

May 17, 2004

MEMORANDUM FOR: THE RECORD

FROM: James W. Balsiger  
Administrator, Alaska Region

SUBJECT: Proposed Rule to Amend a Program Authorizing the Subsistence Harvest of Pacific Halibut in Waters Off Alaska – CATEGORICAL EXCLUSION

This proposed action is an amendment to the existing subsistence halibut regulations. With this proposed rule, NMFS intends to change the regulations found at § 300.65 - 300.66 to better manage the subsistence halibut fishery. This proposed action amends the regulatory language at § 300.65 - 300.66 to narrowly adjust gear and harvest restrictions for subsistence halibut in several discrete regions. Additionally, this proposed action implements tribe and community-based permit measures that centralize fishing effort.

After reviewing the proposed action in relation to NOAA Administrative Order (NAO) 216-6, including the criteria used to determine significance, we have concluded that this notification would not have a significant effect, individually or cumulatively, on the human environment beyond those effects identified in previous NEPA analysis. An environmental assessment/regulatory impact review (EA/RIR) (dated January 2003) was prepared for the final rule implementing the original subsistence halibut regulations (68 FR 18145, April 15, 2003). The scope of the EA/RIR includes the potential impacts of this proposed action because the EA/RIR analyzed the original subsistence halibut policy, which included analysis of gear and harvest restrictions and their impacts on tribes and rural communities. Based on the nature of the proposed action and the previous environmental analysis, we have concluded that the proposed action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement, in accordance with Section 5.05b of NAO 216-6.

## BACKGROUND

Existing subsistence halibut regulations found at 50 CFR § 300.60 - 300.66 do not recognize some distinctions between different geographic regions in Alaska. In October 2003, the North Pacific Fishery Management Council (Council) recommended changes to these regulations that more narrowly tailored gear and harvest limitations to effectively manage subsistence halibut harvest. The main goal of this action is to adjust gear and harvest restrictions for Alaska

residents who practice subsistence fishing for halibut specific to their respective region. An additional goal is to implement specific mitigation measures for tribes and rural communities in areas where gear and harvest limitations may increase.

The subsistence halibut fishery regulations that are proposed by this action would continue to allow residents of specified rural communities in Alaska with long-term, customary and traditional uses of halibut and members of specified Federally recognized Alaska Native tribes to harvest halibut for sustenance and cultural tradition. However, the Council recommended including provisions to limit the amount of gear that may be set or retrieved from a single vessel in IPHC regulatory areas 3A, 3B, 4A, and 4B. The Council also recommended further gear and harvest restrictions in area 2C. Additionally, the Council recommended no gear limits for areas in the Northern Bering Sea (IPHC regulatory areas 4C, 4D, 4E) to coincide with the lack of harvest limitations. Furthermore, the Council recommended the implementation of specific mitigation measures for tribes and some rural communities in areas where gear and harvest restrictions may increase as well as special permits which recognize ceremonial, cultural, and educational values.

## PREVIOUS NEPA ANALYSIS

In the EA/RIR for the subsistence halibut policy, the analysis discussed impacts of the subsistence halibut fishery in relation to measures suggested in this proposed rule. Therefore this proposed rule, which amends the existing subsistence halibut policy, was fully analyzed in this EA/RIR. A finding of no significant impact was signed April 2, 2003.

## CONCLUSIONS

The salient factors contributing to the conclusion that a categorical exclusion is appropriate for this proposed action are:

1. The principal effect of this action is to tailor management efforts in discrete areas and allow individual subsistence halibut fishers to consolidate their effort into a centralized community endeavor conducted by a few representatives. Thus, there is no increase, but a redistribution in fishing effort. This proposed amendment to the subsistence halibut fishery is not anticipated to have significant impacts on the human environment due to the limited context of the action and to the lack of severity of potential impacts (NAO 216-6, Sections 6.01 and 6.02).
2. The impacts of this proposed action was previously analyzed in a NEPA analysis with a finding of no significant impacts on the human environment.

cc: Tamra Faris, NEPA Coordinator, Alaska Region