for monitoring and planning systems.

The Alaska Native Workgroup on Halibut has been working with council for four years in their process to try to get subsistence fishing recognized and the council has made a motion, which includes allowing cooperative agreements with tribes. The board should also do this and submit a joint recommendation to the council. The Knowles' Millennium Agreement recognizes these types of joint processes and it gives tribes a meaningful role in LAMPs. The board schedule does not allow enough time in Southeast to participate for the vast number of tribes, which has resulted in a working group.

The board committee heard public testimony stating that subsistence users teach children that way of life, including sharing, and that for some halibut is still a major source of food in their lifestyle. Subsistence users trust the board to recognize traditional gear including jig and pot and support 20 halibut per angler. The board should protect subsistence use and manage charter, sport and commercial take so that stocks are never fully depleted. Subsistence use has not depleted these species.

A permitting system managed by the department could provide good information for managers and tribes. There was support for a permit system that includes reporting of bycatch as long as it is confidential. Another testifier believes the tribe should be responsible for permit system and could hire someone trained to take data.

The board committee heard testimony for support for 20 fish per day and no limit per day in Area 4 as designated by the council. Subsistence halibut fishers are self-limiting and only take total of 1% of total harvest in a community fishery. Others testified that IFQ should be implemented and reviewed later to see how it is working. Some testimony supported two hooks on a line, ten fish per year, and no skates (because gear loss and bycatch/deadloss). LAMPs are allocation in disguise; the subsistence fishery proposal is just taking a personal use fishery and renaming it. There was also some distrust of subsistence discussed. A loophole was pointed out showing that subsistence users could sell/barter halibut to commercial fishermen who could then sell it to a processor.

The board committee heard that LAMPs should come from local people to the board and council not the other way around. Others are encouraged by the recent LAMP process. The board committee clarified that any LAMP would indeed come from the users/communities, as that is how the protocol is set up between the board and council. There was some confusion about the April 11 letter from the board chairman to the council that references LAMP proposals that are left on the table some people thought there were no current LAMP proposals for Cook Inlet. (It was clarified that the proposals are placeholders.)

The committee learned that not everyone uses 30 hooks but that it was the practice in some areas (e.g., Southeast). It was explained that reporting should be for fish stock management purposes and not enforcement and that nonsubsistence areas should not be used against subsistence users because of the dangers of fishing in unfamiliar areas. Fishing farther away from traditional fishing areas is not conducive to subsistence fishers. Weather plays a significant role in the seasonal fishery because it is a small boat fishery and the subsistence fishery should not be limited unless there is a documented conservation problem.

There was some concern about the number of eligible subsistence users (e.g., nonnatives will be eligible and increase total number who could fish under subsistence rules) because of impact on resource.

Sport fishermen have patterns similar to subsistence fishers as far as sharing fish among the community(s). There are areas where fishing has detrimental affects to rockfish and other species. Those areas should be restricted for subsistence fishing to protect those species. It was also stated that the board should reduce the charter fleet and catch possibly with a moratorium in Cook Inlet so there is not an influx of other IFQ holders into the fishery. Perhaps one trip per day is an option. Other ideas were to regulate charter boats by area (e.g., keep charters in certain areas and commercial boats in other areas), or keeping charters a certain distance offshore, and that halibut should be regulated like big game such as bear and sheep: nonresidents must use a guide to fish halibut in Cook Inlet.

Further, descriptions of the Cook Inlet sport fishery pointed out that a fisherman has to go quite a way offshore to avoid other boats plus that is where the fish are now. There is no shelter or bays if weather comes up in Cook Inlet. Too many charter boats force captains to go out in inclement weather because the boats are not full and the pressure is on to produce for the client or he will go someplace else. Some feel the board needs to slow the growth of the charterboat fishery. Some ideas were that some boats fish two trips a day and that the double trips should be eliminated. Other thoughts were to get rid of crew fishing and proxies because of wasted fish. Several testifiers believed that IFQs are a step in the right direction to get a handle on the growth and that LAMPs would help curb expansion of the charter fishery. Although some believe the board should hold off on LAMPs until there is a chance to see what the IFQ program will do and what effect it will have. Those people believe the board should support the council's work on IFQ because IFQs address allocation better than LAMP process.

Testimony was also given regarding other issues that should be looked at. For example, halibut are migratory and other factors besides harvest contribute to depletion such as food, habitat, and environmental changes.

OPEN DISCUSSION DAY 2 OF THE PUBLIC MEETING

Some of the issues are social not biological. Homer residents fear of a LAMP pushing charter or sport fishing offshore. They do not want to interfere with the status quo of local fisheries. Catch statistics show that by August 15 or so the fish start outmigrating. In the past a pattern of May through August peaking in June/July but as boats go out further to get fish in August that pattern levels out. The board committee points out the board can use time to limit charters to certain areas in June, July, and August.

It was requested during roundtable discussions that the board and council use methods/means/seasons that favor local users. For example the board of game allows the harvest of five caribou in one game management unit (GMU) but those caribou cannot be taken out of that GMU.

Declining catch-rates and fleet disbursal were discussed. Nearshore depletion is not caused by the fish moving. Catch rates should be controlled to keep it from happening by measures such as not allowing guides and crew to keep their own fish or to fish on trips or by limiting the number of trips. According to the National Park Service the national trend is to limit number of people doing something at any given time. A LAMP can help this without going to extreme of displacing fishermen.

Ninilchik area folks are ready for a LAMP and will likely work on one this fall. All users need to be represented during a LAMP process as that is a requirement. There is a need for a problem statement.

Handling permits and reporting by village councils/communities is very useful because the department and federal offices are not in all of the small communities that qualify in the council plan. Reporting must include all subsistence users in an area, not just tribal members. Reporting of subsistence use in Seldovia has been successful including reporting of tribal members who come from out of town and take fish. Tribal Council's can be effective in overseeing a permit and reporting system.

Eligibility was discussed thoroughly with much speculation although it was pointed out that the board was not asked by the council to comment on or recommend anything concerning eligibility.

APPENDIX 4. State of Alaska (sportfish) proxy system

FISHING BY PROXY description
FISHING BY PROXY - Definitions and Laws
ALASKA STATUTES
ALASKA ADMINISTRATIVE CODE
ADF&G Subsistence Fishing Forms

FISHING BY PROXY (Source: ADFG)

What is Proxy Fishing?

Alaska's proxy laws allow residents to harvest fish for other residents who are either blind, or have a 70% or greater physical disability, or are 65 years of age or older. The person doing the fishing is called the "proxy" The person receiving the fish is called the "beneficiary".

The intent of the proxy fishing program is to provide food for Alaska residents who are unable to harvest fish for themselves due at least one of the above reasons.

What about dipnetting and/or clamming?

You can do any type of fishing on a proxy: dipnetting, clamming, and rod and reel. You can proxy sport fish, personal use fish, and subsistence fish.

What do I need to do first?

Open then print out the free Proxy Fishing Information Form (requires Acrobat Reader, see below). It asks for name, address, telephone number, fishing license number, and original signatures of both parties. Fill it out completely, then bring it (or mail it) to any ADF&G office for validation.

Either party may bring the form in to ADF&G to have it validated. Before validating the form, ADF&G needs to see the fishing licenses of both parties, and for beneficiaries younger than 65, WRITTEN proof of 70% or greater physical disability and/or blindness before signing off on the proxy form. Written proof can be an official document stating that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled.

If done by mail, ADF&G will mail the validated proxy form along with any licenses back to either party, as requested. ADFG is required to keep a copy of the proxy form.

Can I fish for my neighbor as well as for my parents?

You can proxy fish for only one person at a time.

Can I use two poles/dipnets?

No. Only one set of gear is allowed, which means you could use only one fishing pole.

How long is the proxy form good for?

The proxy form is good from date of validation through December 31 of the current year unless specific dates are entered in the form. Proxy forms (and supporting documentation) must be renewed every year.

I've got the validated proxy form and I'm ready to fish: what do I do?

When you're fishing for someone else, you must have each of these with you (in your possession)

1. the validated proxy form
2. your fishing license/senior license/disabled veteran's license
3. the beneficiary's original fishing license/senior license/disabled veteran's license (not a photocopy!)
4. any harvest records or permits that may be required. (When proxy fishing in a fishery that requires a permit, such as dipnetting, you must have appropriate permits for the beneficiary as well as yourself).

What other important rules apply to proxy fishing?

You must follow all regular fishing rules, except any rules that say you have to quit fishing for the day once you have taken a bag limit. When proxy fishing you can take your own bag limit and the beneficiaries bag limit before you quit fishing.

In addition:

Proxies

You cannot take more than twice the bag limit.

You cannot possess more than twice the possession limit.

You must retain the beneficiaries license and permits until you have delivered the fish to your beneficiary.

You cannot give or receive remuneration for proxy fishing.

If you are fishing someone's permit, you must fill that out just as you would fill out your own.

Beneficiaries

If a proxy has your fishing license or senior license, you cannot fish (or hunt) until the proxy returns the license to you.

You cannot give or receive remuneration for proxy fishing.

FISHING BY PROXY - Definitions and Laws (Source: ADFG)

Beneficiary

"beneficiary" means a resident (A) who is blind, is a person with physical disabilities as defined in AS 16.05.940 , or is 65 years of age or older; and (B) on whose behalf finfish are to be taken or attempted to be taken under AS 16.05.405; AS Sec. 16.05.940(1)

Disabled

"person with physical disabilities" means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled. AS Sec. 16.05.940(25)

Possession

5 AAC 75.010 POSSESSION OF SPORT-CAUGHT FISH

(a) Sport-caught fish, their parts, and articles manufactured from such fishes may be possessed within the state by any person at any time, and may be transported within and exported out of the state by any person at any time except that no person may possess any unpreserved fish, or part of one, not legally taken by himself, unless he furnishes, upon request of any peace officer of the state, a statement signed by the person taking the fish stating the type of fish, number of fish, location, date taken, and license number. The statement is unnecessary if the person possessing the fish is accompanied by the person who took the fish. No person may possess fish which were not legally taken.

(b) A person may possess only the limit of fish allowed for the water on which that person is fishing.

(c) Upon request by an employee of the department, a person must show to the employee fish taken and possessed by the person in a sport fishery.

Proxy

"proxy" means a resident who holds a valid resident sport fishing license and who wishes to take or attempt to take finfish on behalf of a beneficiary under AS 16.05.405. AS Sec. 16.05.940(2).

Resident

"resident" means a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country... AS Sec. 16.05.940(26)(A)

Preserved

"preserved fish" means fish prepared in such a manner, and in an existing state of preservation, as to be fit for human consumption after a 15-day period, and does not include unfrozen fish temporarily stored in coolers that contain ice or dry ice or fish that are lightly salted; 5 AAC 75.995 (21)

ALASKA STATUTES. Sec. 16.05.405. Taking fish and game by proxy. (Source: ADFG)

(a) Subject to regulations adopted by the Board of Fisheries or the Board of Game to implement this section, including regulations relating to or restricting seasons, areas, methods and means, and species, a resident may take fish or game harvested primarily for food on behalf of another person under this section.

(b) Notwithstanding AS 16.05.420 (c), a resident holding a valid resident hunting license may take game on behalf of a person who is blind, a person with physical disabilities, or a person who is 65 years of age or older if the resident possesses on the resident's person

(1) a document signed by the person on whose behalf the game is taken, stating that the resident possesses the person's hunting license or permanent identification card in order to take game on behalf of that person; and

(2) the person's

(A) resident hunting license issued under AS 16.05.403 or permanent identification card issued under AS 16.05.400 (b); and

(B) harvest ticket, tag, stamp, or other document required by law as a condition of taking the game being hunted.

(c) Notwithstanding AS 16.05.420 (c), a resident holding a valid noncommercial fishing license may take fish on behalf of a person who is blind, a person with physical disabilities, or a person who is 65 years of age or older if the resident possesses on the resident's person

(1) a document signed by the person on whose behalf the fish is taken, stating that the resident possesses the person's sport fishing license, subsistence fishing permit, personal use fishing permit, or permanent identification card in order to take fish on behalf of that person;

(2) the person's

(A) resident sport fishing license issued under AS 16.05.403 or permanent identification card issued under AS 16.05.400(b);

(B) resident subsistence fishing permit issued under AS 16.05.403 ; or

(C) resident personal use fishing permit issued under AS 16.05.403 ; and

(3) all other documents issued to the person that are required by law as a condition of taking the fish being pursued.

(d) A resident who takes fish or game on behalf of another person under this section may, subject to applicable regulations of the Board of Fisheries or the Board of Game, take the fish or game only under those conditions that would apply to the other person if the other person took the fish or game personally.

(e) A resident who takes, or attempts to take, fish or game on behalf of a person under this section may also simultaneously engage in fishing or hunting for the resident's use; however, the resident may not take or attempt to take fish or game by proxy for more than one person at a time. For the purposes of this subsection, a resident is engaged in taking, or attempting to take, fish or game by proxy while the resident has possession of

(1) another person's

(A) license, permit, or identification card and all other documents issued to the person that are required by law as a condition of taking the fish or game being pursued; and

(B) signed document under (b)(1) or (c)(1) of this section; or

(2) fish or game taken on behalf of another person.

(f) A resident who takes fish or game on behalf on another person under this section shall

(1) complete reports relating to the taking of the fish or game as required by the commissioner of fish and game under AS 16.05.370 ;

(2) deliver all parts of fish and game removed from the field to the person on whose behalf the fish or game was taken within a reasonable time after the fish or game is taken; and

(3) until the fish or game is delivered to the person on whose behalf the fish or game was taken, retain the person's

(A) license or permit and all other documents issued to the person that are required by law as a condition of taking the fish or game; and

(B) signed document required under (b)(1) or (c)(1) of this section.

ALASKA ADMINISTRATIVE CODE 5 AAC 75.011. Sport fishing by proxy. (Source:ADFG)

(a) Finfish and shellfish may be taken by sport fishing by proxy only as provided in AS 16.05.405 and in this section.

(b) Any species of finfish or shellfish that may be taken by sport fishing under 5 AAC 47 - 5 AAC 70 may be taken by sportfishing by proxy.

(c) Before a proxy may take, attempt to take, or transport finfish or shellfish taken under this section, on behalf of a beneficiary, the proxy shall obtain and complete a proxy fishing information form available from the department. The proxy or the beneficiary shall take or mail the completed form to any ADF&G office for validation. The department shall return the validated form and retain a copy for the department's records. In addition to the requirements of AS 16.05.405(c), the proxy must have in possession a validated proxy fishing information form when taking, attempting to take, or transporting finfish or shellfish taken under this section, on behalf of a beneficiary.

(d) As provided in AS 16.05.405 , a proxy who takes or attempts to take finfish or shellfish by sport fishing on behalf of a beneficiary may, at the same time, fish for the proxy's own use, except that the proxy

(1) may not take more than twice the bag limit, and may not possess more than twice the possession limit of a species, as established in 5 AAC 47 - 5 AAC 70, for the waters in which the fishing occurs; and

(2) may not fish with more than one legal limit of gear, as established in 5 AAC 47 - 5 AAC 75.

(e) A beneficiary may not authorize more than one proxy to take or attempt to take finfish or shellfish on the beneficiary's behalf at one time. A beneficiary may not personally take or attempt to take finfish or shellfish at the same time that a proxy is taking or attempting to take finfish or shellfish on the beneficiary's behalf.

(f) A person may not give or receive remuneration in order to obtain, grant, or influence the granting of an authorization to take or attempt to take finfish or shellfish by proxy on behalf of a beneficiary.

(g) In this section,

(1) "beneficiary" means a resident

(A) who is blind, is a person with physical disabilities as defined in AS 16.05.940 , or is 65 years of age or older; and

(B) on whose behalf finfish or shellfish are to be taken or attempted to be taken under AS 16.05.405;

(2) "proxy" means a resident who holds a valid resident sport fishing license and who wishes to take or attempt to take finfish or shellfish on behalf of a beneficiary under AS 16.05.405 .

(h) A proxy fishing information form is valid for the remainder of the calendar year during which it is issued, unless the beneficiary specifies an earlier ending date on the proxy fishing information form.

History

History: Eff. 7/3/94, Register 130; am 6/15/95, Register 134

Annotations

Authority: Sec. 1, ch. 81, SLA

1992

AS 16.05.251

AS 16.05.258

AS 16.05.370

AS 16.05.403

5 AAC 01.015. SUBSISTENCE FISHING PERMITS AND REPORTS

Statute text

- (a) Salmon may be taken only under the authority of a subsistence fishing permit issued by the commissioner or his local representative, unless a permit is specifically not required in a particular area by the subsistence regulations in this chapter, or unless the fisherman is retaining salmon from his commercial catch consistent with 5 AAC 01.020.
- (b) If a subsistence fishing permit is required by this chapter, the following permit conditions apply unless otherwise specified by the subsistence fishing regulations in this chapter:
 - (1) the numbers of fish taken for subsistence use may not exceed the limits set out in the permit;
 - (2) permits must be obtained from a local representative of the department prior to subsistence fishing;
 - (3) permits must be retained in the possession of the permittee and be readily available for inspection while taking fish. A person who transports subsistence-taken fish shall have a subsistence fishing permit in his possession;
 - (4) the permit may designate the species and numbers of fish to be harvested, time and area of fishing, the type and amount of fishing gear and other conditions necessary for management or conservation purposes;
 - (5) if specified on the permit, each subsistence fisherman shall keep accurate daily records of the catch involved, showing the number of fish taken by species, location and date of the catch and such other information as the department may require for management or conservation purposes;
 - (6) subsistence fishing reports must be completed on forms provided by the department and submitted to the department office from which the permit was issued at a time specified by the department for each particular area and fishery;
 - (7) if applicable, the total annual possession limit for the permittee must be entered on each permit by the local representative of the department issuing the permit; if applicable, the local representative of the department issuing the permit shall require from an applicant documented proof of residency, income or other criteria required by regulation, or in absence of such documentation, a signed affidavit setting forth duration of residency, income, or other criteria required by regulation, to determine the applicable annual possession limit and residency of the applicant;
 - (8) repealed 5/31/98;
- (c) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit, a permittee who fails to comply with such reporting requirements is ineligible to receive a subsistence permit for that activity during the following calendar year, unless the permit applicant demonstrates to the department that failure to report was due to loss in the mail, accident, sickness or other unavoidable circumstances.
- (d) Repealed 4/2/88.
- (e) Repealed 5/31/98.
- (f) Repealed 5/31/98.

History

History: In effect before 1988; am 4/2/88, Register 105; am/readopt 5/15/93, Register 126; am 5/31/98, Register 146

Annotations

Authority: AS 16.05.251

AS 16.05.258

Editor's note: At its February 23 - 27, 1993 meeting, the Board of Fisheries readopted 5 AAC 01.015(a), (b)(1) - (b)(7), and (c) in their entirety without change, under ch. 1, SSSLA 1992 (the 1992 subsistence law), which repealed and reenacted AS 16.05.258.

5 AAC 01.020. SUBSISTENCE FISHING BY COMMERCIAL FISHERMEN

Statute text

(a) Repealed 5/15/93.

(b) No person, when participating in a commercial and a subsistence fishery at the same time, may use an amount of combined commercial and subsistence fishing gear in excess of that allowed under the appropriate commercial fishing regulations.

History

History: In effect before 1985; am 5/31/85, Register 94; readopt 5/15/93, Register 126

Annotations

Authority: AS 16.05.251

AS 16.05.258

Editor's note: At its February 23 - 27, 1993 meeting, the Board of Fisheries readopted 5 AAC 01.020(b) in its entirety without change, under ch. 1, SSSLA 1992 (the 1992 subsistence law), which repealed and reenacted AS 16.05.258.

5 AAC 01.021. RETENTION OF FISH TAKEN IN COMMERCIAL FISHERIES

Statute text

People who commercial fish may retain fish for their own use from their lawfully taken commercial catch.

History

History: Eff. 5/15/93, Register 126

Annotations

Authority: AS 16.05.251

5 AAC 01.030. UNLAWFUL POSSESSION OF SUBSISTENCE FINFISH

Statute text

(a) No person may possess, transport or place into the possession of another person subsistence-taken fish or their parts which the person has taken contrary to state law or regulation.

(b) No person may possess or transport raw or unprocessed subsistence-taken fish or their parts if the items have been received from a person who took, possessed or transported the items contrary to state law or regulation and if the person receiving the items knows, has reason to know or should have reason to know that the items were taken, possessed or transported contrary to state law or regulation.

(c) No person may possess or transport raw or unprocessed subsistence-taken fish or their parts that the person knows were taken, possessed or transported contrary to state law or regulation.

History

History: In effect before 1988; am/readopt 5/15/93, Register 126

Annotations

Authority: AS 16.05.251

AS 16.05.258

Editor's note: At its February 23 - 27, 1993 meeting, the Board of Fisheries readopted 5 AAC 01.030(b) and (c) in their entirety without change, under ch. 1, SSSLA 1992 (the 1992 subsistence law), which repealed and reenacted AS 16.05.258.

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APPENDIX 5. Overview of Halibut and Groundfish Subsistence Regulations

**ADF&G Comments on Halibut Subsistence Issues - Sitka Hearing
Overview of Halibut and Groundfish Subsistence Regulations in Southcentral Alaska -
Homer Hearing**

ADF&G Comments on Halibut Subsistence Issues

Board of Fisheries Committee Hearing

Sitka

April 1-2, 2001

In October 2000 the North Pacific Management Council (Council) defined subsistence use of halibut, and eligibility criteria, legal gear, bag limits, and customary and traditional trade of subsistence halibut. The Council requested the Alaska Board of Fisheries (Board) to recommend potential regulatory options in subsistence halibut regulations for legal gear, daily limits, reporting requirements, customary and traditional use areas of tribes and rural communities and non-rural area definitions for halibut fishing areas. This paper is intended to identify current (state) subsistence fishing regulations in Southeast Alaska for comparison with the regulations adopted by the Council, and identify areas in which fisheries that harvest groundfish, including lingcod and rockfish, have been restricted or closed.

Current subsistence fishing regulations in Southeast Alaska

Legal gear types proposed by the Council include set or hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging, and hand-troll gear. The proposed gear is more liberal than gear allowed for halibut subsistence fishing under state regulations in Southeast Alaska, where halibut may be taken for subsistence only by a single hand-held line with not more than two hooks attached to it. However, the proposed gear is not more liberal than gear allowed under state subsistence regulations for lingcod, rockfish, sablefish and other groundfish species. For these species, state regulations currently permit the use of the gear proposed by the Council and other gear such as gillnets and purse seines, and do not limit the number of hooks attached to hook and line gear, including longlines.

The daily harvest limit proposed by the Council for subsistence halibut in rural areas is up to 20 halibut. The proposed harvest limit is more liberal than the current state regulations, which allow for a daily bag limit of 2 halibut, and a possession limit of 4. State regulations do not limit the harvest of groundfish species for subsistence in Southeast Alaska. However, ADF&G staff is not aware of widespread participation in subsistence groundfish fisheries in Southeast Alaska.

There are currently no reporting requirements for subsistence harvests of halibut or groundfish in Southeast Alaska.

Area restrictions and closures

Sitka Pinnacles Marine Fishery Reserve-

By regulation, groundfish may not be taken for subsistence, sport or commercial purposes in the waters off Cape Edgecumbe known as the Sitka Pinnacles Marine Fishery Reserve (Figure 1). The Board closed this area for lingcod and black rockfish in 1997 to protect its unusually productive and fragile habitat. Similarly, the Council closed this area to groundfish fishing and anchoring by commercial groundfish vessels, halibut fishing and anchoring by IFQ halibut fishing vessels, sport fishing for halibut, and anchoring by any vessel with halibut on board. This federal closure became effective in 2000.

In addition, ADF&G and the Board have closed or restricted harvest methods, means, and limits for groundfish in commercial, sport and personal use (not subsistence) fisheries for conservation or other reasons. Additional maps are provided (Figures 2-5) to identify areas where fishing restrictions have been implemented for groundfish species; descriptions of these areas are provided below.

Rockfish savings areas-

In 1987, the Board restricted commercial harvest of demersal shelf rockfish in Sitka Sound in response to

public concern that yelloweye rockfish were increasingly difficult for residents to harvest (Figure 2). Similar closures were implemented in areas near Ketchikan in 1989 and Craig and Klawock in 1991.

In 1989, the Board restricted sport and personal use harvest limits for rockfish in two areas, one near Sitka and the other near Ketchikan (Figures 3 and 4). In these areas, the personal use bag and possession limit for rockfish and the sport bag and possession limit for non-pelagic rockfish is 3 fish, only one of which may be a yelloweye. The Board established these harvest limits to reduce harvests and to maintain the opportunity to harvest rockfish near Sitka and Ketchikan under sport or personal use regulations.

Lingcod savings areas-

The sport and directed commercial fishery in Southeast Alaska are currently closed to the harvest of lingcod in the winter to protect nest-guarding males. Winter closures for the directed fishery have included increasingly larger areas, beginning with a closure inside the surf line in 1991. In 1994, the harvest of lingcod in the sport fishery was prohibited from December 1 through April 30 region wide. In 2000, the directed commercial fishery was closed by regulation in all waters of Southeast Alaska between December 1 and May 15 and the winter closure in the sport fishery was extended to the same period. Some lingcod are taken during this period in commercial longline fisheries for demersal shelf rockfish and halibut.

In Sitka Sound, commercial fishermen, with the exception of halibut longline fishermen, are not allowed to retain lingcod and reduced harvest limits apply in the sport fishery. The Board took this action in response to public concern over local lingcod abundance. The areas in which these restrictions applied were modified in January 2000 to provide one set of boundaries for multiple species that matched the Sitka Local Area Management Plan (LAMP) boundaries (Figure 3).

In February 2000, the Board reduced allowable harvests of lingcod in Southeast Alaska in response to concern expressed by department staff. The Board implemented a guideline harvest level for commercial and sport fisheries in Southeast Alaska and allocated the guideline harvest among commercial dinglebar and jig, longline, salmon troll and sport fisheries in Southeast Alaska. In 2000, the department restricted sport fishing methods and means and size limits for lingcod in northern Southeast Alaska (Figure 5) by emergency order to ensure that sport harvests did not exceed the lingcod allocation to the sport fishery. The bag limit was reduced to 1 lingcod for all anglers and a minimum size limit of 38 inches was implemented for guided and nonresident anglers.

Insert figures

Overview of Halibut and Groundfish Subsistence Regulations in Southcentral Alaska

Alaska Department of Fish and Game
Board of Fisheries Committee Hearings
Kodiak, Homer, and Cordova, April 2001

In October 2000 the North Pacific Fishery Management Council defined subsistence use of halibut, along with eligibility criteria, legal gear, bag limits, and customary and traditional trade. The Council requested that the Alaska Board of Fisheries recommend changes to the proposed regulations for gear, daily limits, reporting requirements, C&T designations for tribes or rural communities, and non-rural area definitions for halibut fishing. This paper describes current state subsistence fishing regulations in Southcentral Alaska for comparison with proposed federal halibut regulations, and identifies areas in which state groundfish fisheries have been restricted or closed for stock conservation purposes.

Current Subsistence Regulations:

Legal gear for halibut subsistence proposed by the Council includes set or hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging, and hand-troll gear. State regulations for halibut subsistence fishing throughout Southcentral Alaska define legal gear as a single hand-held line with no more than two hooks. The proposed federal definition of legal gear for halibut subsistence fishing is therefore more liberal than existing state regulations.

The proposed legal gear is substantially more liberal than that allowed for subsistence fishing for rockfish and lingcod under state regulations. Current state subsistence regulations for rockfish and lingcod in the Kodiak, Cook Inlet, and Prince William Sound areas allow use of hand-troll or hand-held line or a single longline, none of which may have more than five hooks attached (Tables 1, 2, and 3). Daily bag limits for the subsistence fishery are relatively restrictive at five or ten rockfish and two lingcod, reflecting the Board's precautionary approach to managing these species. These regulations were designed to allow sufficient opportunity to harvest rockfish and lingcod for subsistence while minimizing waste of rockfish.

The proposed federal legal gear is, in some cases, more restrictive than that allowed for groundfish other than rockfish or lingcod. In the Kodiak Area, other groundfish may be taken by virtually any gear, including set or drift gillnet, purse seine, beach seine, power and hand troll gear, trawls, pots, longline, jigging machine, handline, spear, etc. (Table 1). In the Cook Inlet Area, other groundfish may be taken by any gear allowed for commercial groundfish fishing (Table 2). In Prince William Sound, other groundfish may only be taken on legal gear for rockfish and lingcod.

Subsistence regulations for the Chignik, Alaska Peninsula, and Aleutian Islands Regulatory Areas are not summarized in this document but are similar to Kodiak Area regulations.

There are currently no reporting requirements for subsistence harvests of halibut or groundfish anywhere in the Kodiak, Cook Inlet, or Prince William Sound Regulatory Areas.

Restricted or Closed Waters and Special Regulations:

The Alaska Board of Fisheries and the department have closed waters or placed special harvest restrictions on commercial, sport, and subsistence groundfish fisheries in selected areas for stock conservation purposes in recent years. Most restrictions are focused on conservation of rockfish and lingcod.

In the Kodiak Area, the commercial black rockfish fishery is managed by ADF&G under six management sections, each with a separate guideline harvest level (GHL). Once a GHL is reached, the area is closed to directed fishing for black rockfish.

Commercial rockfish fisheries in Cook Inlet and Prince William Sound are also managed under GHLs with the goal of stabilizing harvest at historical averages. The Cook Inlet Management Area rockfish GHL is

150,000 lb (all species), with a 1,000 lb trip limit in the Cook Inlet District and a 4,000 lb trip limit in the North Gulf District. Directed fishing for rockfish in the Cook Inlet Area does not open until July 1. The Prince William Sound Area is managed under a 150,000 lb GHL (all species) and 3,000 lb trip limit. The Alaska Board of Fisheries recently amended the rockfish management plan by closing the PWS directed fishery and requiring full retention of all rockfish caught. Proceeds on the sale of overages are paid to the State of Alaska. These measures were implemented to provide for improved stock conservation and documentation of fishery removals.

In the Cook Inlet and Prince William Sound areas, sport and subsistence rockfish fisheries are managed under relatively conservative bag limits, with special restrictions placed on older, slower growing demersal and slope (non-pelagic) species. In the Cook Inlet area (including Resurrection Bay), the sport and subsistence bag limits allow harvest of only one non-pelagic rockfish per day (Table 2). In Prince William Sound, the sport and subsistence bag limits allow two non-pelagic rockfish per day (Table 3). Sport anglers must retain the first two non-pelagic rockfish they catch.

Throughout Southcentral Alaska, the commercial, subsistence, and sport lingcod fisheries are closed during the period January 1 – June 30 to protect spawning and nest-guarding lingcod. A minimum size limit of 35 inches applies in all fisheries except the Kodiak subsistence and sport fisheries. Resurrection Bay is closed to year-round to all lingcod fishing to provide for rebuilding of the depressed stock in this area. The sport bag limit in adjacent state and federal waters from Gore Point to Cape Puget is one fish daily, again to provide for stock rebuilding. The sport bag limit is two lingcod daily throughout the remainder of Southcentral Alaska. Commercial lingcod fisheries in the Cook Inlet and Prince William Sound are managed under department-implemented GHLs of 35,000 pounds and 24,500 pounds. The Prince William Sound GHL is split between the Inside District (5,500 lb) and Outside District (19,000 lb).

Commercial and recreational shark fisheries throughout Alaska are also managed under very restrictive regulations, recognizing the low rebound potential of these species. The directed commercial fishery for all sharks is closed, although sharks may be retained as bycatch. The sport bag limit is one shark of any species per day, with an annual limit of two fish. Only Prince William Sound has a bag limit for the subsistence fishery, and it is set at one fish per day (2 in possession).

Table 1. State of Alaska subsistence halibut and groundfish regulations in the Kodiak Area.

Regulation	Species			
	Halibut	Rockfishes	Lingcod	Other Groundfishes
Season	Entire Year	Entire year	Jul 1-Dec 31	Entire year
Legal Gear	Single hand-held line with not more than 2 hooks	Single hand-held line or single longline, neither of which may have more than five hooks		Any legal gear listed in 5 AAC 01.010(a)
Bag Limit	2 (4 in possession)	10 (20 in possession), any species	2 (4 in possession)	None
Open Waters Amount Necessary			Entire area None specified	

Table 2. State of Alaska subsistence halibut and groundfish regulations in the Cook Inlet Area.

Regulation	Species			
	Halibut	Rockfishes	Lingcod	Other Groundfishes
Season	Entire year	Entire year	Jul 1–Dec 31	Entire year
Legal Gear	Single hand-held line with not more than 2 hooks	Single hand-troll, single hand-held line, or single longline, none of which may have more than five hooks		Only legal gear for commercial groundfish, including pelagic trawl, hand troll gear, longline, pots, and mechanical jigging machines (cod only by pots, hand troll, and mechanical jigging machines)
Bag Limit	2 (4 in possession)	5 (10 in possession), no more than 1 per day or 2 in possession may be non-pelagic species.	2 (4 in possession), 35 inch min.	None
Open Waters	Waters outside the nonsubsistence area described in 5 AAC 99.015(a)(3)			
Amount Necessary	None specified	750-1,350 fish	100-225 fish	None specified

Table 3. State of Alaska subsistence halibut and groundfish regulations in the Prince William Sound Area.

Regulation	Species			
	Halibut	Rockfishes	Lingcod	Other Groundfishes
Season	Entire year	Entire year	Jul 1–Dec 31	Entire year
Legal Gear	Single hand-held line with not more than 2 hooks	Single hand-troll, single hand-held line, or single longline, none of which may have more than five hooks		
Bag Limit	2 (4 in possession)	May 1–Sep 15: 5 (10 in possession), no more than 2 per day or in possession may be non-pelagic. Sep 16–Apr 30: 10 (10 in possession), no more than 2 of which may be non-pelagic.	2 (4 in possession), 35 inch min.	None, except shark bag limit is 1 fish (2 in possession)
Open Waters	Waters outside the nonsubsistence area described in 5 AAC 99.015(a)(5)			
Amount Necessary	None specified	7,500-12,500 fish	1,000-1,500 fish	16,000-24,000 pounds