

**Regulatory Impact Review/Final Regulatory Flexibility Analysis
of Six Proposed Amendments to Subsistence Halibut Fishery Regulations**

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Abstract: This Regulatory Impact Review/Final Regulatory Flexibility Analysis addresses six actions that amend subsistence halibut regulations, which were recommended by the State of Alaska (Action 1), Federal agencies (Action 2–5), or Alaska Native Tribes (Action 6) for consideration by the North Pacific Fishery Management Council. These actions will (1) reduce the subsistence gear limits in Kodiak and add seasonal gear and vessel limits in the Sitka Sound Local Area Management Plan (LAMP) are, (2) add the village of Naukati to the list of eligible subsistence halibut communities, (3) implement a possession limit equal to two daily harvest and vessel limits to enhance enforcement, (4) revise the definition of charter vessel, (5) revise regulations allowing customary trade, and (6) allow the use of special permits within non-subsistence use areas by eligible tribes. None of the actions is intended to change the amount of halibut harvested for subsistence purposes.

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Executive Summary

This document addresses the requirements of Presidential Executive Order 12866 and contains a Regulatory Impact Review for six proposed actions to amend regulations regarding the legal harvest of Pacific halibut for subsistence use in North Pacific Halibut Convention waters in and off Alaska. These actions, if approved by the Secretary, would: (1) reduce the subsistence gear limits in Kodiak and add seasonal gear and vessel limits in the Sitka Sound Local Area Management Plan (LAMP) area; (2) add the village of Naukati to the list of eligible subsistence halibut communities; (3) implement a possession limit equal to two daily harvest and vessel limits to enhance enforcement; (4) revise the definition of charter vessel; (5) revise regulations allowing customary trade; and (6) allow the use of special permits within non-subsistence use areas by eligible tribes. They were recommended by the State of Alaska (Action 1), Federal agencies (Action 2 - 5), or Alaska Native Tribes (Action 6). More detail on each proposed action follows.

1. Local area management

Action 1 is based on a recommendation by the Alaska Board of Fisheries (Board) to address community concerns in three areas proposed for future local area management plans (LAMPs) and the Sitka LAMP. On behalf of the communities, the Board recommended changes to subsistence gear and harvest limits, which were designed to address localized depletion concerns regarding halibut, rockfish, and lingcod in densely populated and easily accessible areas in State waters in Kodiak, Prince William Sound, Cook Inlet, and State and Federal waters in the Sitka Sound LAMP. However, regulations implemented a gear limit for halibut, which is in effect in both State and Federal waters, dissimilar to State regulations for a hook limit for rockfish, which is caught coincidentally in the subsistence halibut fishery. Another regulatory conflict of concern is the incompatibility between the 30-hook limit allowed in the subsistence halibut fishery and the conservative rockfish and lingcod bag limits allowed in the subsistence fishery in some State waters.

This action was previously considered by the Council in April 2002 under a regulatory package called "Subsistence II." Based on a recommendations by the State of Alaska, the Council bifurcated this proposed action into a separate regulatory package, "Subsistence III," in October 2003, so that new information from an inaugural subsistence halibut survey in 2003 on rockfish harvests in these fisheries could be analyzed.

The Council recommended increasing gear restrictions in two IPHC regulatory subareas as part of this action. First, the Council recommended lowering the maximum hook limit in the Kodiak Road Zone and Chiniak Bay (Chiniak Bay) from 90 to 60 hooks. At no time may the gear used to fish for subsistence halibut exceed 60 hooks per vessel in Chiniak Bay, except that under a ceremonial, educational, or community harvest permit the limit would be 90 hooks per vessel. Consistent with previous applications of the Community Harvest Permit (CHP) Program, the Council recommended allowing the use of a CHP in Area 3A, including Chiniak Bay, to mitigate increased restrictions. The CHP Program allows a community or Alaska Native tribe to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or Alaska Native tribe. Possession of a CHP in Area 3A would allow an eligible tribe or community to use 30 hooks per person up to a maximum of 90 hooks per vessel.

Second, the Council proposed additional seasonal gear and harvest restrictions in the Sitka Sound LAMP to address localized depletion concerns. This would reduce the allowable gear from 30 to 15 hooks per vessel and prohibit power hauling during the summer months between June 1 and August 31. From September 1 to May 31 gear restrictions would remain at 30 hooks per vessel and power hauling would be allowed.

The Council took no action on proposed changes to subsistence halibut fisheries for Cook Inlet or Prince William Sound in Area 3A, or for all of Area 2C; however, the Council announced its plan to review the Area 2C fishery data after implementation, to assess whether the need for additional individual or vessel limits can be documented at that time. The Council encouraged NMFS to implement cooperative tribal monitoring projects to provide documentation of harvest patterns. While the Council did not recommend mandatory

retention of rockfish in local areas located in State waters, the Council stated that it supports that approach in State waters.

(2) List of eligible communities

The list of rural places eligible for the subsistence halibut program was derived from positive customary and traditional findings for halibut and bottomfish made by the Board. The Council retains exclusive authorization to recommend changes to the list of rural places, in § 300.65(f). The Council initially recognized that some rural communities not explicitly named in the list may seek a finding of customary and traditional use of halibut and identified a policy to include those communities, if customary and traditional findings are made. Residents who believe that their rural place was incorrectly left out of the eligibility listing for rural places, or who seek eligibility for the first time, were encouraged to seek a customary and traditional finding from the Board before petitioning the Council.

In October 2003, the Board received seven appeals from communities and individuals requesting positive customary and traditional use findings for halibut. The Board forwarded only two proposals to the Council, including Port Tongass Village and Naukati. The remaining petitions failed because the petitioners were located within non-subsistence use areas and did not fit the stated criteria.

In December 2004, the Council recommended as its preferred alternative that the Secretary include Naukati as an eligible rural community for subsistence halibut purposes based on the Board's recommendation. However, the Council declined including Port Tongass Village, following testimony and evidence that indicated the "village" consists of one individual. The Council believed that the right to fish for subsistence halibut should be restricted to rural communities or Alaska Native tribes and not individuals.

(3) Subsistence Halibut Harvest Restrictions

In general, the daily harvest limit for subsistence halibut allows the harvest of 20 halibut per eligible subsistence fisherman, except in Area 2C, where allowable retention previously was reduced to 20 halibut per vessel, and in Areas 4C, 4D, and 4E, where there are no harvest limits. In October 2003, the IPHC staff suggested that subsistence regulations allowed a substantial increase in harvest that necessarily required more effective monitoring. The IPHC specifically expressed concern with overall enforcement of the subsistence program and the allowable possession limit of halibut. The IPHC identified a problem with the Office of Law Enforcement's ability to verify time on the water for subsistence halibut fishermen who possess more than one daily bag limit, thereby hampering accurate accounting of halibut removals.

The Council recommended implementing a possession limit equal to one harvest and vessel limits for those highly populated areas that have experienced increased effort in Areas 2C, 3A, and 3B to restrict abuses and enhance enforcement of daily harvest limits. The Council clarified that the proposed possession limit would not be considered for Areas 4A and 4B because those areas were not perceived to have experienced corresponding increases in fishing effort. This preferred alternative would have no effect in Areas 4C, 4D, or 4E because there is no daily bag limit in those areas. This action would also have no effect on the retention limits allowed for CHPs, Ceremonial Permits, or Educational Permits.

(4) Charter Vessel Prohibition

Current regulations prohibit the retention of subsistence halibut harvested using a charter vessel, which is defined as "a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator." NOAA Enforcement expressed concern on enforcing the prohibition under the current definition because of the problems associated with determining whether the vessel operator is "for hire." The Council subsequently clarified that the intent of the prohibition was only to prohibit subsistence fishermen from hiring someone to take them subsistence fishing, but not to prohibit vessels registered as charter vessels from being used for subsistence fishing. NOAA Enforcement recommended revising the definition of charter vessel to improve enforcement of the prohibition, consistent with the Council's intent.

The Council followed NOAA Enforcement's recommendation and provided additional guidance to ensure the prohibition continued to restrict subsistence fishing to legitimate practices. The Council's preferred alternative would revise the definition of charter vessel to "a vessel registered as such with the Alaska Department of Fish and Game." To prevent abuses of the proposed charter vessel allowance, the Council's preferred alternative would prohibit the use of a charter vessel for subsistence halibut fishing while charter clients are on board the vessel, and prohibit the transfer of subsistence halibut to charter clients. This would preclude the use of any gear not classified as sport fishing gear, or retention of any halibut in excess of the sport limits, while charter clients are on board a vessel. Additionally, a prohibition on the transfer of subsistence halibut to charter clients would apply at all times, meaning that at no time may subsistence halibut be provided by a charter operator to any person who has chartered a sportfishing trip with that charter operator.

(5) Customary and Traditional Trade Restrictions

Current regulations at § 300.66(j) specify that it is unlawful for any person to retain or possess subsistence halibut for commercial purposes, sell, barter, or otherwise enter commerce, or solicit exchange of subsistence halibut for commercial purposes, except that a qualified subsistence fisherman may engage in the customary trade of subsistence halibut through monetary exchange of no more than \$400 per year. The Council intended the \$400 annual limit to allow a recipient of subsistence halibut to help defer the donating harvester's costs of harvesting subsistence halibut.

The Council became concerned that continuing the \$400 customary trade limit would result in the circumvention of Council intent by allowing *de facto* "sale" of subsistence halibut outside customary and traditional trade. In June 2003, the Council's Enforcement Committee determined that: (1) despite the Council's intent to not create a new commercial fishery, sales of subsistence halibut under current regulations are essentially allowed up to the \$400 annual limit; (2) the \$400 annual limit is not enforceable because it is not possible for enforcement officers to distinguish between sale and customary and traditional exchange for cash; and (3) it is unclear whether current regulations prohibit advertising and solicitation for commercial sale. The committee recommended that the Council revise the customary trade restrictions to meet the original intent of allowing customary and traditional trade.

The Council's preferred alternative would revise the regulations to eliminate the cash limit for customary trade because of problems with enforcing the provision. The identification of a dollar amount has resulted in some subsistence users "selling" halibut to other subsistence users, outside of customary and traditional practices, with the \$400 annual cap effectively operating as a target, rather than a limit.

This preferred alternative would eliminate the \$400 customary trade limit and restrict customary trade specifically to reimbursement of actual trip expenses directly related to the harvest of subsistence halibut. Actual trip expenses would be limited to ice, bait, food, and/or fuel only.

Persons who qualify as rural residents under § 300.65(f)(1) and hold a subsistence halibut registration certificate in their name under § 300.65(h) may be reimbursed only by residents of the same rural community listed on his or her subsistence halibut registration certificate. The Council proposed this restriction as an additional measure to discourage the entry of subsistence halibut into commercial channels, while allowing for customary and traditional trade among rural community residents.

Persons who qualify as Alaska Native tribe members under § 300.65(f)(2) and hold a subsistence halibut registration certificate in their name under § 300.65(h) would be eligible for reimbursement only from an Alaska Native tribe or its members. Reimbursement of an Alaska Native tribal member eligible to fish for subsistence halibut by any Alaska Native tribe is consistent with centuries old traditions of coastal tribes conducting trade with interior tribes. However, persons possessing a SHARC designated as tribal would be ineligible to receive reimbursement from anyone other than another Alaska Native tribe or its members.

(6) Special Permits in Non-subsistence Areas

Generally, eligible persons may harvest subsistence halibut in all Convention waters in and off Alaska, except for areas designated as one of four non-subsistence areas. Regulations allow Alaska Native Tribes to subsistence fish for halibut outside the closed areas by allowing an Alaska Native tribal member whose tribe is located in an urban area to subsistence fish in any IPHC regulatory area off Alaska.

The Council's preferred alternative would allow the use of Ceremonial and Educational Permits in non-subsistence areas by thirteen tribes whose traditional fishing grounds are located within Area 2C and Area 3A, such that persons on a vessel, in possession of a Ceremonial or Educational Permit, would be allowed to conduct subsistence fishing in the non-subsistence areas, subject to other regulations.

ACTION/ALTERNATIVES INCLUDED IN THIS DOCUMENT:

Action 1. Revise the subsistence halibut regulations for gear and harvest to address local area issues.

Alternative 1. No action.

- (a) - (c): 30 hooks
three times the individual gear limit
- (d): 30 hooks per vessel
power hauling
20 halibut per vessel

Alternative 2. Change gear and annual limits in local areas.

- (a) in Kodiak road zone and Chiniak Bay:
 - Issue 1. Gear limit, annual limit, and community harvest permit program:
 - Option 1. 5 hooks and 20 fish annual limit
 - Option 2. 10 hooks and 20 fish annual limit
 - Issue 2. Limit stacking on a single unit of gear per trip provided the subsistence user(s) are on board the vessel to:
 - Option 1. one hook limit (no stacking)
 - Option 2. two times the hook limit
- (b) in Prince William Sound:
 - Issue 1. Gear limit and community harvest permit program:
 - Option 1. 5 hooks
 - Option 2. 10 hooks
 - Issue 2. Limit stacking on a single unit of gear per trip provided the subsistence user(s) are on board the vessel to:
 - Option 1. one hook limit (no stacking)
 - Option 2. two times the hook limit
- (c) in Cook Inlet:
 - Issue 1. Gear limit and community harvest permit program:
 - Option 1. 5 hooks
 - Option 2. 10 hooks
 - Issue 2. Limit stacking on a single unit of gear per trip provided the subsistence user(s) are on board the vessel to:
 - Option 1. one hook limit (no stacking)
 - Option 2. two times the hook limit

- (b) Allow customary trade and barter between a member of an Alaska tribe eligible to harvest halibut for subsistence and any other member of an Alaska tribe provided that monetary exchange be limited to sharing expenses directly related to the subsistence harvest of halibut.

Alternative 5 [Preferred Alternative]. Eliminate the \$400 customary trade limit, but limit customary trade to:

- (a) Rural residents eligible for subsistence harvest of halibut may be reimbursed by other residents of the same rural community for actual trip expenses of ice, bait, food and/or fuel directly related to the harvest of subsistence halibut; or
- (b) Members of an eligible Alaskan tribe for subsistence harvest of halibut may be reimbursed by other members of an Alaskan tribe for actual trip expenses of ice, bait, food, and/or fuel expenses directly related to the harvest of subsistence halibut.
- (c) Subsistence-caught halibut may not enter commerce.

Action 6. Allow subsistence halibut fishing in non-subsistence areas under special permits.

Alternative 1. No action.

Alternative 2. Allow the use of community harvest permits, educational permits, and ceremonial permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within these areas, with the associated daily bag limit.

Alternative 3 [Preferred Alternative]. Allow the use of educational permits, and ceremonial permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within these areas, with the associated daily bag limit.

1.0 Regulatory Impact Review

This document contains the Regulatory Impact Review (RIR) for six proposed actions to revise regulations that describe management of Pacific halibut *Stenolepis hippoglossus* subsistence fisheries in North Pacific Halibut Convention waters off Alaska. This RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993). 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 nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

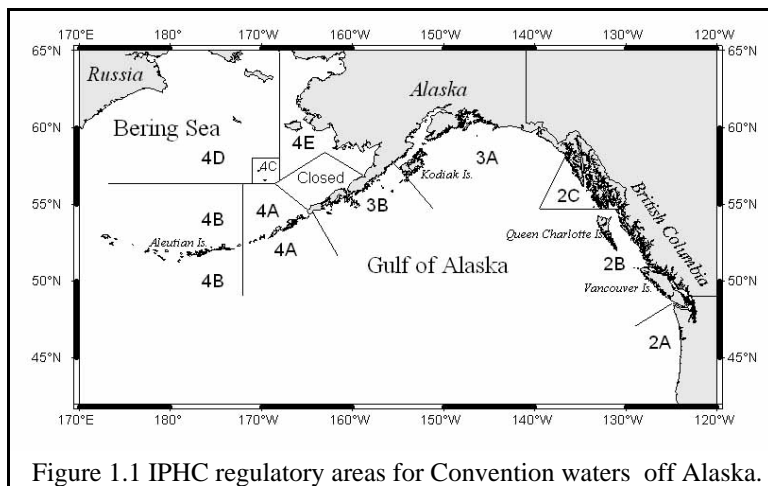
E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- 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, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

1.1 Management Authority

Management of the Pacific halibut fishery in and off Alaska is based on an international agreement between Canada and the United States and is given effect by the Northern Pacific Halibut Act of 1982. The Act provides that, for the halibut fishery off Alaska, the North Pacific Fishery Management Council (Council) may develop regulations, including limited access regulations, to govern the fishery, provided that the Council’s actions are in addition to, and not in conflict with, regulations adopted by the International Pacific Halibut Commission (IPHC). Further, any Council action must be approved and implemented by the U.S. Secretary of Commerce (Secretary). It was under this general authority that the Council, in October 2000, voted to adopt a subsistence halibut policy. NOAA Fisheries, Alaska Region, prepared regulations formalizing the Council’s subsistence halibut policy. These regulations were adopted by the Secretary and published in the Federal Register on April 15, 2003. The effective date of the regulations is May 15, 2003. The State of Alaska has management authority for subsistence fisheries for groundfish and other fishes in State waters.

1.2 Description of Fishery



Regulations implementing a subsistence fishery for Pacific halibut at 50 CFR 300.60–300.66 define eligible participants, allowable gear, non-subsistence fishing areas, and other program components for IPHC areas 2C through 4E (Figure 1.1). Little information was available to describe this fishery at the time of Council deliberation. The EA/RIR to establish a subsistence halibut fishery (NPFMC 2002) estimated a potential 82,000 residents from 117 rural communities and 120 Tribal headquarters would benefit from the program, either as direct fishery

participants or through sharing. It also estimated total halibut removals under this program at approximately 1.5 million lb net weight; however, a household survey was conducted in 2004 to obtain harvest estimates for the 2003 fishery. Alaska rural communities, Alaska Native Tribes, and customary and traditional practices of sharing halibut are also described in that document (NPFMC 2002). As of June 22, 2004, a total of 13,032 individuals (6,733 rural residents and 6,299 Tribal residents) had received Subsistence Halibut Registration Certificates (SHARC), making them eligible to harvest halibut for subsistence uses. A list of permit holders, by community, is provided at www.fakr.noaa.gov/ram/daily/sharc_by_city.pdf and by eligible Tribe, at www.fakr.noaa.gov/ram/daily/sharc_by_tribe.pdf.

First Annual Halibut Harvest Survey (from Wolfe (2002))

“The most common and effective method for collecting subsistence harvest information is a retrospective harvest survey. In a retrospective harvest survey, a respondent reports information on subsistence harvests made during a specified time period. The retrospective recall survey is the standard methodology used by the Division of Subsistence, Alaska Department of Fish and Game (Fall 1990). It is also used by the State of Alaska for collecting harvest information on annual subsistence salmon harvests. Carefully administered retrospective surveys have been found to produce accurate information and to be sustainable as annual programs. Because of this track record and its familiarity in rural Alaska areas, the retrospective harvest survey is the preferred methodology for gathering information on subsistence halibut harvests.

Harvest information on certain “by-catch” fish (lingcod and rockfish) was identified as a priority by some experts. Limits on the number of hooks and daily bags in the subsistence halibut fishery have been discussed for certain management areas to reduce subsistence harvests of lingcod and rockfish, if that is a management goal. Surveys conducted by the Division of Subsistence, Alaska Department of Fish and Game suggest that the harvests of lingcod and rockfish during subsistence halibut fishing are relatively small in rural villages, compared with harvests in sport and commercial fisheries. However, complete and systematically-gathered information on rockfish and lingcod harvests in subsistence fisheries is lacking.

The following information about lingcod and rockfish harvested while subsistence halibut fishing may be useful to collect each year:

1. Number of lingcod harvested
2. Number of rockfish harvested

The collection of information on rockfish has the potential for substantially increasing the costs and effectiveness of an annual subsistence halibut survey. There are a relatively large number of rockfish species. It is difficult to generalize about the biology and management of the various types. Local names for rockfish vary by area, hampering clear communication, particularly in a mailed survey. Clear identification of species reported as harvested may be difficult without colored pictures and fish variety descriptions as reference materials. Experience has shown that face-to-face surveys work best for gathering subsistence information on complex and potentially ambiguous research questions. However, funding constraints may not allow for face-to-face surveys in most communities. As a further complication, rockfish and lingcod harvests may not be regarded as a “by-catch” by subsistence fishers. Customary and traditional harvest patterns of harvest for rockfish and lingcod exist in many villages. Documenting these patterns of use would be necessary for understanding reported harvests and their relationships to subsistence halibut fisheries.

This author suggests implementing a two-staged research approach, given these methodology and cost issues. In the first stage, two simple harvest questions on lingcod and rockfish would be asked, serving as an initial “screening” on the by-catch issue. The first-stage question would ask about harvests of “rockfish” as a single generic type. Using this general information, researchers can identify any areas where relatively significant harvests of rockfish or lingcod are reported. In the second stage, research designed to collect more detailed information about rockfish or lingcod would be directed toward these special areas. Face-to-face surveys using color pictures as references would be administered to fishers in the special areas to collect more in-depth information at the species level. Information on the patterns of use of rockfish and lingcod would be collected. A two-staged approach provides for an efficient use of labor (respondent and surveyor) and project funding, while identifying areas with potentially significant by-catch. If rockfish and lingcod harvests are found to be insignificant during the first stage, research at the second stage may not be indicated.”

The ADF&G subsistence halibut survey was not designed to answer the questions to which it is being applied in the analyses for Actions 1 through 6. The simplicity of the design was intended to maximize the response rate. Therefore, survey results may be of limited use in assessing the effects of the proposed actions. Additional information regarding the subsistence halibut harvest assessment methodologies may be found in Wolfe (2002) and Fall (in prep.)

Subsistence Halibut Harvests in 2003. The information in this section was prepared by the ADF&G Subsistence Division under contract with NOAA Fisheries. A preliminary draft report dated September 1, 2004, by Fall et al. (2004) was used for this draft analysis (see Appendix 1 for a description of the survey design).

New Federal regulations governing subsistence halibut fishing in Alaska came into effect in May 2003. By December 2003, 11,625 members of tribes with traditional uses of halibut, and residents of eligible rural communities, obtained subsistence halibut registration cards (SHARCs) from NOAA Fisheries. In 2004, 7,593 of these SHARC holders (65 percent) voluntarily provided information about their subsistence halibut fishing activities in 2003 by responding to a survey administered by the Division of Subsistence of ADF&G. Based on these survey returns, an estimated 4,935 individuals subsistence fished for halibut in Alaska in 2003. They harvested an estimated 43,841 halibut for 1,386,410 lb (round weight), with most of this harvested with set hook gear (72 percent) and the remainder with hook and line (28 percent). The largest portion of the Alaska subsistence halibut harvest in 2003 occurred in Area 2C (Southeast Alaska), 60 percent; followed by Area 3A (Southcentral Alaska), 27 percent; and Area 4E (Western Alaska), 5 percent. The remaining five regulatory areas (3B, Alaska Peninsula; 4A, eastern Aleutian Islands; 4B, western Aleutian Islands; 4C, Pribilof Islands; and 4D, Bering Sea) accounted for 8 percent of the statewide total. Subsistence harvests accounted for 1 percent of the total halibut removals in waters off Alaska in 2003.

Year 2003 was the first for which a program was implemented to attempt to estimate the statewide subsistence harvest of halibut in Alaska. By several measures, the program was a success. Overall, there was a very high response rate of 65 percent. Response rates were 70 percent or higher in the nine rural communities with the largest number of SHARCs issued. This is especially encouraging given that this is a voluntary program. Through contracts and outreach, high levels of involvement in the research were achieved in many key communities and tribes, including Sitka, Hydaburg, Toksook Bay, Gambell, and Savoonga. On the other hand, return rates were lower in some other communities and tribes, raising questions about the thoroughness and precision of the harvest estimates in those places.

The estimated total halibut removal off Alaska in 2003, was 73,929,215 lb (net weight) (Fall et al. 2004) (Figure 1.2). The subsistence fishery accounted for 1 percent of this total. As a percentage of the total removal, subsistence halibut harvests were largest in Area 2C at 5 percent of the total (although still about a quarter of the sport harvest and about 7 percent of the commercial harvest), and 1 percent in Area 3A.

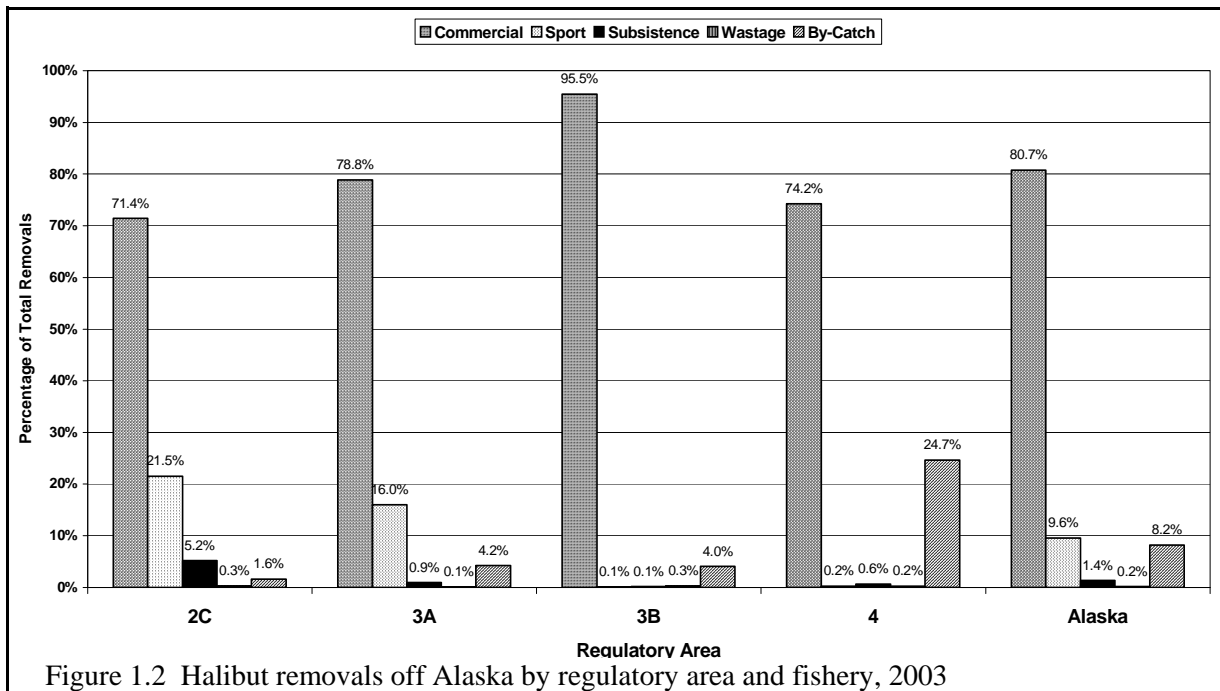


Figure 1.2 Halibut removals off Alaska by regulatory area and fishery, 2003

Estimated Number of Subsistence Halibut Fishermen Of the 11,625 individuals who obtained SHARCs in 2003, an estimated 4,935 (42 percent) subsistence fished for halibut in 2003. Of the 5,578 individuals who obtained SHARCs as members of an eligible tribe, 1,834 subsistence fished for halibut (33 percent). Of the 6,057 individuals who obtained SHARCs as residents of qualifying rural communities, 3,101 (51 percent) subsistence fished for halibut.

Demography may account for the difference between tribal SHARC holders and rural SHARC holders regarding participation in the fishery. More than 17 percent of tribal SHARC holders were younger than 20 years of age, compared to 7 percent of rural SHARC holders. This may reflect a policy on the part of some eligible tribes to register all or most tribal members, including younger people who were less likely to subsistence fish than adults.

The largest number of Alaska subsistence halibut fishermen in 2003, were from tribes and rural communities in Area 2C (Southeast Alaska), 3,080 (62 percent). There were 1,180 halibut fishermen (24 percent) from tribes and communities in Area 3A (Southcentral Alaska), and 304 (6 percent) from Area 4E (western Alaska) tribes and communities. Additionally, there were 371 (8 percent) halibut fishermen who were members of tribes and residents of communities in the five other regulatory areas (see Appendix 2).

Tribes with the most subsistence halibut fishermen in 2003, included the Central Council of Tlingit and Haida Indians (167 subsistence halibut fishermen), the Sitka Tribe of Alaska (132), the Ketchikan Indian Corporation (127), the Metlakatla Indian Community (111), the Pribilof Islands Aleut Community of St. Paul (88), Hoonah Indian Association (71), and the Shoonaq' Tribe of Kodiak (71). Of the SHARC holders who registered as residents of eligible rural communities, the most subsistence fishermen lived in Sitka (680), followed by Kodiak (564), Petersburg (369), Haines (235), Wrangell (189), and Craig (140). Appendix 2 provides details for each tribe and community regarding participation in the subsistence fishery and subsistence halibut harvests in 2003.

Estimated Alaska Subsistence Halibut Harvests in 2003 by Regulatory Area. Table 1.1 reports estimated Alaskan subsistence halibut harvests for 2003, by SHARC type, regulatory area,

and gear type. The total estimated subsistence halibut harvest off Alaska in 2003 was 1,386,410 lb round weight (43,841 fish). As estimated in lb round weight, 60 percent of the subsistence halibut harvest (836,635 lb) was taken by fishermen registered with tribes or rural communities in Area 2C (Figure 1.3). Fishermen from Area 3A harvested 371,660 lb (27 percent). Harvests totaled 72,356 lb (5 percent) for communities and tribes in Area 4E. Tribes and communities in the remaining five regulatory areas harvested 105,759 lb (8 percent).

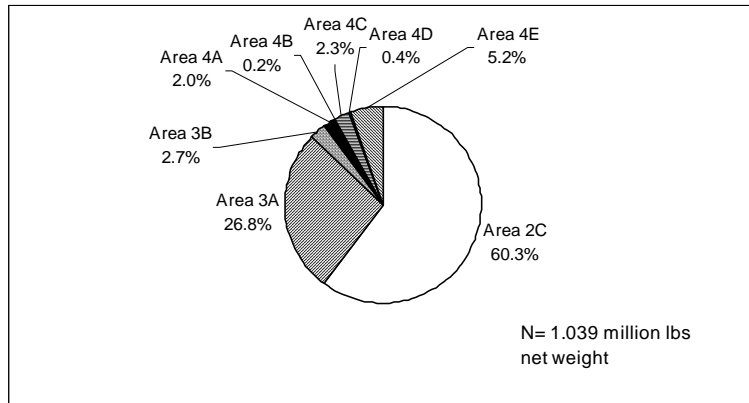


Figure 1.3 Percentage of subsistence halibut harvest by regulatory area, 2003

The Council requested that the analysis include subsistence halibut harvests, by area, for 2001 and 2002 for comparison; however comparable data are not available, since the fishery and survey were initiated in 2003. The IPHC (2004) estimated the following removals for personal or ceremonial and subsistence uses for 2001 and 2002: 170,000 lb in Area 2C, 74,000 lb in Area 3A, 20,000 lb in Area 3B, and 180,000/176,000 lb in Area 4 for totals of 760,000 lb (net) in 2001 and 767,000 lb (net) in 2002.

Twelve communities accounted for 84 percent of the subsistence halibut harvest by the holders of rural SHARCs, in 2003 (Figure 1.4). Residents of the remaining 105 communities harvested 17 percent of the total. Residents of 65 eligible rural communities harvested subsistence halibut in 2003. In two others, SHARC holders fished, but reported no harvest. In 13 others, individuals obtained SHARCs,

Table 1.1 Estimated Alaska subsistence halibut harvests by SHARC type, regulatory area, and gear in 2003.

SHARC Type	Regulatory Area	Number of SHARCs Issued	Estimated Harvest by Gear Type ¹								
			Set Hook Gear			Hook & Line or Handline			All Gear		
			Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested
Tribal	2C	3,132	791	8,032	318,459	264	1,436	42,964	966	9,470	361,425
Tribal	3A	936	208	2,101	68,107	190	1,728	47,284	358	3,826	115,392
Tribal	3B	204	43	502	12,399	59	381	12,041	90	884	24,440
Tribal	4A	70	9	31	501	42	323	15,024	45	353	15,525
Tribal	4B	6	2	11	264	2	8	240	4	19	504
Tribal	4C	277	44	707	15,607	73	504	15,595	101	1,212	31,201
Tribal	4D	47	19	67	5,253	2	8	593	25	75	5,846
Tribal	4E	906	69	803	13,237	183	2,245	48,704	245	3,047	61,938
Tribal	All	5,578	1,185	12,254	433,827	815	6,633	182,445	1,834	18,886	616,271
Rural	2C	4,095	1,831	12,022	398,784	490	2,942	76,429	2,114	14,962	475,210
Rural	3A	1,674	531	4,834	154,818	395	3,616	101,451	822	8,450	256,268
Rural	3B	59	22	162	4,525	34	289	8,340	44	450	12,865
Rural	4A	84	33	324	8,102	25	153	3,996	48	475	12,098
Rural	4B	18	9	37	1,708	4	17	1,083	9	55	2,790
Rural	4C	12	0	0	0	4	23	490	4	23	490
Rural	4D	3	0	0	0	0	0	0	1	0	0
Rural	4E	112	11	33	448	39	506	9,970	59	540	10,418
Rural	All	6,057	2,437	17,412	568,385	991	7,546	201,759	3,101	24,955	770,139
All	2C	7,227	2,622	20,054	717,243	754	4,378	119,393	3,080	24,432	836,635
All	3A	2,610	739	6,935	222,925	585	5,344	148,735	1,180	12,276	371,660
All	3B	263	65	664	16,924	93	670	20,381	134	1,334	37,305
All	4A	154	42	355	8,603	67	476	19,020	93	828	27,623
All	4B	24	11	48	1,972	6	25	1,323	13	74	3,294
All	4C	289	44	707	15,607	77	527	16,085	105	1,235	31,691
All	4D	50	19	67	5,253	2	8	593	26	75	5,846
All	4E	1,018	80	836	13,685	222	2,751	58,674	304	3,587	72,356
All	All	11,635	3,622	29,666	1,002,212	1,806	14,179	384,204	4,935	43,841	1,386,410

¹ Pounds are round (whole) weight.

Source: Alaska Department of Fish and Game, Division of Subsistence Survey, 2004

but no one fished. No one in the remaining 35 eligible rural communities obtained a SHARC in 2003. Most of these communities (30) were in Area 4E.

Rural SHARC holders from two communities accounted for just under half the total harvest by this group: Kodiak (24 percent) and Sitka (22 percent) (Figure 1.4). Adding Petersburg, the next highest rural community harvest at 9 percent, the top three rural communities accounted for 55 percent of the rural community (non-tribal) subsistence halibut harvest off Alaska in 2003.

Members of 12 tribes accounted for 70 percent of the total subsistence halibut harvest by tribal SHARC holders in 2003 (Figure 1.5). These 12 tribes accounted for 65 percent of the tribal SHARCs (3,613 of 5,578), with members of 74 other Alaska tribes accounting for the remaining 30 percent of the total subsistence halibut in 2003. In three additional tribes, SHARC holders fished, but had no subsistence harvest. In 15 others, tribal members obtained SHARCs, but no one fished. No one in the remaining 31 eligible tribes obtained a SHARC in 2003. Most of this latter group of tribes (28) were in Area 4E.

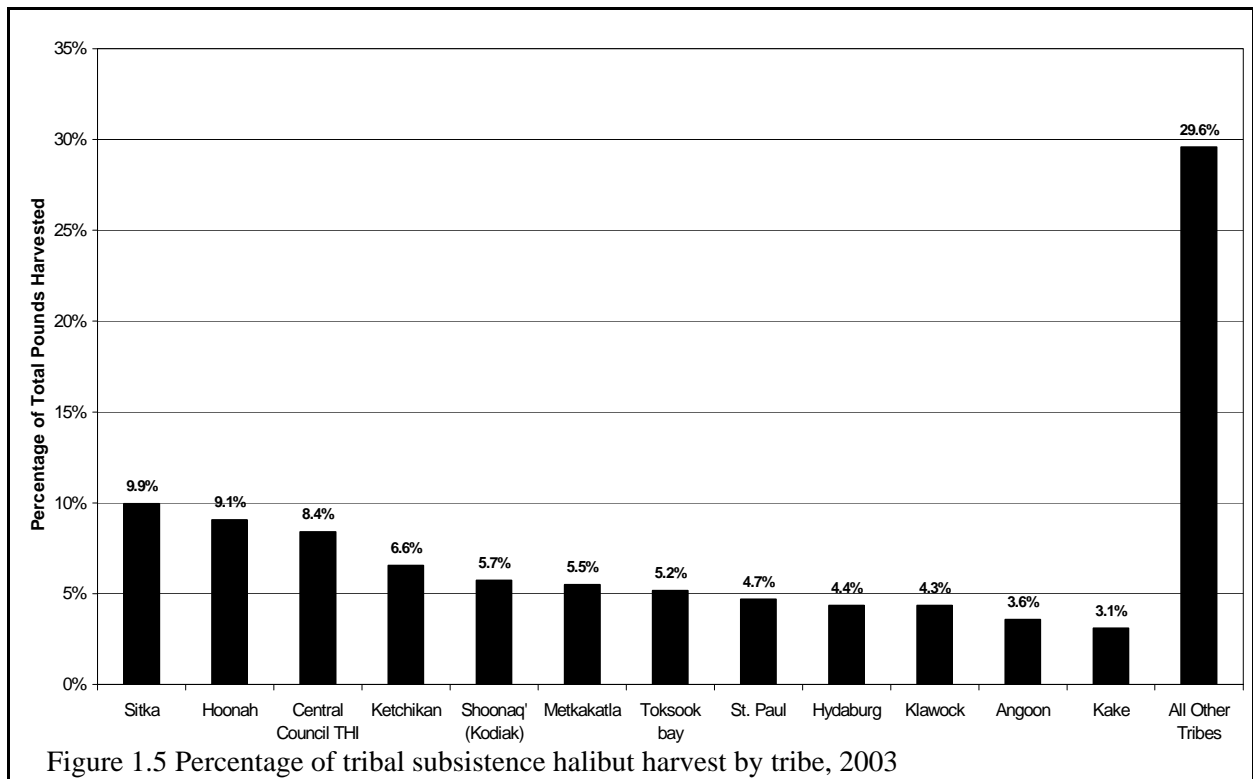
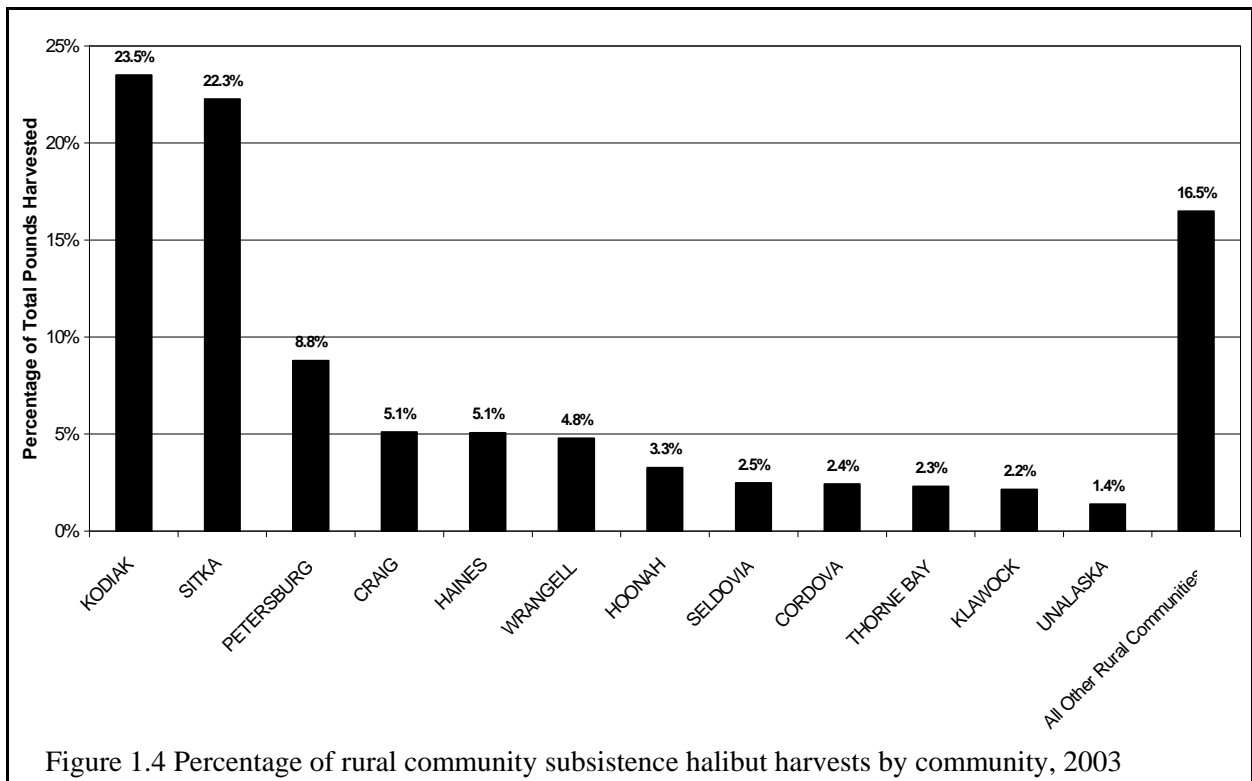


Figure 1.6 illustrates the average subsistence halibut harvest in pounds round weight for those SHARC holders who subsistence fished in 2003. Figure 1.7 illustrates the average harvest in numbers of halibut per fisherman. For the State overall, on average, subsistence halibut fishermen harvested 281 lb round weight, or about 9 halibut per person, in 2003. Average harvests per fisherman did not vary substantially between regulatory areas.

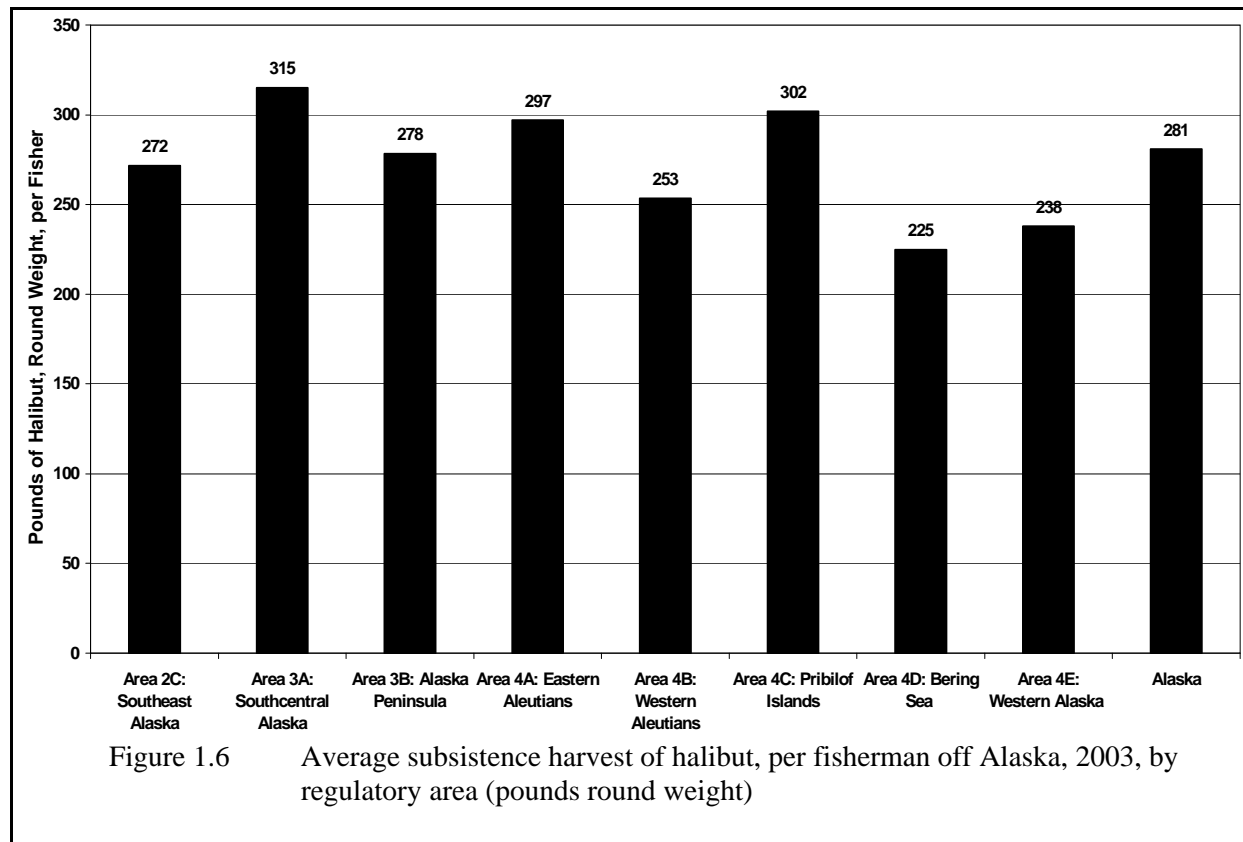
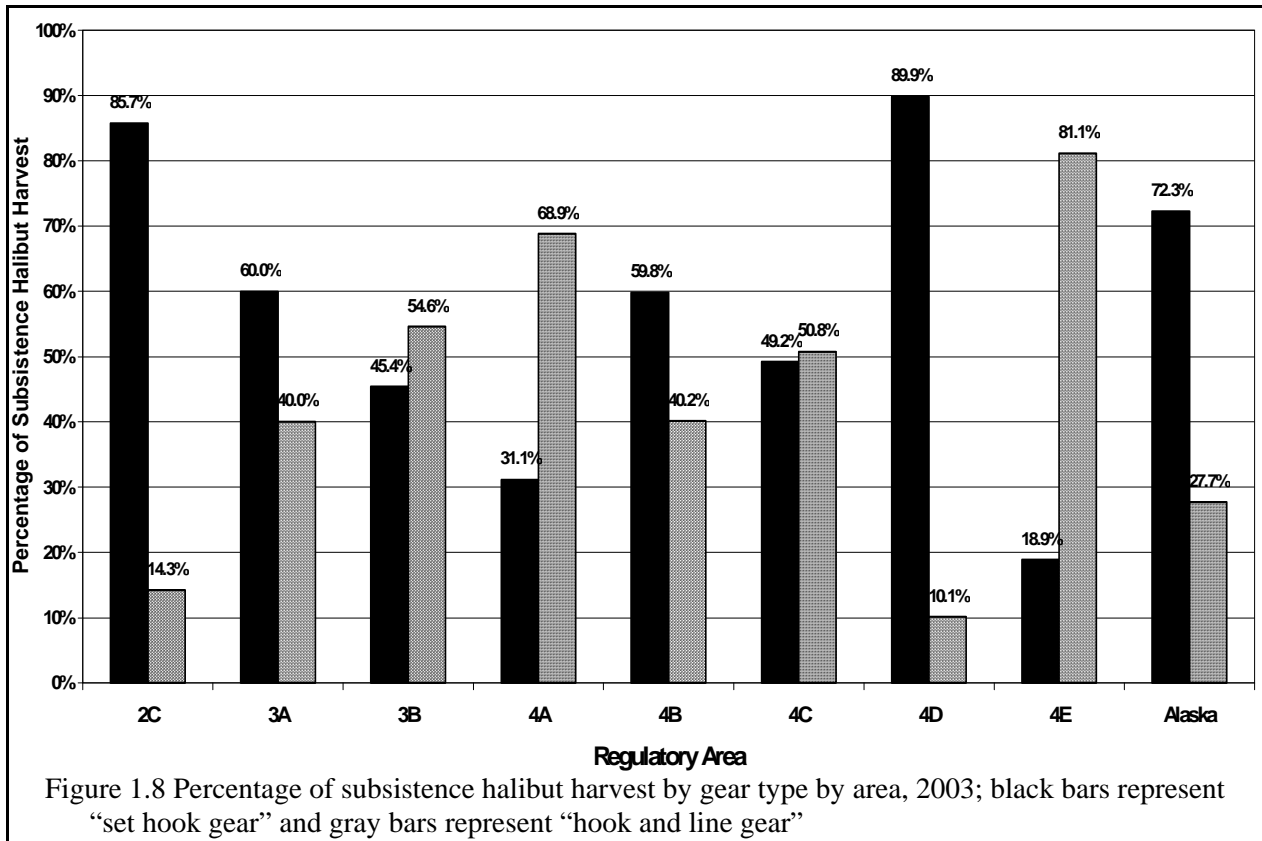
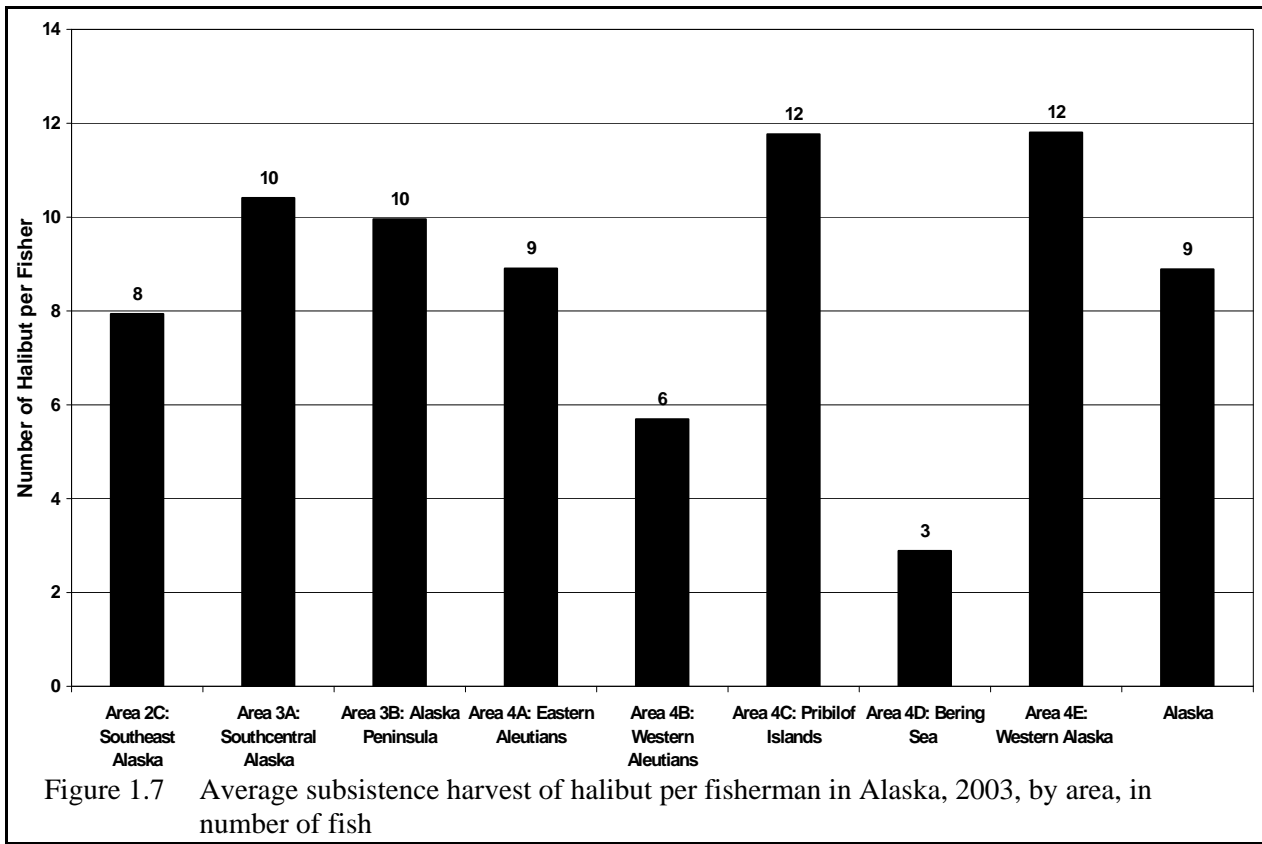


Table 1.1 reports the estimated subsistence harvests of halibut off Alaska in 2003, by gear type and regulatory area. In total, 1,002,212 lb (72 percent) of halibut (round weight) were harvested using set hook gear (longlines or skates) and 384,204 lb (28 percent) were harvested using hand lines or lines attached to a rod or pole. There were notable differences between regulatory areas (Table 1.1, Figure 1.8). Harvests using set hook gear predominated in Area 4D (90 percent of the total subsistence harvest), 2C (86 percent), 3A (60 percent), and 4B (60 percent). In contrast, hook and line accounted for most of the subsistence halibut harvests in Area 4E (81 percent) and 4A (69 percent). Harvests were more evenly split between set hook gear and hook and line gear in Area 3B (45 percent with set hook gear, 55 percent with hook and line) and Area 4C (49 percent with set hook gear, 51 percent with hook and line).



1.3 Description of Proposed Actions

The Secretary approved the Council's recommended Subsistence Halibut Policy and published implementing regulations on March 7, 2003, at 68 FR 18145, and codified in 50 CFR 300-Subpart E, authorizing a subsistence fishery for halibut in Convention waters off Alaska. In April 2002, the Council proposed a suite of amendments to the original Subsistence Halibut Policy, while postponing several proposed amendments to be included in a separate action. The Secretary approved the initial suite of amendments to the original Subsistence Halibut Policy, which addressed several cultural and management concerns among the IPHC areas. Implementing regulations for the subsequent amendments to the Subsistence Halibut Policy were published on April 1, 2005, at 70 FR 16742.

Following the completion of the Subsistence Halibut Survey in April 2004, the Council revisited the postponed amendments in October 2004. The Council took final action in December 2004 on the remainder of the recommended provisions contained in its April 2002 action that were not included in the initial amendments to the Subsistence Halibut Policy. This analysis addresses six actions to further amend the subsistence halibut regulations.

Action 1 would revise the Sitka Sound LAMP to address localized depletion concerns and align State and Federal regulations regarding rockfish retention in Kodiak, Prince William Sound, and Cook Inlet.

Action 2, to add Port Tongass Village and Naukati to the list of eligible subsistence halibut communities, was recommended by the Board in February 2004, to comply with a Council request to periodically review proposals to revise the list of eligible communities.

Action 3, to implement a possession limit in the subsistence halibut fishery, was proposed by the International Pacific Halibut Commission staff to facilitate enforcement.

Actions 4 and 5, to revise cash trade for subsistence halibut, and the definition of a charter vessel and its use in the subsistence halibut fishery, respectively, were proposed by NMFS staff to address implementation problems identified in the fishery to facilitate enforcement.

Action 6, to allow fishing in non-subsistence areas under special permits, was proposed by the Alaska Native Subsistence Halibut Working Group, during public testimony in October 2003, to mirror customary and traditional fishing practices.

None of the actions are intended to change the amount of halibut harvested for subsistence use. The objective of the proposed actions is to develop regulations to facilitate enforcement through compatible State and Federal regulations (Action 1), periodically review petitions for inclusion on the list of eligible communities (Action 2), improve implementation of the program (Actions 3, 4, and 5), and reflect local subsistence fishing practices in all areas (Action 6).

The Council identified that whether subsistence halibut harvests have increased as a result of implementation of the subsistence halibut program is a critical issue. However, insufficient information is available to determine whether a net increase in harvest has occurred since the regulations implementing the subsistence halibut fishery became effective in mid-year 2003 and the survey for that partial year was completed in late 2004. The 2004 survey was compared with previous ADF&G Subsistence Division household survey estimates of halibut removals under Action 1. The Council also requested that the analysis include a comparison between ADF&G subsistence and sport halibut estimates for 2003. ADF&G staff reported that such an analysis was planned for the future, but results have not been provided to the Council.

2.0 Action 1 -Subsistence Halibut Gear Restrictions

The Alaska Board of Fisheries notified the Council of potential public confusion regarding conflicting Federal and State subsistence regulations beginning in February 2002. Federal subsistence halibut regulations allow the use of 30 hooks per person, with no upper limit on the number of hooks that may be deployed from a vessel, if the appropriate number of eligible users are on board the fishing vessel. State of Alaska subsistence regulations vary, by area. For example, for Kodiak they specify that rockfish and lingcod may only be taken by hand lines, or longlines with no more than five hooks. In Cook Inlet and Prince William Sound, legal State gear for rockfish and lingcod also includes single hand troll, which includes rod and reel. There are no State subsistence groundfish gear rules or bag limits in Southeast Alaska. Additionally, Federal and State personal use regulations for halibut allow only two hooks on a single handline. Because subsistence fishermen may not “target” just one species, but catch a mix of Pacific halibut, Pacific cod, rockfish, and ling cod depending on the areas being fished, a harvester may be in compliance with Federal subsistence regulations and out of compliance with State subsistence regulations, although both sets of regulations are enforceable by each respective enforcement agency.

The Board recommended that the Council consider adopting a suite of proposed measures to address community concerns in three areas proposed by the Board for local area management plans (LAMPs) in Southcentral Alaska (Area 3A), and the Sitka Sound LAMP area. These recommendations were based on public testimony to address localized depletion concerns regarding halibut, rockfish, and lingcod in densely populated and easily accessible areas, which was provided to the Board in the affected communities in 2001.

However, the preferred alternative, which was recommended originally by the Council in April 2002 (colloquially called “Subsistence II”), modified the Board recommendation for 5 hooks in Area 3A to 10 hooks based on public testimony to the Council in 2002. The preferred alternative did not remedy the conflict between the subsistence groundfish gear limit of 5 hooks in State waters and the subsistence halibut gear limit of 30 hooks in Federal waters (i.e., neither a 10-hook, nor 30-hook subsistence halibut gear limit would mirror the 5 hook State subsistence groundfish limit). There is no enforcement difficulty, because State enforcement officers will enforce State regulations and Federal enforcement officers will enforce Federal regulations. However, this lack of parity between State and Federal subsistence language has led to confusion among the public about which regulations are in effect when both groundfish and halibut may be caught on longline gear.

During Council review of the April 2002 draft proposed rule for Subsistence II, in October 2003, the Council decided to bifurcate its 2002 preferred alternative based on recommendations from NOAA Enforcement, the Enforcement Committee, and ADF&G staff. The proposed rule for those regulatory amendments under Subsistence II, which proceeded to Secretarial review after the local area issues were bifurcated, was published on July 9, 2004 (69 FR 41447); the final rule was published on April 1, 2005 (70 FR 16742). The Council requested this analysis of local area management options in Area 3A and the Sitka LAMP area. Revised options are included under Action 1, Alternative 2.

The objective of Action 1, Alternative 2 is to address local community needs for subsistence halibut, concerns regarding local depletion of halibut, and speculation regarding the potential for increased halibut, rockfish (*Sebastes* spp.), and ling cod (*Ophiodon elongatus*) removals under the subsistence halibut program. The Board identified its concern with concurrent catch of rockfishes and ling cod in the subsistence halibut fisheries in the four local areas of Kodiak, Cook Inlet, Prince William Sound, and Sitka Sound¹. It recommended more conservative subsistence halibut gear and harvest limits to conform with the State’s subsistence groundfish regulations in Area 3A. The State groundfish limits were based on conservation concern for rockfish in Area 3A. No State subsistence limits apply in Southeast Alaska, however, the Board is concerned over the potential for increased halibut and groundfish removals in Southeast Alaska. It also is

¹Alaska Board of Fisheries Findings for Recommendations on Subsistence Halibut Regulations #2001-206-FB

concerned about potential increases in rockfish catches in the subsistence halibut fishery by non-local, eligible users who would be qualified to come to these areas to subsistence fish, but who may not possess the local knowledge necessary to avoid rockfish harvests.

The Council adopted the following problem statement for Action 1 during its June 2004 meeting. *Subsistence halibut regulations do not address concerns raised by the Alaska Board of Fisheries regarding local depletion of rockfish and lingcod as a result of their catch in the subsistence halibut fishery in local areas.*

2.1 Alternatives Considered

Alternative 1. No action.

For Kodiak and Chiniak Bay², Cook Inlet³, and Prince William Sound⁴, status quo Federal subsistence regulations permit 30 hooks per person, with up to three times that number of hooks allowed, provided that at least three subsistence user(s) are on board the vessel, not to exceed 90 hooks per vessel. For the Sitka Sound LAMP⁵ area, status quo Federal subsistence regulations consist of 30 hooks and 20 halibut per vessel. Power hauling is allowed. There is no annual limit on subsistence halibut taken.

Alternative 2. Change gear and annual limits in local areas.

(a) in Kodiak road zone and Chiniak Bay:

Issue 1. Gear limit, annual limit, and community harvest permit program:

Option 1. 5 hooks and 20 fish annual limit

Option 2. 10 hooks and 20 fish annual limit

Issue 2. Limit stacking on a single unit of gear per trip, provided the subsistence user(s) are on board the vessel, to:

Option 1. one hook limit (no stacking)

Option 2. two times the hook limit

(b) in Prince William Sound:

Issue 1. Gear limit and community harvest permit program:

Option 1. 5 hooks

Option 2. 10 hooks

Issue 2. Limit stacking on a single unit of gear per trip, provided the subsistence user(s) are on board the vessel, to:

Option 1. one hook limit (no stacking)

Option 2. two times the hook limit

(c) in Cook Inlet:

Issue 1. Gear limit and community harvest permit program:

²Kodiak Road Zone means all waters within one mile of Kodiak and Spruce Islands that are east of a line extending south from Crag Point on the west side of Anton Larsen Bay to the westernmost point of Saltery Cove, including all waters of Woody, Long, and Spruce Islands and all of Chiniak Bay west of a line extending from the easternmost point of Cape Chiniak to the easternmost point of Long Island.

³Cook Inlet means all waters of Alaska enclosed by a line extending east from Cape Douglas (58 degrees 51.10' N. lat.) and a line extending south from Cape Fairfield (148 degrees 50.25' W. long.).

⁴Prince William Sound means all waters of Alaska between the longitude of Cape Fairfield (148 degrees 50.25' W. long.) and Cape Suckling (144 degrees W. long.).

⁵The LAMP implemented measures to reduce competition for halibut in Sitka Sound by restricting commercial and charter fishing boats from halibut fishing in Sitka Sound to allow personal use and non-guided sport fishermen greater opportunity to catch halibut in the waters near Sitka. The regulations for the Sitka LAMP area are defined in 50 CFR 300.63.

- Option 1. 5 hooks
- Option 2. 10 hooks
- Issue 2. Limit stacking on a single unit of gear per trip, provided the subsistence user(s) are on board the vessel, to:
 - Option 1. one hook limit (no stacking)
 - Option 2. two times the hook limit

(b) in Sitka Sound LAMP:

Seasonal gear and vessel limits:

June 1 to August 31

September 1 to May 31

15 hooks per vessel

no power hauling

5 halibut per day/vessel

10 halibut per day/vessel

Option: Apply above seasonal restrictions to all of Area 2C

Option under (a) - (d): Require mandatory retention of rockfish. A fisherman would be required to stop subsistence halibut fishing for that day, if the legal limit of rockfish allowed under State regulations were caught. This applies to the current State limits for rockfish only. Subsistence users would not be restricted below current bag limits.

Alternative 2 proposes revised subsistence halibut gear limits in the Kodiak, Prince William Sound, and Cook Inlet areas, an annual harvest limit in the Kodiak area, and a CHP program to mitigate the effects of these proposed reductions. The proposed use of CHPs is based on current regulations that allow an Alaska Native Tribe, or community representatives in the absence of a tribe, to select individuals to harvest halibut on behalf of the tribe or community in Area 2C. These permits relieve certain gear and harvest restrictions on persons fishing under them for subsistence halibut, while adding application and reporting requirements (see Section 2.3 for program requirements).

Alternative 2 also proposes to reduce the vessel gear limit, reduce vessel harvest limit, and ban power hauling in the Sitka LAMP area. An option proposed for all four local areas would require mandatory retention of all rockfish. The option also would require harvesters to stop subsistence fishing for the day when a State rockfish bag limit is reached.

Alternative 3. Preferred Alternative. Change gear and vessel limits in local areas, and allow a community harvest permit program.

- (a) in Kodiak road zone and Chiniak Bay, limit stacking on a single unit of gear per trip, provided the subsistence user(s) are on board the vessel, to two times the hook limit per vessel

- (b) in Sitka Sound LAMP, implement seasonal gear and vessel limits:

June 1 to August 31

September 1 to May 31

15 hooks per vessel

no power hauling

5 halibut per day/vessel

10 halibut per day/vessel

During final action in December 2004, the Council selected its preferred alternative for Action 1. The preferred alternative for the Kodiak area would lower the limit for stacking gear on a vessel from three limits of gear (a maximum of 90 hooks) to two limits of gear (a maximum of 60 hooks), provided the subsistence users are both on board the vessel. A CHP would allow an eligible tribe (or community in the absence of a tribe) to use up to 90 hooks, with additional record keeping and reporting requirements. Also, under a ceremonial or educational permit the limit would be 90 hooks per vessel.

Under this action, NMFS would provide a definition of Chiniak Bay based on the State of Alaska's definition of the Kodiak Road Zone found at 05 AAC 64.005 that would be modified to include the Chiniak Bay area. NMFS would define Chiniak Bay as all waters bounded by the shoreline and straight lines connecting the

coordinates in the order listed: north from Cape Chiniak (57°37.22' N. lat., 152°9.36' W. long.); to Buoy #1 at Williams Reef (57°50.36' N. lat., 152°8.82' W. long.); to East Cape on Spruce Island (57° 54.89' N. lat., 152°19.45' W. long.); to Termination Point on Kodiak Island (57°51.31' N. lat., 152°24.01' W. long.); and connecting to a line running counterclockwise along the shoreline of Kodiak Island to Cape Chiniak (57°37.22' N. lat., 152°9.36' W. long.). NOAA Enforcement supports this definition of the proposed area because it would be simple to enforce and comply with as the reference points are unvarying, can generally be seen from the fishing grounds relative to each other, and can be easily drawn on both paper and e-charting systems. The proposed area also includes the vast majority of local small vessel sport and subsistence grounds historically fished for halibut and is consistent with the area targeted by the Council's proposed Kodiak Road Zone recommendation.

The preferred alternative for the Sitka LAMP area would create seasonal gear and vessel limits: (1) for June 1 through August 31: (a) prohibit power hauling, (b) limit the number of halibut per day per vessel to 5; and (c) lower the gear limit from 30 to 15 hooks per vessel; and (2) for September 1 through May 31: limit the number of halibut per day per vessel to 10. A CHP is not allowed in the Sitka LAMP area.

A comparison of the Action 1 alternatives is provided in Table 2.1.

2.2 Expected Effects of the Alternatives

Action 1, Alternative 1. Taking no action under Action 1 may only delay implementing regulatory changes that address public concerns regarding depletion of halibut and rockfish in local waters off more densely populated communities. Federal regulations and State regulations will not be in conformance until a more thorough vetting of local issues with subsistence, private sport, guided sport, and commercial sectors occurs through the development of LAMPs. While there is no evidence from State or Federal biologists that either halibut or rockfish are locally depleted in terms of reduced population sizes, some local area residents remain concerned about reduced catch rates.

Federal regulations govern the subsistence halibut fishery in State and Federal waters. There are no Federal subsistence or personal use regulations for groundfish (e.g., rockfishes and lingcod) in Federal waters, and State regulations apply. State regulations do not allow retention of groundfish if harvested with gear that is illegal under State definitions. Therefore, subsistence halibut harvesters may not retain rockfish or ling cod if using more than the State limit of 5 hooks. Summaries of Federal and State regulations for halibut and groundfish follow.

Federal Regulations. Current Federal regulations define subsistence halibut fishing in Convention waters in and off Alaska at 50 CFR 300.65. Those regulations, as adopted in April 2003, and revised in April 2005, are considered the "no action" alternative for Action 1. The record supporting implementation of those regulations may be found in NPFMC (2002, 2004) and in the proposed and final rules for the initial implementation of the program [67 FR 3867, January 28, 2002 and 68 FR 18145, April 15, 2003], and under Subsistence II [69 FR 41447 and 70 FR 16742]. Current subsistence halibut regulations for gear and retention limits for Federal and State waters are described below and in greater detail in Appendix 3.

Legal gear. Regulations at 50 CFR 300.65(g)(1) stipulate that subsistence fishing gear set or retrieved from a vessel must not have more than 30 hooks per person on board the vessel, and shall never exceed 3 times

Table 2.1. Comparison of the Alternatives under Action 1.

	Alternative 1	Alternative 2	Preferred Alternative
Kodiak Road Zone and Chiniak Bay (in Area 3A) (same as for Cook Inlet) Option. Rockfish retention	baseline	<ul style="list-style-type: none"> ▶Set annual limit to 20 halibut per person and reduce allowable gear to <u>either</u> 5 or 10 hooks per person; ▶Reduce gear to <u>either</u> 1 or 2 times the 30-hook limit provided that the subsistence user(s) are on board the vessel ▶Mandatory retention of rockfish up to allowable limits 	<ul style="list-style-type: none"> ▶Reduce allowable gear to 10 hooks per person ▶Reduce gear to 2 times the current 30-hook limit provided that the subsistence user(s) are on board the vessel ▶No action
Prince William Sound (In Area 3A) Option. Rockfish retention	baseline	<ul style="list-style-type: none"> ▶Reduce allowable gear to <u>either</u> 5 or 10 hooks per person; ▶Reduce allowable gear to <u>either</u> 1 or 2 times the 30-hook limit provided that the subsistence user(s) are on board the vessel ▶Mandatory retention of rockfish up to allowable limits 	<ul style="list-style-type: none"> ▶No action
Cook Inlet (in Area 3A) (same as for Kodiak) Option. Rockfish retention	baseline	<ul style="list-style-type: none"> ▶Reduce allowable gear to <u>either</u> 5 or 10 hooks per person; ▶Reduce allowable gear to <u>either</u> 1 or 2 times the 30-hook limit provided that the subsistence user(s) are on board the vessel ▶Mandatory retention of rockfish up to allowable limits 	<ul style="list-style-type: none"> ▶No action
Sitka Sound LAMP Area (in Area 2C) Option. Apply Sitka Sound LAMP alternatives to all areas of Area 2C Option. Rockfish retention	baseline	<ul style="list-style-type: none"> ▶For June 1 - August 31: reduce gear to 15 hooks per vessel, prohibit power hauling, limit retention to 5 halibut/day/ vessel. ▶For September 1 - May 31: reduce retention to 10 halibut/day/ vessel ▶See immediately above ▶No action 	<ul style="list-style-type: none"> ▶Same as Alternative 2 ▶No action ▶No action

the per-person hook limit, except that: (a) no hook limit applies in Areas 4C, 4D, and 4E; (b) subsistence fishing gear set or retrieved from a vessel in Area 2C must not have more than 30 hooks per vessel, unless fishing under a CHP; (c) setline gear may not be used in a 4 nautical mile radius extending south from Low Island at 57°00' 42" N. lat., and 135° 36' 34" W. long. within the Sitka LAMP from June 1 to August 31.

Daily retention limit. Regulations at 50 CFR 300.65(g)(2) stipulate that the daily retention of subsistence halibut in rural areas is limited to no more than 20 fish per person on board the vessel, except that: (a) no daily retention limit applies in Areas 4C, 4D, and 4E; (b) no daily retention limit applies to persons fishing under a CHP; (c) the total allowable harvest for persons fishing under a Ceremonial or Educational Permit is 25 fish per permit; and (d) the daily retention limit is 20 fish per vessel in Area 2C.

State Regulations. The State manages commercial, recreational, personal use, and subsistence rockfish fisheries. The Board has established conservative regulations, since information on stock status, and whether abundance-based fishery objectives are being met, is lacking. The following information is taken from a paper prepared by ADF&G staff for the Board's Kodiak, Homer, and Cordova April 2001 public hearings (ADF&G 2001a). It compared State subsistence fishing regulations in Southeast Alaska with Federal regulations that define subsistence halibut fishing, and identified areas in which fisheries that harvest groundfish, including lingcod and rockfish, have been restricted or closed.

Federal gear limits for subsistence halibut are substantially more liberal than State limits for subsistence rockfish and lingcod, but are, in some cases, more restrictive than allowed for groundfish other than rockfish or lingcod. Current State subsistence regulations for rockfish and lingcod in Cook Inlet and Prince William Sound allow use of hand-troll or hand-held line or a single longline, none of which may have more than five hooks attached. Hand-troll gear is not allowed in Kodiak. 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. State subsistence bag limits for rockfish in Cook Inlet and Prince William Sound are not simply five rockfish. There also is a limit of one non-pelagic (demersal or slope) rockfish in Cook Inlet and two non-pelagic species in Prince William Sound. The probability of exceeding these limits on a single deployment of longline gear under existing gear limits is high. These regulations were designed to allow sufficient opportunity to harvest rockfish and lingcod for subsistence, while minimizing their waste. In all three areas: one may not possess sport and subsistence fish on the same day. In Kodiak and Prince William Sound, lingcod and rockfish taken incidentally in other subsistence finfish fisheries may lawfully be taken and retained for subsistence use (up to daily bag limit, and lingcod closed season still applies).

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 2.2). In the Cook Inlet Area, other groundfish may be taken by any gear allowed for commercial groundfish fishing (Table 2.3). In Prince William Sound, other groundfish may only be taken on legal gear for rockfish and lingcod (Table 2.4). There are no reporting requirements for subsistence harvests of halibut or groundfish anywhere in the Kodiak, Cook Inlet, or Prince William Sound areas.

Table 2.2. Federal and State of Alaska subsistence groundfish regulations in the Kodiak area.

Regulation	Federal Halibut	State (5 AAC 01 510 & 520 & 545)		
		Rockfishes	Lingcod	Other Groundfishes
Season	Entire year	Entire year	Jul 1-Dec 31	Entire year
Legal Gear	Setline and handheld gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jig, and hand-troll gear, and must not exceed 3 times the per person hook limit per vessel.	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) unless restricted under a subsistence permit.
Bag Limit	20; 25 when fishing under a Ceremonial or Educational Permit.	10 (20 in possession), any species	2 (4 in possession)	None
Open Waters	Entire area	Entire area		

Table 2.3. Federal and State of Alaska subsistence halibut and groundfish regulations in Cook Inlet.

Regulation	Federal Halibut	State (5 AAC 01 560 & 570 & 595)		
		Rockfishes	Lingcod	Other Groundfishes
Season	Entire year	Entire year	Jul 1- Dec 31	Entire year
Legal Gear	Setline and handheld gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jig, and hand-troll gear, and must not exceed 3 times the per person hook limit per vessel.	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	20; 25 when fishing under a Ceremonial or Educational Permit.	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 of Cook Inlet as far south as Seldovia and the waters of Resurrection Bay and off the south end of the Kenai Peninsula	Waters outside the non-subsistence area described in 5 AAC 99.015(a)(3)		
Amount	Not applicable	750-1,350 fish	100-225 fish	None specified

Table 2.4. Federal and State subsistence halibut and groundfish regulations in Prince William Sound.

Regulation	Federal Halibut	State (5 AAC 01.610 & 620 & 645)		
		Rockfishes	Lingcod	Other Groundfishes
Season	Entire year	Entire year	Jul 1- Dec 31	Entire year
Legal Gear	Setline and handheld gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jig, and hand-troll gear, and must not exceed 3 times the per person hook limit per vessel.	Single hand-troll, single hand-held line, or single longline, none of which may have more than five hooks		
Bag Limit	20; 25 when fishing under a Ceremonial or Educational Permit.	May 1 - Sep 15: 5 (10 in possession), . Sep 16 - Apr 30: 10 (10 in possession) both seasons: no more than 2 per day or in possession may be non-pelagic	2 (4 in possession), 35 inch min.	None, except shark bag limit is 1 fish (2 in possession)
Open Waters	Entire area	Waters outside the non-subsistence area described in 5 AAC 99.015(a)(5)		
Amount	Not applicable	7,500-12,500 fish	1,000-1,500 fish	16,000-24,000 lb

Restricted or Closed Waters and Special Regulations The Board and ADF&G 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 Board amended the rockfish management plan by closing the PWS directed fishery and requiring full retention of all rockfish caught. Proceeds from 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.

Sport and subsistence rockfish fisheries in Cook Inlet and Prince William Sound are managed under relatively conservative bag limits, with special restrictions placed on older, slower growing demersal and slope (non-pelagic) species. In Cook Inlet (including Resurrection Bay), sport and subsistence bag limits allow harvest of only one non-pelagic rockfish per day. In Prince William Sound (PWS), sport and subsistence bag limits allow two non-pelagic rockfish per day. 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 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 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 Cook Inlet and Prince William Sound are managed under GHGs of 35,000 lb and 24,500 lb, respectively. The Prince William Sound GHG is split between the Inside District (5,500 lb) and Outside District (19,000 lb).

Generally, groundfish in Southeast Alaska may be taken at any time and there are no daily bag or possession limits. There are no personal use fisheries for groundfish in PWS, Cook Inlet, or Kodiak. State subsistence regulations do not recognize rod and reel as a legal gear type for the groundfish subsistence fishery, although hand troll gear is permitted in the Yakutat and Southeastern areas and the definition of hand-troll includes rod and reel. Groundfish taken on rod and reel gear in State waters by individuals participating in the Federal subsistence halibut fishery shall be restricted to established seasons and bag and possession limits set under sportfishing regulations. When Federal subsistence fishing for halibut outside of established State subsistence and non-subsistence areas, groundfish may be retained under personal use regulations.

State regulations for personal use groundfish fisheries in Southeast Alaska are provided in Figure 2.1. In both the Sitka Sound LAMP area and near Ketchikan, the daily rockfish possession limit is three fish, of which no more than one may be a yelloweye rockfish (*Sebastes ruberrimus*). Where there are groundfish gear and possession limits in State waters,

all incidental catch must be returned to the water (i.e., discarded) unless the fisherman uses legal gear (as defined by the State). The incidental catch may only be retained up to the legal limit if harvested with legal gear. Therefore, a harvester of Federal subsistence halibut may retain rockfish and lingcod up to the legal daily and possession limits in State waters only if the harvester voluntarily limits the gear in the Federal subsistence halibut fishery to the State limit of 5 hooks.

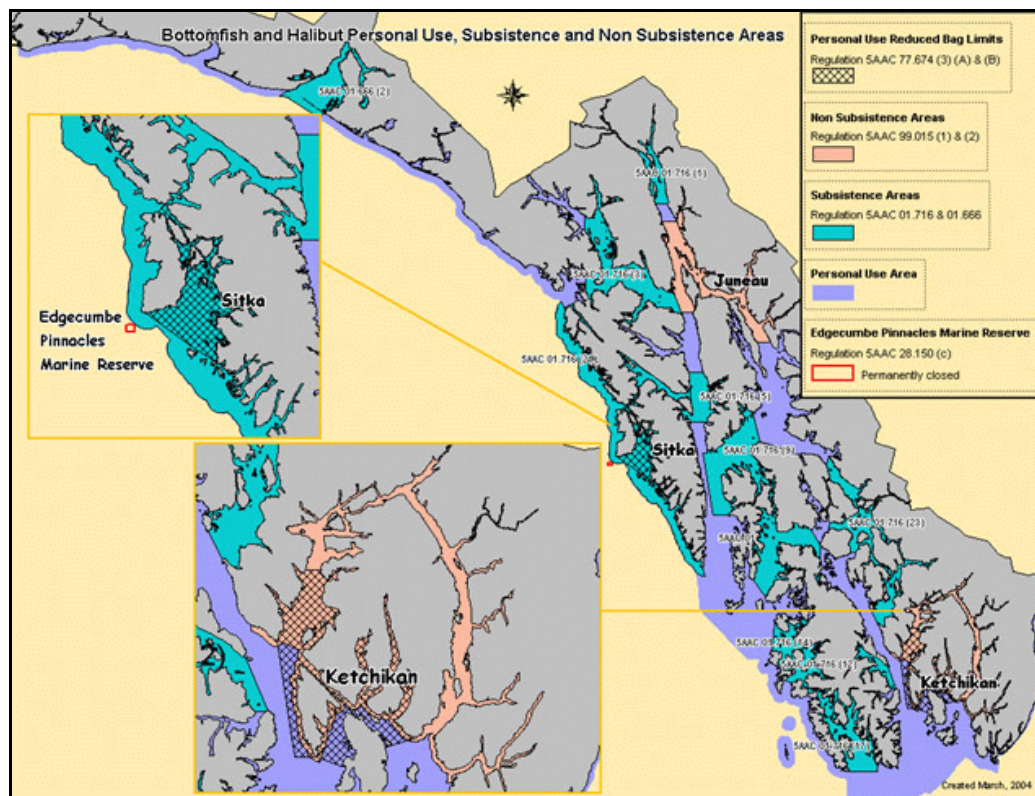


Figure 2.1. State of Alaska roundfish and halibut personal use, subsistence, and non-subsistence areas. (Source: ADF&G)

For lingcod, rockfish, sablefish, and other groundfish species, State regulations do not limit the number of hooks attached to hook and line gear, including longlines, and allow other gear such as gillnets and purse seines (ADFG 2001b) (Table 2.5). Three fishing areas were closed by the State to protect rockfish and lingcod. Summaries of the Sitka Pinnacles closed area, the rockfish savings areas, and lingcod savings area may be found in Appendix 4.

Table 2.5. Federal and State of Alaska subsistence halibut and groundfish regulations in the Sitka Sound LAMP.

Regulation	Federal Sitka Sound LAMP	State		
	Halibut	Rockfishes	Lingcod	Other Groundfishes
Season	Entire year	None specified		
Legal Gear	setline and hand-held gear of not more than 30 hooks <u>per vessel</u> , including long-line (longlines may not be used 4 nautical miles south and west of Low Island), handline, rod and reel, spear, jig, and hand-troll gear.	None specified		
Bag Limit	20 <u>per vessel</u> ; 25 when fishing under an Educational Permit.	None specified		
Open Waters	Waters inside a line from Kruzof Island to Chichagof Island <u>and</u> a line from Chichagof Island to Baranof Island <u>and</u> a line from Sitka Point to Hanus Point to the green day marker at Dorothy Narrows to Baranof Island	None specified		

A report contracted by NMFS (memo from Norman Cohen to Jay Ginter, dated June 19, 2003) identified where State of Alaska groundfish subsistence and personal use regulations may place limitations on the conduct of Federal subsistence halibut program participants (Table 2.6).

Action 1, Alternative 2. Gear limits under Federal subsistence halibut regulations and State subsistence groundfish regulations are inconsistent, and neither technically allow retention of State groundfish in the Federal halibut fishery, although they are harvested simultaneously. This incompatibility was acknowledged by the Council in its original analysis that defined the subsistence halibut fishery (NPFMC 2002). The issue of incompatible regulations was left to be resolved in this trailing amendment.

While NOAA Enforcement can enforce the current Federal regulations, the State has identified a potential waste/conservation problem in some waters managed by the State. In October 2003, NOAA Enforcement staff, the Enforcement Committee, and State of Alaska representative on the Council recommended that the Council develop a revised analysis to consider changing the Federal regulations to achieve consistency with State regulations to eliminate public confusion and rockfish discards.

Table 2.6 Identification of potential conflicts between State and Federal subsistence regulations.

<p>In areas of State waters where: customary and traditional uses of bottomfish have been identified, but no gear limits or possession limits apply</p>	<p>Then: no conflict occurs with State regulations and rockfish may be retained with Federal subsistence halibut gear. Examples of these areas include the Chignik, Alaska Peninsula, Aleutians, Bering Sea, and some areas in Southeast.</p>
<p>customary and traditional uses of bottomfish have not been identified</p>	<p>a subsistence halibut harvester who possesses a State sport fish license may retain all of groundfish under unlimited State personal use regulations (no gear or harvest limits). If the fisherman does not have a sport fish license, then the incidental catch must be returned to the water. Therefore, no gear conflicts occur. Examples of these areas include the Petersburg, Wrangell, Stephen's Passage, and outside Yakutat Bay waters.</p>
<p>customary and traditional uses of bottomfish have been identified, and there are State gear and possession limits for bottomfish</p>	<p>all incidental catch must be returned to the water unless the fisherman uses the gear specified for the incidental catch. If the proper gear is used, then it may be retained, but only to the level of the retention limits. This situation occurs in Prince William Sound, Cook Inlet, and Kodiak waters. There may be other areas of conflict between Federal and State regulations that are not addressed under Alternative 2.</p>

Alternative 2, Part (a) would amend the regulations off the Kodiak Road Zone and Chiniak Bay (Figure 2.2) to: (1) decrease the individual gear limit from 30 to 5 (or, alternatively, an option would change the limit to 10) hooks; (2) decrease the units of gear fished/vessel from three to one (or, alternatively, an option would change this gear limit to two units of gear fished/vessel, provided that the subsistence user(s) are on board the vessel; and (3) create a 20 halibut annual limit. The annual limit is only proposed for this local area.

“Kodiak” in Fall et al. (2004) includes the city of Kodiak (population 6,334 in 2000, including 829 Alaska Natives) and those portions of the Kodiak Island Borough connected to Kodiak city by road. This area

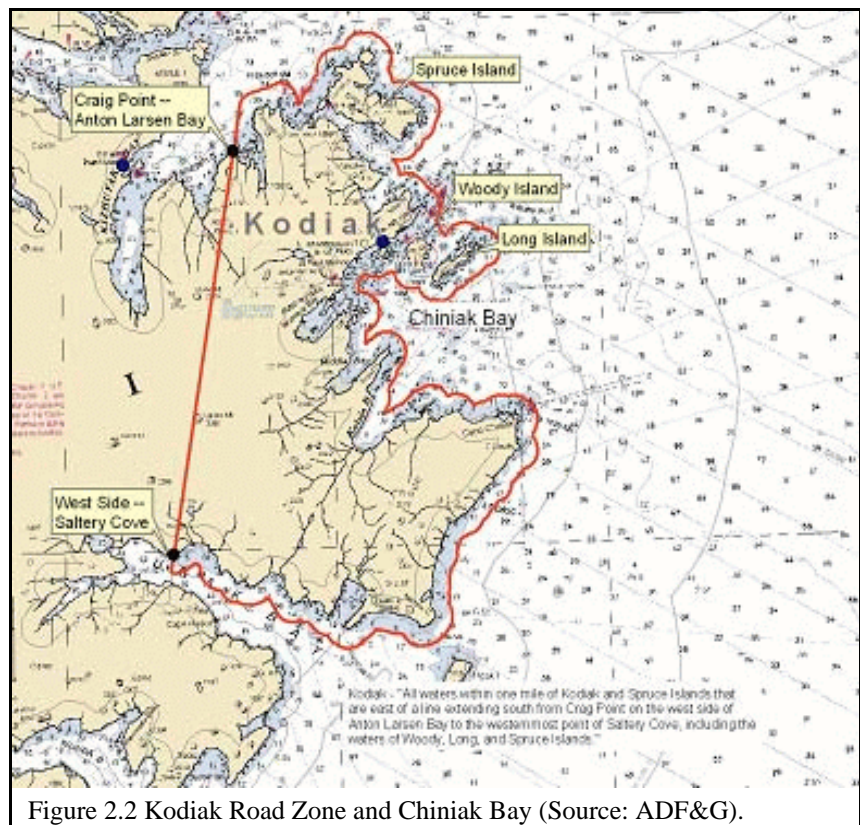


Figure 2.2 Kodiak Road Zone and Chiniak Bay (Source: ADF&G).

had a population of 12,973 people in 2000, including 1,697 Alaska Natives. This was the largest rural community eligible to participate in the Alaska subsistence halibut fishery in 2003.

Based on Division of Subsistence household surveys, estimates of halibut harvests for home use are available for the entire Kodiak road system population for 1982 and 1991. Estimates for Kodiak city residents alone are available for 1992 and 1993, but these can be used to develop a projected total for the entire road system population (Table 2.7). Excluding fish removed from commercial catches for home use, halibut harvests by Kodiak residents ranged from 247,283 lb net weight (+/-30%) in 1991, to 511,254 lb (+/-33%) in 1993. The average for the four available study years was 366,682 lb; of this, 92 percent was taken with rod and reel, most likely consistent with sport fishing regulations. On average, 1,306 Kodiak road system households had at least one member who fished for halibut for home use over the four study years.

Members of the Shoonaq' Tribe of Kodiak (132) and Lesnoi Village (Woody Island) (259), plus other Kodiak residents (1,100) obtained a total of 1,491 SHARCs in 2003. Of these, 652 SHARC permit holders subsistence fished for halibut, with most (69 percent) using set hook gear. Also, 516 fished for halibut under sport fishing regulations. Since it is likely that many Kodiak residents continued to fish for halibut under sport fishing regulations in 2003, the estimated level of participation in the subsistence fishery, based on the SHARC survey, appears reasonable.

The estimated subsistence halibut harvest in 2003, for the two Kodiak tribes and other residents of the Kodiak road system area, was 156,902 lb net weight; of this, 66 percent was taken with set hook gear and the rest with handline or rod and reel. In addition, Kodiak road system SHARC holders harvested an estimated 71,303 lb that was classified as sport-caught. This gives a total estimated halibut harvest by Kodiak road system SHARC holders of 228,205 lb net weight. Not surprisingly, this total is lower than totals based on household surveys for previous years, because, as just noted, many Kodiak road system residents who fish for halibut likely did not obtain SHARCs, but instead harvested halibut under sport fishing rules.

The number of hooks used and subsistence halibut removals in each of the eight IPHC areas can be compared with the four local areas. Survey respondents who fished with set hook gear (single hook or longline) reported how many hooks they “usually set.” In seven of the eight IPHC regulatory areas, most longline fishermen (43 percent) used 30 hooks, the maximum number allowed by regulation (Figure 2.3). The next most frequently reported number was 20 hooks, used by 20 percent of the fishermen who used set hook gear. Ten hooks (8 percent) ranked third, followed by 15 hooks (7 percent) and 25 hooks (7 percent). Five percent of set hook fishermen used fewer than 5 hooks.

There were 28 Alaska communities whose residents had combined estimated subsistence halibut harvests of more than 10,000 lb (round weight) in 2003 (Figure 2.4). Residents of these communities accounted for 87 percent of the total Alaska subsistence halibut harvest in 2003. Kodiak residents totaling 12,973 lb (Kodiak includes Kodiak city and other portions of the Kodiak Island Borough connected to it by roads) ranked second, after Sitka. Kodiak and Sitka comprised 25 percent of the population and 34.5 percent of the harvest of the 28 communities examined.

Survey respondents were asked to report the “water body, bay, or sound usually fished” for subsistence halibut in 2003. Estimated subsistence halibut harvests are reported for the eight Alaska halibut regulatory areas, and 21 subdivisions within these areas, in Table 2.8. Waters bordering the Kodiak Island road system ranked third, with a subsistence halibut harvest of 145,213 lb (10 percent), followed by the remainder of the Kodiak Island area (105,155 lb; 10 percent).

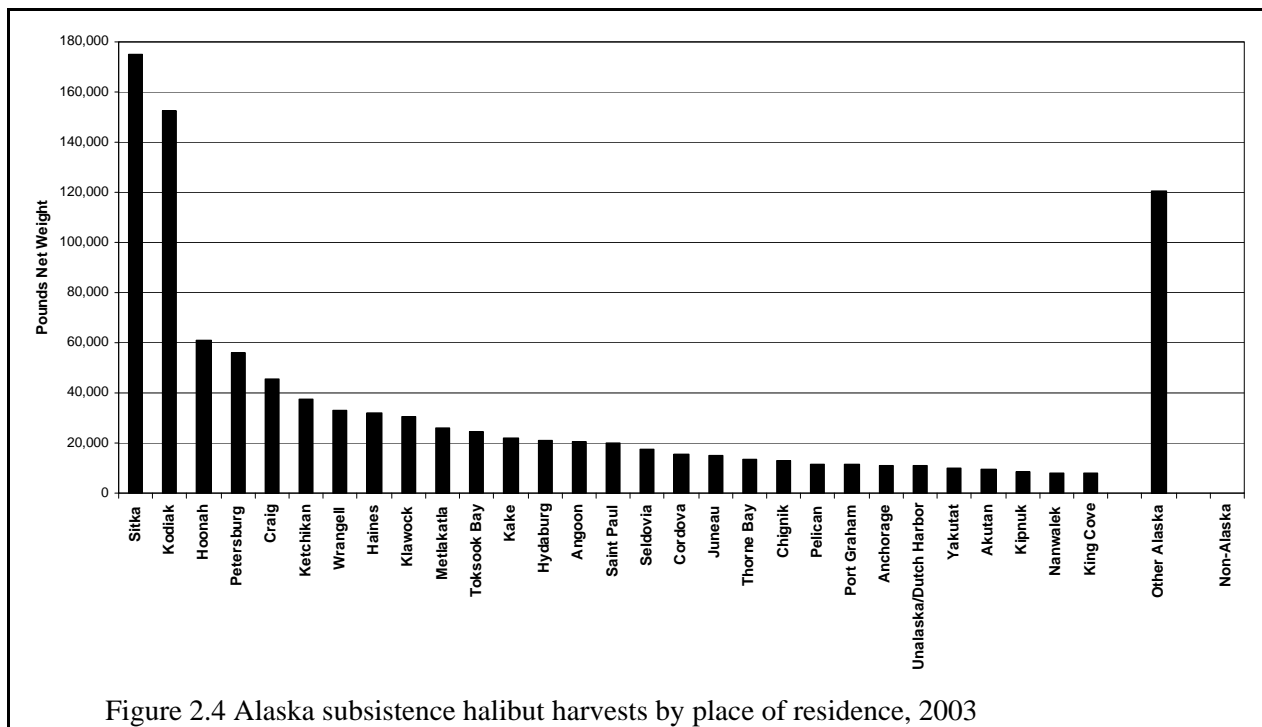


Figure 2.4 Alaska subsistence halibut harvests by place of residence, 2003

Survey respondents were asked to estimate the number of rockfish they harvested while subsistence fishing for halibut. Harvest data at the species level were not collected as part of this survey. Note that these survey results do not represent an estimate for the total subsistence rockfish harvest by SHARC holders, because fishermen might have harvested rockfish while not fishing for halibut, and other fishermen in the communities who did not obtain SHARCs might have fished for rockfish. The Division of Subsistence Community Profile Database (Scott et al. 2001) includes estimates of rockfish

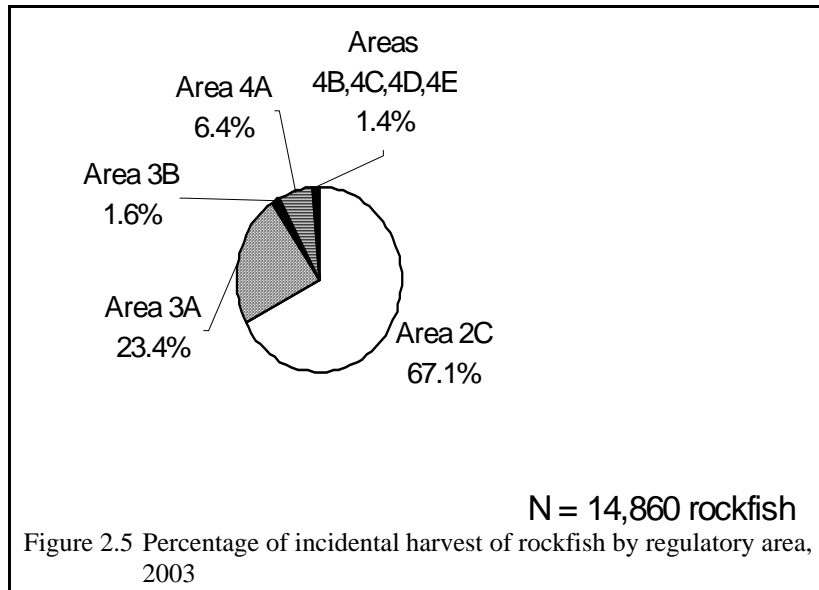


Figure 2.5 Percentage of incidental harvest of rockfish by regulatory area, 2003

harvests for communities in which comprehensive household surveys have been administered. Rockfish are used for subsistence purposes in rural communities throughout their range in Alaska. It is highly likely that rockfish harvested incidentally in the subsistence halibut fishery are utilized as a subsistence food.

The statewide estimated rockfish incidental harvest in the subsistence halibut fishery in 2003, was 14,860 fish, taken by 1,237 fishermen (Table 2.9). This is an average of about 12 rockfish per fisherman. Twenty percent of the subsistence halibut fishermen who caught rockfish lived in Area 3A (243 fishermen). Of all SHARC holders who subsistence fished for halibut in 2003, 25 percent harvested at least one rockfish while fishing. Area 3A tribes and communities accounted for the second-highest total: 3,482 rockfish, 23 percent of the total (Figure 2.5).

Table 2.8 Estimated Alaska subsistence halibut harvests by regulatory area and subarea, 2003.

Subarea	Regulatory Area	Number of SHARCs Issued	Estimated Harvest by Gear Type ¹								
			Set Hook Gear			Hook & Line or Handline			All Gear		
			Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested
Southern Southeast Alaska	2C	3,766	1,073	7,334	291,707	337	2,165	55,510	1,318	9,499	347,218
Northern Southeast Alaska	2C	1,866	850	7,058	225,196	290	1,654	42,783	1,010	8,711	267,980
Sitka LAMP Area	2C	1,610	726	5,766	203,126	151	902	25,774	787	6,667	228,899
Subtotal	2C	7,242	2,649	20,158	720,029	778	4,721	124,067	3,115	24,877	844,097
Yakutat Area	3A	87	33	335	10,721	13	119	2,938	39	454	13,659
Prince William Sound	3A	421	104	596	22,125	57	558	15,475	151	1,154	37,600
Cook Inlet	3A	369	79	1,334	33,048	129	1,596	36,289	185	2,930	69,337
Kodiak Island Road System	3A	1,333	297	2,751	91,464	195	1,588	53,749	438	4,340	145,213
Kodiak Island Other	3A	406	224	2,032	67,923	188	1,203	37,232	362	3,234	105,155
Subtotal	3A	2,606	737	7,048	225,281	582	5,064	145,683	1,175	12,112	370,964
Chignik Area	3B	175	30	212	7,736	52	301	7,308	73	513	15,044
Lower Alaska Peninsula	3B	90	35	473	10,021	47	383	12,622	64	856	22,643
Subtotal	3B	265	65	685	17,757	99	684	19,930	137	1,369	37,687
Eastern Aleutians - East	4A	143	44	359	8,904	65	474	18,212	90	833	27,116
Eastern Aleutians - West	4A	15	0	0	0	5	26	1,869	5	26	1,869
Subtotal	4A	158	44	359	8,904	70	500	20,081	95	859	28,985
Western Aleutians - East	4B	23	11	44	1,997	4	17	1,082	12	61	3,080
Western Aleutians - Other	4B	0	0	0	0	0	0	0	0	0	0
Subtotal	4B	23	11	44	1,997	4	17	1,082	12	61	3,080
St. George Island	4C	30	7	56	1,324	10	42	726	10	99	2,050
St. Paul Island	4C	248	18	420	6,950	29	175	5,986	41	596	12,936
Subtotal	4C	278	25	476	8,274	39	217	6,712	51	695	14,986
St. Lawrence Island	4D	50	19	67	5,253	2	8	593	26	75	5,846
Area 4D, Other	4D	0	0	0	0	0	0	0	0	0	0
Subtotal	4D	50	19	67	5,253	2	8	593	26	75	5,846
Bristol Bay	4E	80	7	12	166	2	4	124	17	16	290
YK Delta	4E	901	60	816	14,545	231	2,956	65,928	289	3,772	80,473
Norton Sound	4E	32	5	0	0	0	0	0	8	0	0
Subtotal	4E	1,013	72	828	14,711	233	2,960	66,052	314	3,788	80,763
Grand totals ¹	Alaska	11,635	3,622	29,665	1,002,206	1,807	14,171	384,200	4,925	43,836	1,386,408

Source: Alaska Department of Fish and Game, Subsistence, SHARC Survey, 2004

Table 2.9 Estimated incidental harvests of lingcod and rockfish by SHARC type and halibut regulatory area, 2003

Halibut Regulatory Area	Return Rate			Subsistence Fished for Halibut?		Lingcod Incidental Harvest			Rockfish Incidental Harvest		
	SHARCs	Returned	Percent	Estimated Number	Percent	Estimated Number with Harvest	Percent of Those Who Subsistence Fished for Halibut	Estimated Number of fish	Estimated Number with Harvest	Percent of Those Who Subsistence Fished for Halibut	Estimated Number of fish
<i>Tribal SHARCs:</i>											
Area 2 C Subtotal	3,132	1,787	57.1%	966	30.8%	125	12.9%	559	276	28.6%	2,966
Area 3 A Subtotal	936	685	73.2%	358	38.2%	50	14.0%	221	69	19.3%	1,211
Area 3B Subtotal	204	124	60.8%	90	44.1%	4	4.4%	60	6	6.7%	154
Area 4A Subtotal	70	32	45.7%	45	64.3%	9	20.0%	419	20	44.4%	846
Area 4B Subtotal	6	5	83.3%	4	66.7%	0	0.0%	0	0	0.0%	0
Area 4C Subtotal	277	55	19.9%	101	36.5%	18	17.8%	99	12	11.9%	93
Area 4D Subtotal	47	39	83.0%	25	53.2%	3	12.0%	61	2	8.0%	4
Area 4E Subtotal	906	683	75.4%	245	27.0%	33	13.5%	101	13	5.3%	75
Tribal Subtotals	5,578	3,410	61.1%	1,834	32.9%	242	13.2%	1,520	398	21.7%	5,349
<i>Rural SHARCs:</i>											
Area 2C Subtotal	4,095	3,222	78.7%	2,114	51.6%	328	15.5%	1,129	643	30.4%	7,006
Area 3A Subtotal	1,674	1,288	76.9%	822	49.1%	110	13.4%	389	174	21.2%	2,271
Area 3B Subtotal	59	51	86.4%	44	74.6%	9	20.5%	142	5	11.4%	86
Area 4A Subtotal	84	63	75.0%	48	57.1%	3	6.3%	29	7	14.6%	106
Area 4B Subtotal	18	5	27.8%	9	50.0%	4	44.4%	43	3	33.3%	5
Area 4C Subtotal	12	4	33.3%	4	33.3%	0	0.0%	0	0	0.0%	0
Area 4D Subtotal	3	1	33.3%	1	33.3%	0	0.0%	0	0	0.0%	0
Area 4E Subtotal	112	63	56.3%	59	52.7%	4	6.8%	48	7	11.9%	37
Rural Subtotals	6,057	4,697	77.5%	3,101	51.2%	458	14.8%	1,780	839	27.1%	9,511
Totals	11,635	8,107	69.7%	4,935	42.4%	700	14.2%	3,300	1,237	25.1%	14,860
<i>Tribal and Rural SHARCs Combined:</i>											
Area 2C Total	7,227	5,009	69.3%	3,080	42.6%	453	14.7%	1,688	919	29.8%	9,972
Area 3A Total	2,610	1,973	75.6%	1,180	45.2%	160	13.6%	610	243	20.6%	3,482
Area 3B Total	263	175	66.5%	134	51.0%	13	9.7%	202	11	8.2%	240
Area 4A Total	154	95	61.7%	93	60.4%	12	12.9%	448	27	29.0%	952
Area 4B Total	24	10	41.7%	13	54.2%	4	30.8%	43	3	23.1%	5
Area 4C Total	289	59	20.4%	105	36.3%	18	17.1%	99	12	11.4%	93
Area 4D Total	50	40	80.0%	26	52.0%	3	11.5%	61	2	7.7%	4
Area 4E Total	1,018	746	73.3%	304	29.9%	37	12.2%	149	20	6.6%	112
Totals	11,635	8,107	69.7%	4,935	42.4%	700	14.2%	3,300	1,237	25.1%	14,860

¹ SHARC = Subsistence Halibut Registration Certificate, issued by the National Marine Fisheries Service

Source: Alaska Department of Fish and Game, Division of Subsistence, SHARC Survey, 2004

Figure 2.6 illustrates the estimated incidental rockfish harvest in 2003, by SHARC holders by geographic subarea. Most of the harvest occurred in southeast Alaska. Incidental rockfish harvests totaled 773 fish in Prince William Sound, 817 rockfish in Cook Inlet, 856 rockfish in Kodiak road system waters, and 875 rockfish in other Kodiak waters (Table 2.10). Most of the harvest occurred in southeast Alaska. Incidental rockfish harvests totaled 856 rockfish in Kodiak road system waters and 875 rockfish in other Kodiak waters.

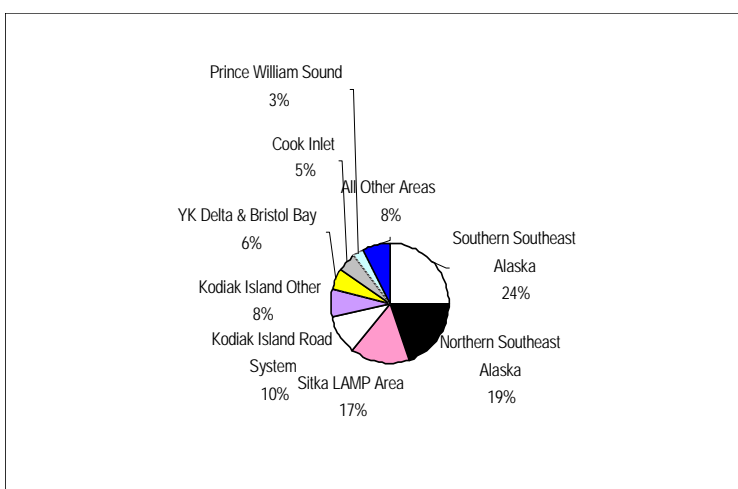


Figure 2.6 Rockfish harvest by 2003 SHARC holders.

Alternative 2, Part (b) and Part (c). The

proposal to amend the regulations in Prince William Sound and Cook Inlet (see parts (1) and (2) above) is based on the public's concerns about the status of local rockfish populations in the heavily populated and fished areas. An annual limit for either area was not proposed by the public or Board. Harvests within Cook Inlet waters accounted for 5 percent of the State total (69,337 lb) and those within Prince William Sound added 37,600 lb (3 percent of the statewide total) (Table 2.8, Figure 2.4, Figure 2.7). As noted above, 34 percent of Area 3A longline fishermen used 30 hooks (Figure 2.3). The next most frequently reported number for all longliners was 20 hooks, usually used by 20 percent of the fishermen who used set hook gear. Ten hooks (8 percent) ranked third, followed by 15 hooks (7 percent) and 25 hooks (7 percent). Five hooks were rarely used.

As reported in the SHARC survey above, 20 percent of the subsistence halibut fishermen who caught rockfish lived in Area 3A (243 fishermen) (Table 2.9). Twenty-five percent of all fishermen harvested at least one rockfish. Area 3A tribes and communities accounted for the second-highest total: 3,482 rockfish, 23 percent of the total, after Area 2C (Figure 2.5).

Cordova was selected as a representative subsistence halibut Prince William Sound community for the purpose of examining the potential effects of Alternative 2(b). In 2000, Cordova had a population of 2,454 people, including 368 Alaska Natives. Based on Division of Subsistence household surveys, there are six estimates of home-use halibut harvests for previous years (Table 2.11). After subtracting fish removed from commercial harvests for home use, estimated noncommercial halibut harvests by Cordova residents ranged from 32,754 lb (+/-29%) net weight in 1985 to 120,221 lb (+/- 62%) in 1988, with an average over the six study years of 57,285 lb. The estimated number of Cordova households with at least one member fishing non-commercially for halibut ranged from 228 in 1985, to 401 in 1992, with a mean of 325 households.

Halibut harvest estimates and participation estimates for Cordova (combining the Eyak Tribe and Cordova rural residents) for 2003 are lower than might be expected from previous research (Table 2.11). The estimated subsistence harvest was 14,885 lb net weight (20,674 lb round weight), with an additional 11,078 lb taken by SHARC holders while sport fishing. The total of 25,963 lb is about 45 percent of the average for previous study years. In 2003, 46 Eyak tribal members and 316 other Cordova residents obtained SHARCs, for a total of 362. Of these, 105 reported that they had subsistence-fished, and 144 reported that they sport fished for halibut. This is a lower number of fishermen than might be expected from the earlier household survey results.

Port Graham was selected as a representative subsistence halibut Cook Inlet community for the purpose of examining the potential effects of Alternative 2(c). In 2003, a total of 57 Port Graham residents obtained SHARCs (42 tribal members and 15 other residents) (Table 2.12). Of these, 39 subsistence fished for halibut in 2003, and three said they sport fished for halibut. This finding is consistent with levels of participation in the fishery that could be expected from the previous studies. Given the long tradition of subsistence halibut fishing in Port Graham, it is not surprising that very few residents of this community classified any of their halibut fishing as "sport." The subsistence halibut harvest estimate for Port Graham for 2003 was 12,927 lb net weight (17,954 lb round weight). Adding 150 lb of halibut taken while sport fishing gives a community total of 13,077 lb of halibut harvested for home use by Port Graham residents in 2003. While this total is similar to the previous highest estimate (11,232 lb in 1992), it exceeds the average of previous study years of 7,591 lb. This is not unexpected: Port Graham has traditionally used longlines with multiple hooks to harvest halibut (Stanek 1985:67-69,151). With regulations in place in 2003, consistent with traditional harvest methods, residents of Port Graham and other communities with similar traditions fished with set hook gear and reported subsistence halibut harvests that are likely similar to historic levels.

Table 2.10. Estimated harvests of lingcod and rockfish by SHARC holders while subsistence fishing for halibut, 2003.

Subarea	Regulatory Area	Number of SHARCs Issued	Estimated Harvest ¹			
			Lingcod		Rockfish	
			Estimated Number Fished	Estimated Number Harvested	Estimated Number Fished	Estimated Number Harvested
Southern Southeast Alaska	2C	3,948	154	567	446	4,409
Northern Southeast Alaska	2C	1,674	45	149	126	1,145
Sitka LAMP Area	2C	1,610	256	999	341	4,309
Subtotal	2C	7,232	455	1,715	913	9,863
Yakutat Area	3A	87	21	77	12	192
Prince William Sound	3A	421	34	142	63	773
Cook Inlet	3A	359	20	117	37	817
Kodiak Island Road System	3A	1,333	46	112	80	856
Kodiak Island Other	3A	406	40	120	56	875
Subtotal	3A	2,606	161	568	248	3,513
Chignik Area	3B	175	8	24	8	70
Lower Alaska Peninsula	3B	90	6	178	8	197
Subtotal	3B	265	14	202	16	267
Eastern Aleutians - East	4A	143	12	447	26	922
Eastern Aleutians - West	4A	15	0	0	2	40
Subtotal	4A	158	12	447	28	962
Western Aleutians - East	4B	23	4	43	2	5
Subtotal	4B	23	4	43	2	5
St. George Island	4C	30	0	0	0	0
St. Paul Island	4C	254	15	96	15	154
Subtotal	4C	284	15	96	15	154
St. Lawrence Island	4D	50	3	61	2	4
Subtotal	4D	50	3	61	2	4
Bristol Bay	4E	80	0	0	1	10
YK Delta	4E	905	40	167	16	77
Norton Sound	4E	32	0	0	0	0
Subtotal	4E	1,017	40	167	17	87
Grand Total ¹	Alaska	11,635	704	3,299	1,241	14,855

Source: Alaska Department of Fish and Game, Division of Subsistence, SHARC Survey, 2004

Table 2.11 Estimated harvests of halibut for home use, Cordova

Year	Number of Fishing Households	Pounds Usable (Net) Weight					Total w/o Commercial Removal	95% confidence range (+/-%)
		Removed from Commercial Harvests	Rod and Reel	Other Methods	Total			
1985	228	3,776	31,002	1,752	36,530	32,754	29	
1988	343	18,701	119,873	348	138,922	120,221	62	
1991	272	25,107	25,493	116	50,716	25,609	33	
1992	401	11,383	60,612	0	71,995	60,612	48	
1993	382	3,762	39,556	2,056	45,374	41,612	32	
1997	321	3,551	58,647	4,252	66,450	62,899	41	
Annual average ¹	325	11,047	55,864	1,421	68,331	57,285		

Source: Scott et al. 2001

Table 2.12 Estimated harvests of halibut for home use, Port Graham

Year	Number of Fishing Households	Pounds Usable (Net) Weight					Total w/o Commercial Removal	95% confidence range (+/-%)
		Removed from Commercial Harvests	Rod and Reel	Other Methods	Total			
1987	42	1,237	3,809	3,389	8,435	7,198	14	
1989	29	3,217	1,482	1,222	5,921	2,704	47	
1990	32	3,003	4,106	3,171	10,280	7,277	22	
1991	35	1,663	2,332	4,846	8,841	7,178	17	
1992	42	24	7,867	3,365	11,256	11,232	14	
1993	42	86	3,105	1,346	4,537	4,451	14	
1997	36	79	2,881	5,326	8,286	8,207	28	
Annual average ¹	38	1,015	4,017	3,574	8,606	7,591		

¹ Excludes 1989, the year of the Exxon Valdez Oil Spill

Source: Scott et al. 2001

Alternative 2, Part (d) would change the Sitka Sound LAMP (Figure 2.8) to reduce the gear limit by season in the Sitka Sound LAMP area, as listed below. At final action, the Council selected this alternative as preferred for the Sitka Sound LAMP.

June 1 to August 31:

15 hooks per vessel
 no power hauling
 5 halibut per day/vessel

September 1 to May 31:

10 halibut per day/vessel

Sitka had a population of 8,835 people in 2000, 2,178 of whom were Alaska Native. Sitka was the second largest rural community eligible to participate in the subsistence halibut fishery in 2003. According to survey results, residents of Sitka harvested more subsistence halibut in 2003 than any other community, and accounted for 17 percent of the statewide total. Developing a reliable subsistence harvest estimate for Sitka is essential for the success of the subsistence harvest assessment program.

Based on Division of Subsistence research, there are two previous estimates of halibut harvests for home use for Sitka (Table 2.13). For 1987, the estimated total harvest was 193,335 lb (net weight); or 180,982 lb if fish removed from commercial harvests are deleted. An estimated 1,252 Sitka households had at least one member who fished for halibut in 1987. For 1996, the total estimated harvest was 165,772 lb net weight, 149,244 lb with commercial removals deleted. In 1996, an estimated 943 Sitka households had at least one member who fished for halibut.

Table 2.13 Estimated harvests of halibut for home use, Sitka.

Year	Number of Fishing Households	Pounds Usable (Net) Weight					95% confidence range (+/-%)
		Removed from Commercial Harvests	Rod and Reel	Other Methods ¹	Total	Total w/o Commercial Removal	
1987	1252	12,353	180,982		193,335	180,982	22
1996	943	16,528	135,048	14,196	165,772	149,244	28
Annual average	1098	14,441	158,015	14,196	179,554	165,113	

¹ Harvest data not collected for "other methods" in 1987.

Source: Scott et al. 2001

The estimated subsistence harvest of halibut by Sitka Tribal members and other residents of Sitka for 2003 was 167,552 lb net weight. Adding sport harvests by SHARC holders increases the estimate to 198,755 lb net weight. Approximately 812 SHARC holders in Sitka subsistence fished for halibut in 2003. Also, 398 sport-fished for halibut.

Halibut harvest estimates for the three study years for Sitka are generally similar to each other. The 2003 estimate is a minimum, since it is likely that some Sitka residents sport-fished for halibut, but did not have a SHARC. This number is likely to be small, since the estimate of 2003 SHARC holders is very similar to estimates of halibut fishermen for 1987 and 1996. In short, this comparison, although it has limitations, suggests that the 2003 subsistence halibut harvest estimate for Sitka appears reliable, based on previous household surveys in the community.

Of 28 Alaska communities whose residents had combined estimated subsistence halibut harvests of more than 10,000 lb (round weight) in 2003, Sitka ranked first and accounted for 17 percent of the total harvest (Figure 2.4). The three geographic subareas with the largest subsistence halibut harvests in 2003, were all in Area 2C, Southeast Alaska: southern Southeast Alaska (347,218 lb; 24 percent of the State total); northern Southeast Alaska (267,980 lb; 19 percent); and the Sitka LAMP area (228,899 lb; 17 percent) (Table 2.8, Figure 2.4, Figure 2.7). As noted above, 47 percent of Area 2C longline fishermen used 30 hooks (Figure 2.3).

Most of the incidental rockfish was harvested by fishermen from Area 2C tribes and communities: 9,972 rockfish, 67 percent of the statewide total (Figure 2.5). The highest percentage of subsistence halibut fishermen who incidentally harvested rockfish was in Area 2C (Southeast Alaska), at 30 percent. Table 2.10 reports the estimated incidental rockfish harvest in 2003, by SHARC holders, by geographic subarea. Most of the rockfish harvest occurred in southern southeast Alaska (4,409 fish), the Sitka LAMP area (4,309 rockfish), and northern southeast Alaska (1,145 rockfish).

Sport and commercial halibut and rockfish data. In October 2004, the Council requested that halibut and rockfish harvest data from the sport and commercial sectors be incorporated into the analysis, to compare with the above subsistence halibut and rockfish harvest data. Sport data were provided for the four local areas and total IPHC areas.

Sport halibut and rockfish data are provided for three local areas in Area 3A (Table 2.14). Remembering that the subsistence survey only reports rockfish harvests caught while subsistence halibut fishing, sport harvests dwarf subsistence removals (for both halibut and rockfishes) by at least ten times (see Table 2.8). Commercial data were provided for Cook Inlet (Table 2.15) and Prince William Sound (Table 2.16). State rockfish harvests in Cook Inlet are low, relative to the North Gulf District or Federal waters of Cook Inlet, although commercial rockfish harvests in 2003 and 2004 (through August) appear to have increased substantially over prior years. Approximately 90 percent of commercial rockfish harvests in this area occur from longline gear. Harvests have declined in 2002 and 2003, from historical harvests. Recent harvests are an order of magnitude higher in the North Gulf District than in Cook Inlet.

Sport halibut and rockfish data are provided for Area 2C, by port (Table 2.17) and the Sitka LAMP (Table 2.18). Area 2C sport rockfish harvests exceeded, by five times, the subsistence harvest (Table 2.10). Sitka ranked first for halibut and rockfish harvests, followed by Prince of Wales Island. However, Sitka LAMP sport harvests were 25 percent less than subsistence harvests (Table 2.19).

Table 2.14 Sport halibut and rockfish harvest (numbers of fish), 1977-2003.

Year	Halibut				Rockfishes			
	Kodiak RZ	Cook Inlet	PWS	Area 3A	Kodiak RZ	Cook Inlet	PWS	Area 3A
1977	--	13,466	1,247	17,840	--	14,881	4,401	22,092
1978	--	25,577	933	30,978	--	22,419	5,035	29,361
1979	--	26,997	1,691	34,681	--	25,270	11,018	40,069
1980	--	29,985	3,143	39,830	--	29,962	6,174	37,625
1981	--	38,721	2,495	51,582	--	23,101	11,610	40,997
1982	--	39,532	2,735	54,799	--	25,505	5,608	35,157
1983	--	60,126	3,493	75,465	--	22,700	6,514	32,571
1984	--	61,202	4,428	77,344	--	26,485	7,993	42,855
1985	--	63,158	4,527	81,451	--	19,828	8,853	33,372
1986	--	85,087	8,331	115,619	--	44,763	9,762	59,048
1987	--	78,288	4,379	101,044	--	16,154	6,563	29,490
1988	--	137,201	9,845	168,215	--	45,327	12,711	69,498
1989	--	126,855	8,697	154,072	--	29,028	12,919	47,025
1990	4,779	148,462	10,851	179,482	3,282	21,937	8,157	34,017
1991	6,283	148,404	12,733	189,398	5,882	22,622	8,733	39,655
1992	5,463	143,084	17,855	192,265	4,506	33,266	15,478	54,810
1993	6,847	162,390	19,716	224,575	5,523	29,971	12,274	50,065
1994	6,764	170,760	23,487	237,784	3,090	33,440	15,382	54,331
1995	6,590	168,154	24,771	233,049	3,014	21,759	14,701	41,291
1996	7,261	187,775	22,330	251,769	4,597	26,690	12,375	46,215
1997	8,874	193,916	28,456	272,366	3,231	24,876	15,403	47,839
1998	8,104	179,362	24,301	249,244	2,623	24,881	13,451	44,103
1999	9,372	155,503	27,600	231,224	2,806	30,125	12,996	49,373
2000	11,277	201,727	31,180	288,036	4,408	36,478	17,476	61,937
2001	6,259	182,482	20,756	253,598	2,905	37,087	15,903	59,163
2002	10,057	167,023	20,377	242,848	5,235	45,862	16,281	70,436
2003	8,996	190,094	24,370	281,633	3,429	37,656	17,888	63,279

Cook Inlet includes Seward, some of which is east of Cape Fairfield

Kodiak Road Zone estimates for 1990-2000 from Schwarz et al, 2002 (FMR 02-02)

Kodiak Road Zone estimates for 2001-2003 from detail harvest printout.

Area 3A total includes Kodiak, Cook Inlet, PWS, and Yakutat

Table 2.15. Annual commercial rockfish effort and harvest (lb) by gear, Prince William Sound Inside and Outside Districts, 1988- 2003.

Year	Vessels	Landings	Troll/Jig	Trawl*	Longline	Total
1988	80	195	54,097	228,417	144,228	426,742
1989	39	103	Confidential	Confidential	104,634	118,432
1990	96	402	30,088	20,591	455,789	506,468
1991	89	247	15,624	11,162	129,865	156,651
1992	114	299	9,946	28,612	152,945	191,503
1993	80	209	13,905	12,689	81,978	108,573
1994	92	211	94,587	2,982	104,811	202,380
1995	134	269	182,031	299	127,616	309,946
1996	99	257	57,103	3,507	124,077	184,687
1997	106	266	34,047	1,650	130,141	165,838
1998	88	220	2,903	1,243	104,888	109,034
1999	92	244	1,130	1,929	68,905	71,964
2000	100	284	2,401	2,308	117,211	121,920
2001	101	233	1,165	4,517	68,400	74,082
2002	85	183	0	30,172	44,058	74,230
2003	87	220	255	4,255	42,984	47,494
Ave.	93	240	33,286	23,622	125,158	179,372

Discards at sea not included;

All data from ADF&G Neptune;

Landings calculated using vessels/landing dates;

*Pot catches are combined with trawl; they never exceeded 400 lb/year; including black rockfish from EEZ

Table 2.16 Effort and harvest by district from Cook Inlet Area commercial rockfish fisheries, including black rockfish from federal waters, 1988-2004.

Year ^{a/}	Vessels	Landings	Cook Inlet	North Gulf	Federal	Total
			District	District	Waters	Harvest ^{b/}
Round Weight (lb)						
1988	44	102	2,859	148,227	62,213	213,298
1989	12	31	0	22,762	58,298	81,060
1990	31	41	401	29,807	371	30,579
1991	62	161	272	222,993	557	223,822
1992	121	408	1,029	334,149	23,699	358,877
1993	86	292	2,641	68,176	118,579	189,396
1994	74	277	110	205,451	196,480	402,040
1995	120	406	4,190	270,351	227,504	502,045
1996	124	343	700	120,776	75,101	196,577
1997	130	369	3,269	179,763	34,332	217,364
1998	110	303	10	72,888	7,423	80,321
1999	95	285	0	86,007	1,645	87,652
2000	96	243	0	133,431	25,978	159,409
2001	76	166	38	109,175	7,110	116,323
2002	71	158	7	106,637	4,864	111,508
2003	64	135	117	142,208	404	142,729
2004	51	94	246	92,103	0	92,349

^{a/} Preliminary data through August 2004.

^{b/} Includes reported at-sea discards.

Table 2.17 Sport halibut harvest (numbers of fish), 1977-2003 in IPHC Area 2C.

Year	Ketchikan	Prince of Wales Isl	Petersburg/ Wrangell	Sitka	Juneau	Haines/ Skagway	Glacier Bay	Area 2C Total
1977	1,360	277	447	992	1,976	81	271	5,404
1978	751	230	1,103	339	3,066	448	170	6,107
1979	1,359	593	1,380	3,179	5,832	49	632	13,024
1980	5,260	1,085	3,193	4,976	9,333	361	620	24,828
1981	4,634	1,321	2,299	4,288	8,122	670	443	21,777
1982	5,963	2,242	3,845	6,330	16,988	650	744	36,762
1983	6,760	1,849	4,147	7,945	18,651	1,426	535	41,313
1984	11,719	2,724	5,649	8,197	15,618	2,029	748	46,684
1985	12,600	3,073	4,757	6,091	16,695	1,023	1,355	45,594
1986	11,014	2,902	3,624	6,617	16,574	2,189	1,331	44,251
1987	9,676	2,760	3,039	7,545	14,382	3,567	2,184	43,153
1988	11,544	2,778	3,877	10,572	18,697	3,201	4,238	54,907
1989	13,699	9,213	5,548	17,727	20,273	2,588	4,484	73,532
1990	9,872	10,264	5,768	17,492	16,248	1,972	3,415	65,031
1991	9,733	11,875	6,433	20,283	13,637	1,199	8,766	71,926
1992	9,455	11,661	6,153	22,092	14,850	926	4,863	70,000
1993	12,763	22,501	5,984	19,366	16,340	2,195	5,878	85,027
1994	15,313	24,465	7,992	23,701	10,362	1,058	5,849	88,740
1995	14,483	20,808	9,488	21,452	15,145	856	7,090	89,322
1996	15,316	23,266	10,234	20,840	16,414	1,209	7,618	94,897
1997	13,685	21,201	10,417	27,552	21,282	1,007	9,242	104,386
1998	11,311	24,028	8,995	30,303	14,553	564	7,190	96,944
1999	10,989	25,739	8,133	28,222	15,522	879	7,552	97,036
2000	13,665	28,860	9,930	28,375	16,672	499	13,639	111,640
2001	10,106	28,210	8,345	33,104	14,213	864	15,112	109,954
2002	10,766	30,960	6,742	25,156	15,647	1,220	14,322	104,813
2003	8,810	29,307	7,569	32,362	20,530	1,136	19,767	119,481

Table 2.18 Sport rockfish harvest (numbers), 1977-2003 for Area 2C based on Statewide Harvest Survey.

Year	Ketchikan	Prince of Wales Isl	Petersburg/ Wrangell	Sitka	Juneau	Haines Skagway	Glacier Bay	Area 2C Total
1977	834	571	762	3,635	2,996	130	34	8,962
1978	6,898	2,504	2,106	2,784	2,169	362	63	16,886
1979	8,491	1,882	1,881	8,372	9,627	364	182	30,799
1980	18,415	4,968	2,841	8,481	6,724	319	43	41,791
1981	20,581	4,544	1,937	11,837	5,649	820	259	45,627
1982	21,023	8,027	1,581	13,027	6,141	1,583	168	51,550
1983	18,824	12,040	1,008	9,855	7,859	168	409	50,163
1984	16,295	5,197	2,265	6,375	5,978	558	85	36,753
1985	16,632	4,168	2,663	5,085	4,704	315	472	34,039
1986	17,861	9,841	2,106	5,997	4,847	794	78	41,524
1987	18,231	9,984	2,525	5,944	4,709	289	307	41,989
1988	26,378	8,692	480	9,319	10,224	854	801	56,748
1989	17,159	8,955	1,726	6,196	4,638	465	357	39,496
1990	9,043	9,062	1,150	3,948	1,881	488	306	25,878
1991	8,504	7,200	1,222	4,879	3,408	415	936	26,564
1992	9,927	7,968	1,838	6,852	3,532	181	501	30,799
1993	6,764	9,589	2,070	6,622	5,717	569	448	31,779
1994	11,741	12,122	2,298	13,446	3,271	157	881	43,916
1995	7,984	11,915	1,870	7,968	3,438	233	355	33,763
1996	7,092	9,446	1,085	10,728	3,008	329	599	32,287
1997	8,156	10,804	1,760	12,078	4,735	323	836	38,692
1998	5,133	11,759	2,678	16,281	5,570	214	1,283	42,918
1999	10,538	23,667	3,778	22,306	8,379	233	1,816	70,717
2000	12,318	17,152	4,103	18,439	9,685	117	6,477	68,291
2001	8,540	17,161	2,461	16,444	8,857	138	3,309	56,910
2002	7,077	15,189	2,531	15,856	5,768	19	2,572	49,012
2003	7,321	15,518	1,940	16,212	8,649	44	4,095	53,779

Preferred Alternative The Council recommended increasing gear restrictions in two subareas. First, the Council recommended lowering the maximum hook limit in the Kodiak Road Zone and Chiniak Bay (Chiniak Bay) from 90 to 60 hooks. Second, the Council proposed additional seasonal gear and harvest restrictions in the Sitka Sound LAMP area. The Council recommended each of these provisions to address localized depletion concerns in those subareas.

This preferred alternative would reduce the allowable hook limit in Chiniak Bay to no more than two times the per person limit, except when fishing under a ceremonial, educational, or community harvest permit. In other words, if one registered fisherman is on board the vessel, the maximum number of hooks on the gear set or retrieved in the course of fishing would be 30. If two registered fishermen are on board, the maximum number of hooks on gear set or retrieved in the course of fishing would be 60. However, unlike other regions of Area 3A that would be allowed up to 90 hooks, at no time may the gear used to fish for subsistence halibut exceed per vessel in Chiniak Bay, except that under a ceremonial, educational, or community harvest permit the limit would be 90 hooks per vessel.

Table 2.19 Sitka LAMP halibut and rockfish harvests, 1999-2003, from onsite ADF&G creel survey data.

Year	Halibut	Avg net wt (lbs)	Total Biomass	Rockfish
1999	2,073	20.5	42,497	3,157
2000	1,677	23.1	38,739	2,086
2001	2,024	19.7	39,873	1,810
2002	1,413	21.9	30,945	2,879
2003	2,345	19.4	45,493	3,242

Under this action, NMFS would provide a definition of Chiniak Bay, based on the State of Alaska's definition of the Kodiak Road Zone found at 05 AAC 64.005, that would be modified to include the Chiniak Bay area. NOAA Enforcement supports this definition of the proposed area, because it would be simple to enforce and comply with as the reference points are unvarying, can generally be seen from the fishing grounds relative to each other, and can be easily drawn on both paper and e-charting systems. The proposed area also includes the vast majority of local small vessel sport and subsistence grounds historically fished for halibut, and is consistent with the area targeted by the Council's proposed Kodiak Road Zone recommendation.

Consistent with previous applications of the CHP Program, the Council recommended allowing the use of a CHP in Area 3A, including Chiniak Bay, to mitigate increased restrictions. The CHP Program allows a community or Alaska Native tribe to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or Alaska Native tribe. Possession of a CHP in Area 3A would allow an eligible tribe or community to use 30 hooks per person, up to a maximum of 90 hooks per vessel.

The Council also recommended additional gear restrictions and seasonal periods for gear restrictions in the Sitka Sound LAMP area to further address localized depletion concerns. This proposed action would reduce the allowable gear from 30 to 15 hooks per vessel and prohibit power hauling during the summer months between June 1 and August 31. From September 1 to May 31 gear restrictions would remain at 30 hooks per vessel and power hauling would be allowed.

Effects of the preferred alternative. As noted previously, the preferred alternative responds to local depletion concerns expressed by the public. Proposed changes to allowable gear are not intended to change the amount of halibut harvested for subsistence use. It is not known whether the preferred alternative for Kodiak and Sitka would reduce the harvests of halibut, rockfishes, and lingcod, or whether subsistence halibut harvesters would add fishing trips to harvest the same amount of halibut to meet their needs. The proposed daily vessel limit reduction may have economic and/or social consequences to subsistence halibut users who traditionally have fished in the Sitka LAMP area. No data are available to estimate the number of subsistence harvesters who have traditionally used the area, or who have fished in the area since the fishery was regulated, beginning in May 2003.

2.3 Benefit Cost Analysis

NPFMC (2002) concluded that its original action defining the subsistence halibut fishery was unlikely to have the potential to result in a "significant regulatory action," as defined in E.O. 12866. The analysis concluded that, while subsistence halibut fishing is important to the local economies of some rural Alaska communities, quantifying the economic value of those harvests is difficult, since these harvests may not be sold or otherwise enter the commercial sector.

There are a number of methods to approach the problem of valuing non-market goods, including alternative cost (replacement cost of subsistence food substitutes), travel cost models, and contingent valuation methods (i.e., willingness to pay, willingness to accept). All of these methods are generally accepted.

The method suggested for this application, replacement cost, is favored for its relatively straightforward application, while recognizing the method overlooks cultural values inherent in production and consumption of subsistence foods (Peterson, et. al., 1992).

This limitation aside, the method used in that analysis to estimate the economic value of subsistence halibut was to calculate the replacement costs if rural residents were to purchase and import substitutes. If one assumes \$3.00 to \$5.00 per pound as the cost of substitute foods, the replacement costs for all subsistence halibut harvests in rural Alaska would be between \$852,000 and \$1,140,000, based on Wolfe and Bosworth (1994). Economic impacts associated with incidental catch of rockfish and lingcod in the subsistence halibut fishery cannot be quantified at present, because: (1) only numbers of lingcod and "unidentified" rockfishes

are reported from the subsistence halibut fishery; (2) an unknown amount of rockfish and lingcod is taken for subsistence use outside the halibut fishery; (3) it is unknown whether the proposed action would reduce the total subsistence harvest of these species. Despite these unknowns, the economic impact associated with groundfish harvests may be assumed to be smaller than the subsistence halibut fishery, given the relative level of removals for these species, as reported in Fall et al. (2004).

Little information is available to assess the economic effects of the preferred alternative. Further, a generic “rockfish” category was identified in the survey. Neither species, nor weight of rockfishes or weight for lingcod was identified in the survey. A rough approximation of replacement costs is made in the absence of empirical data, by species (Fall et al 2004). Using rockfish and lingcod harvests as reported in Table 2.10, a generic estimate for replacement costs of \$3.00 to \$5.00 per pound for rockfishes, and \$4 per pound for lingcod and a generic average weight for a “rockfish” of 3 lb (with a range between 1 lb for redstripe rockfish to 5 lb for yelloweye rockfish) results in a rough estimate of the value of rockfish harvests in the subsistence halibut fishery, in all areas, of between \$134,000 and \$223,000. Using an average weight of 10 lb for lingcod results in an estimate of the replacement cost of \$132,000.

It is unknown how gear reductions in three local areas, and an annual limit in one local area, may affect subsistence rockfish and lingcod availability to subsistence (or other) users. Rockfishes and lingcod catches are not assessed at the local level. Also, it is unknown how the use of CHPs may mitigate the effects of increasingly restrictive gear limits on those populations.

An inaugural data collection program for the 2003 fishery provided the first survey of resource removals in this fishery. However, no cost data have been collected and estimated removals of the numerous rockfish species have been lumped into a generic “rockfish” category. Further, the survey is incomplete regarding the harvests of lingcod and rockfishes taken in the subsistence halibut fishery, since effort associated with harvesting rockfish and lingcod for subsistence outside the halibut fishery has not been determined.

Subsistence halibut harvests generally are not expected to change as a result of proposed measures to reduce the gear limits from 30 to 10 hooks, or to 5 hooks. It is expected that subsistence users will harvest sufficient halibut to feed their families, although they may substitute other subsistence foods if their nutritional needs are not being met and the operational (e.g., fuel) and opportunity costs associated with additional halibut subsistence trips increase. The use of CHPs, as an exemption to proposed measures under Alternative 2, may mitigate much of the associated costs, for those who are eligible to obtain them.

However, the proposed alternative for Kodiak includes a 20 fish annual limit, in addition to the current 20 fish daily limit. The annual limit was recommended by the Board, on behalf of Kodiak residents, because it was believed to be sufficient to meet the annual halibut needs of a family, but could be caught with one day of fishing effort. The annual limit may not be necessary, since the daily bag limit is assumed to be equal to the annual subsistence needs of eligible users, and that fishing would stop once those needs are met; the Council heard testimony that many subsistence harvesters prefer to harvest the fish that meets their annual needs in one day, sometimes because of short periods of safe fishing conditions. The Council originally chose to apply the same harvest restrictions in all areas for equity. It has since recommended modifications to relax some restrictions in western Alaska [69 FR 41447, July 9, 2004]. The proposed Kodiak area limit is more restrictive than limits in the sport fishery, which has a 2fish per day limit, but no annual limit. It would presumably be possible for an individual to take the full 20 fish annual subsistence limit, and then supplement that catch by sport fishing for halibut, as the sport fish season allowed.

The preferred alternative for each of these areas is intended to address social and policy issues that allow certain Alaska residents to harvest wild resources to feed their families. Sharing of subsistence harvests is much more likely to occur in circumstances where a fisherman is able to harvest amounts of fish in excess of his or her immediate needs in a single trip. These are also the days on which subsistence benefits would be the greatest, as the harvester would potentially have the most fish to share with others. Sharing may be reduced by restrictions on single trip harvests. In addition, the restrictions on gear use could also increase the cost to

subsistence fishermen of harvesting fish. Such an amendment should balance the interests and needs of these families, against a public interest in protecting fish stocks in certain local areas.

Administrative, Enforcement, and Information Costs. As described in NPFMC (2002), the subsistence halibut record keeping and reporting system, along with the current system of opportunistic enforcement, may provide a sufficient level of compliance. It may be the Coast Guard that principally checks at-sea compliance, within the commercial IFQ fleet, to determine that illegal commingling of commercial and subsistence halibut is not occurring. NMFS staff estimate that permitting, record keeping, and reporting requirements for the subsistence halibut program may cost as much as \$200,000, annually, above routine agency expenditures.

Additional costs for the enforcement of the preferred alternative for Kodiak and the Sitka LAMP may be minimal, due to the very small amount of halibut being harvested under these regulations (less than 1% of total removals) and the wide dispersion of the very small boat fleet which harvests only a few halibut at a time in most fishing situations.

The preferred alternative would expand the application of the use of community harvest permits for Kodiak. Under the preferred alternative, a CHP permit must be on board the vessel while fishing is being conducted to be exempt from the proposed further restrictions on gear. Persons fishing under a CHP would be required to also possess a subsistence halibut registration certificate, except that enrolled students, fishing under a valid Educational Permit, may fish for subsistence halibut without a subsistence halibut registration certificate. Furthermore, the CHP would require additional reporting for halibut harvest. The CHP application and additional reporting requirements would be designed to minimize the information collection burden on subsistence halibut fishermen, while retrieving essential information. The permit holder (the tribe or community), permit coordinator, and harvester would be held jointly and severally liable for any violations of the regulations governing special permits as defined in current regulations.

The NMFS Restricted Access Management (RAM) Office would manage the application process for CHPs. The RAM Program manager would confirm the eligibility of applicants, based on the information provided on an application form. If eligible, the applicant would receive the specialized permit for which he or she applied. Compliance with the application and reporting system for all specialized permits would be required, because of the liberal harvest requirements under the specialized permits.

CHPs may be issued to Alaska Native tribes, or to eligible rural communities in the absence of a tribe, provided the tribe or community is listed at 50 CFR 300.65(f)(1) or (f)(2). The information collected in an application for a CHP would include the identity of the community or Alaska Native tribe, the identity of a CHP Coordinator, contact information for the CHP Coordinator, and any previously issued CHP harvest log. To ensure consistent data quality and proper use of the permit, eligible communities and Alaska Native tribes would be limited to only one CHP Coordinator per community or tribe. To allow for the unique nature of each community or tribe, each community or Alaska Native tribe should establish independently the CHP Coordinator appointment process. The CHP would consist of a laminated permit card and a harvest log issued by RAM. An eligible community or Alaska Native tribe may possess only one CHP at any time and the CHP would expire 1 year from the date of issuance. The CHP Coordinator would maintain possession of the harvest log at all times and issue the CHP permit card to eligible subsistence fishermen when necessary. The eligible subsistence fishermen would return the CHP permit card and report their catch to the CHP Coordinator upon completion of subsistence fishing under the permit.

The CHP Coordinator would collect information regarding the halibut harvest in a harvest log. The CHP Coordinator would be required to return the CHP permit card and harvest log together, upon the permit's expiration. Like any other permit, but distinct from the subsistence halibut registration certificate, a CHP would be a harvest privilege, subject to the same limitations as other halibut permits or cards under 50 CFR 679.4(a).

To enhance enforcement, “power hauling” would be defined similar to State regulation, “Hand troll gurdy is a troll gurdy powered by hand, or hand crank that is not mounted on or used in conjunction with a fishing rod and is not considered power troll gear” [5AAC 29.120].

2.4 Conclusions

Table 2.14 summarizes the effects of the alternatives. The status of the Pacific halibut stocks is known to be healthy (IPHC 2004). Similarly, rockfish stocks in the Gulf of Alaska are also believed to be healthy (NPFMC 2005); however, the Alaska Board of Fisheries has expressed concern about the potential for over harvesting halibut and rockfishes in local areas, adjacent to communities with high population levels. The Board has been conservative in setting commercial, sport, and subsistence bag limits, and viewed the potential for increased harvest, which could occur under existing regulations in some areas, as an increased risk.

The preferred alternative would increase gear restrictions in two IPHC subareas of the regulatory areas. The Council recommended each of these provisions to address localized depletion concerns in those subareas. First, the Council recommended lowering the maximum hook limit in the Kodiak Road Zone and Chiniak Bay (Chiniak Bay) to no more than two times the per person limit (i.e., from 90 to 60 hooks). At no time may the gear used to fish for subsistence halibut exceed 60 hooks per vessel in Chiniak Bay, except that under a ceremonial, educational, or community harvest permit the limit would be 90 hooks per vessel. Consistent with previous applications of the CHP Program, the Council recommended allowing the use of a CHP in Area 3A, including Chiniak Bay, to mitigate increased restrictions. The CHP Program allows a community or Alaska Native tribe to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or Alaska Native tribe. Possession of a CHP in Area 3A would allow an eligible tribe or community to use 30 hooks per person up to a maximum of 90 hooks per vessel.

Second, this proposed action would reduce the allowable gear from 30 to 15 hooks per vessel, and prohibit power hauling during the summer months between June 1 and August 31 in the Sitka Sound LAMP area. From September 1 to May 31 gear would remain at 30 hooks per vessel, and power hauling would be allowed.

The preferred alternative is not expected to alleviate public confusion regarding incompatible State and Federal regulations in Area 3A. It is unclear whether the preferred alternative for Kodiak would result in reduced halibut and groundfish harvests, or simply increase fishing costs associated with harvesting the same amount of target halibut (and incidental rockfishes and lingcod). The CHP program could mitigate the negative effects (if any) of proposed measures on certain users. It is likely that trips would increase, either in number or length, but only to the point at which the marginal benefit is equal to the marginal cost of harvesting an additional fish. Revisions to the Subsistence Halibut Survey and halibut population assessments at the local level may be required to answer this question more definitively.

Table 2.14. Summary of the costs and benefits of Action 1, to address reports of local depletion of rockfish and lingcod.

	Alternative 1. No Action	Alternative 2. Change subsistence management measures for Kodiak, Prince William Sound, Cook Inlet, and Sitka LAMP area	Preferred Alternative. Change subsistence management measures for Kodiak and Sitka LAMP area
Resource Impacts	baseline	►May result in reduced subsistence catches of halibut, rockfishes, or lingcod.	►Same as Alternative 2, except limited to affected areas as a result of greater fishing effort from population centers believed has the potential to deplete local populations of halibut, rockfishes, or lingcod.
Benefits	baseline	►Expected to address public perception of local depletion of halibut, rockfish, and ling cod. ►Expected to alleviate public confusion regarding conflicting state and federal regulations related to rockfish retention in three local areas in Area 3A; there are no conflicting regulations in Area 2C	►Expected to address public perception of local depletion of halibut, rockfish, and ling cod in the Sitka LAMP and Kodiak subareas, in populations centers whose associated harvests could result in local depletions. ►Expected to recognize the social, cultural, educational, and “communal” benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs, as reported threats to fish populations from subsistence harvests in any local area is undocumented.
Costs	baseline	►Not expected to recognize the social, cultural, educational, and “communal” benefits from providing for food needs of subsistence fishermen and their families as reported threats to fish populations from subsistence harvests in any local area is undocumented. Depending on the change in harvest patterns, costs of subsistence fishing in proposed local areas and all of Area 2C may increase in proportion to restrictive gear and retention limits. The CHP program could mitigate the costs of proposed measures on some affected users. Enforcement costs are not affected.	►Would not alleviate public confusion regarding conflicting regulations regarding rockfish retention. ►Depending on the change in harvest patterns, costs of subsistence fishing may increase for users in Sitka LAMP and Kodiak areas. The CHP program may mitigate the costs of the gear stacking limit in Area 3A, but may not be used in favor of multiple sets of gear. ►Enforcement costs are not affected.
Net benefits	baseline	►Expected to be positive.	►Expected to be positive.
Action objectives	baseline	►Meets the objectives of the proposed action.	►Meets the objectives of the proposed action in the Sitka Sound LAMP and Kodiak areas. Measures for Cook Inlet, Prince William Sound, and Area 2C outside of the Sitka LAMP area were found to be unwarranted.

3.0 Action 2 - Eligible Subsistence Halibut Communities

Persons eligible to conduct subsistence halibut fishing are: (1) residents of rural places with customary and traditional uses of halibut and (2) all identified members of federally recognized Alaska Native tribes with a finding of customary and traditional uses of halibut. Eligible rural places are listed in the regulations [68 FR 18145, April 15, 2003] and in Appendix 2.

As reported by ADF&G staff, the list of rural places that the Council recommended and that the Secretary implemented in regulations as eligible to subsistence fish for halibut was derived from positive customary and traditional findings for halibut and groundfish made by the Board, prior to 1989. Following the McDowell decision in December 1989, State regulations now direct the Boards of Fisheries and Game to determine whether each fish stock or game population in subsistence use areas of the State is subject to customary and traditional uses. Hence, the focus of the customary and traditional determination process is not on communities or areas that practice customary and traditional uses, but on the degree to which a stock or population is used for customary and traditional activities. Although the Council has used a community-based approach, there is nothing preventing the Board from nominating areas, such as remote homesteads, for eligibility for, in this instance, subsistence halibut.

Only the Council is authorized to recommend changes to the list of rural places eligible for subsistence halibut fishing, to the Secretary. The Council recognized that some rural communities not explicitly named in its initial list may seek a finding of customary and traditional use of halibut, and thereby secure subsistence eligibility for its non-Native residents. The Council identified a policy to include other communities for which customary and traditional findings are developed in the future. Residents who believe that their community was incorrectly left out of the table listing eligibility for rural places, or who are seeking eligibility for the first time, were encouraged to follow the course of action described here: “The Council urges communities seeking eligibility to subsistence fish for halibut to pursue a ‘customary and traditional’ finding from the appropriate bodies, before petitioning the Council.”

The Council specifically stated that such petitions will be reviewed by the Council after it receives a finding of customary and traditional use of halibut from the appropriate State or Federal body . The Council clarified its intent to rely on the Board of Fisheries for recommendations for revisions to the list of eligible communities. In October 2003, the Board received seven appeals from Southeast and Southcentral communities and individuals requesting positive customary and traditional use findings for halibut. Only two were proposed for outside of the non-subsistence use area and were reviewed by ADF&G staff. The remaining petitions failed, because the petitioners lived in areas designated as non-subsistence use areas and did not fit the stated criteria.

In June 2004, the Council adopted the following problem statement.

In adopting the subsistence halibut program, the Council recognized that rural communities may have been left off its list of eligible communities, inadvertently. The Council required that communities which seek to be included in this program in the future, first seek approval for any claim to rural status and halibut customary and traditional use, by either the Board of Fisheries or Federal Subsistence Board, before petitioning the Council.

3.1 Action and Alternatives Considered

Action 2. Revise the list of eligible subsistence halibut communities.

Alternative 1. No action.

Taking no action would leave unchanged the current list of rural places that are eligible for the subsistence halibut fishery.

Alternative 2. Add Naukati to list of eligible communities (Preferred)

Adopting Alternative 2 would revise the list of eligible rural places for subsistence halibut in the regulations, and allow community members to participate in the subsistence halibut fishery. In December 2004, the Council selected Alternative 2, to add Naukati to the list of eligible communities for subsistence halibut, as its preferred alternative.

Alternative 3. Add Tongass Village to list of eligible communities.

Alternative 3 would add Tongass Village to the list of eligible communities for subsistence halibut use.

3.2 Expected effects of Alternatives

Action 2, Alternative 1. Taking no action would leave the list of eligible communities as it was originally implemented in 2003, despite new information from the Board of Fisheries that indicates these two communities were inadvertently left off the original list. Residents of Naukati and Port Tongass Village would continue to be subject to the two-fish per day bag limit and two-hook gear limit under sportfish regulations to take halibut for personal consumption, or would continue their customary and traditional fishing practices and be subject to Federal enforcement of subsistence halibut regulations. Taking no action may result in economic and/or social changes to Naukati or Port Tongass Village residents, because of their reliance on halibut to meet subsistence needs, particularly if they continue their subsistence lifestyle outside of the constraints of subsistence halibut regulations.

Action 2, Alternative 2. At their joint meeting in February 2004, the Board of Fisheries forwarded its recommendations to add Naukati and Port Tongass Village to the list of communities eligible to participate in the Federal subsistence halibut fishery. In determining whether dependence upon subsistence is a principal characteristic of the economy, culture, and way of life of an area or community under this subsection, the Alaska Board of Fish and the Board of Game shall jointly consider the relative importance

State of Alaska subsistence criteria

- (1) the social and economic structure;
- (2) the stability of the economy;
- (3) the extent and the kinds of employment for wages, including full-time, part-time, temporary, and seasonal employment;
- (4) the amount and distribution of cash income among those domiciled in the area or community;
- (5) the cost and availability of goods and services to those domiciled in the area or community;
- (6) the variety of fish and game species used by those domiciled in the area or community;
- (7) the seasonal cycle of economic activity;
- (8) the percentage of those domiciled in the area or community participating in hunting and fishing activities or using wild fish and game;
- (9) the harvest levels of fish and game by those domiciled in the area or community;
- (10) the cultural, social, and economic values associated with the taking and use of fish and game;
- (11) the geographic locations where those domiciled in the area or community hunt and fish;
- (12) the extent of sharing and exchange of fish and game by those domiciled in the area or community;
- (13) additional similar factors the boards establish by regulation to be relevant to their determinations under this subsection.

of subsistence in the context of the totality of the following socio-economic characteristics of the area or community, as identified in the box above.

The following summarizes a Board report (ADF&G 2004) to add the two communities. Previous Board decisions have found that there are customary and traditional uses of groundfish, including halibut, in some parts of Southeast Alaska. At its spring 1993 meeting the Board reauthorized subsistence regulations for Southeast Alaska, reestablishing subsistence fisheries that had existed prior to passage of the 1992 State of Alaska subsistence law for the Yakutat and Southeast Areas. The new regulations do not include reference to communities and do not permit subsistence fishing in non-subsistence areas.

Preferred Alternative 2. Nearly 60 residents of Naukati Bay submitted an appeal that requested a customary and traditional use finding for halibut and rockfish. Naukati Bay is located on the west coast of Prince of Wales Island in Southeast Alaska. The bay was named 'Naukatee Bay' in 1904, by the U.S. Coast & Geodetic Survey, who recorded it as the local Indian name. Naukati Bay was originally established as a logging camp, and later settled as a Department of Natural Resources land disposal site. Until recently, the community derived most of its jobs and income from logging. Employment is seasonal. Two community non-profit associations have been organized for planning and local issue purposes. Naukati is accessed primarily by float plane, or from the Prince of Wales Island North Island Road.

Naukati Bay appeared in the U.S. Census of Population for the first time in 1990, with a population of 93. Its population peaked at 170 in 1998, and declined to 135 in 2000. The current population is 109. There were 60 households in Naukati Bay in 2000, with an average household size of 2.25 people. The median age of population in 2000, was 36.6 years. The 2000 census reported an Alaska Native population of 10 percent.

The ADF&G Division of Subsistence conducted household surveys of harvest and use of wild resources in Naukati Bay in 1998. The pattern of harvest and use in Naukati Bay is similar to Craig, Klawock, and Petersburg (Tables 3.1 through 3.6), communities that are eligible for subsistence halibut use under current regulations. In 1998, 36 of Naukati households harvest halibut, 42 percent harvested rockfish, 2 percent harvested sablefish (black cod), and 22 percent harvested lingcod (Table 3.1). The mean household harvest in 1998, showed halibut with the highest production by weight at 70.9 lb, followed by rockfish at 60 lb, lingcod at 8.3 lb, and sablefish at 0.2 lb (Table 3.1). Survey data indicate that sharing is common in Naukati. While 36 percent of households reported harvesting halibut, 70 percent reported using it; 46 percent received halibut, and 20 percent shared halibut with those outside of their household (Table 3.2). The 1998 survey showed that all of the halibut and rockfish harvested by residents of Naukati were taken with rod and reel tackle (Table 3.3).

Groundfish continue to be part of a wide range of resources used in Naukati, including salmon, deer, and shellfish. The top ten subsistence food resources used by households in Naukati included halibut, the third-most important resource (i.e., 70 percent of the households reported its use). Rockfish was the 10th most used subsistence food resource (i.e., with 52 percent of the households reporting its use). (See Table 3.2). The 2003 subsistence halibut survey confirmed these levels of removal (Figure 1.4, Appendix 2).

Alternative 3 would affect a single resident of Southeast Alaska, living on a fishing vessel in Lincoln Channel, which is periodically tied to a net storage float with a small building on it for repairing nets. A description of the float is taken from Alaska Coastal Management Program Proposed Consistence Determination Concurrence (Donahue 2003), “. . .20' x 60' float with a plywood deck, supported by 2-foot diameter logs. All wood used in the construction of the proposed float is untreated with the exception of some pressure-treated cross pieces.

Table 3.1. Estimated Harvest and Use of Groundfish, Naukati Bay, 1998

Resource Name	Percentage of Households					Lb Harvested			Amount Harvested	
	Use	Attempt	Harv	Recv	Give	Total	Mean HH	Per capita	Total	Mean HH
All Resources	98.0	94.0	94.0	90.0	66.0	35,387.56	536.18	241.52		
Fish	96.0	76.0	72.0	62.0	54.0	17,820.63	270.01	121.63		
Cod	2.0	2.0	2.0	0.0	2.0	9.90	0.15	0.07	19.80	0.30
Pacific Tom Cod	2.0	2.0	2.0	0.0	2.0	9.90	0.15	0.07	19.80	0.30
Flounder	2.0	2.0	2.0	0.0	0.0	3.96	0.06	0.03	1.32	0.02
Unkn. Flounder	2.0	2.0	2.0	0.0	0.0	3.96	0.06	0.03	1.32	0.02
Greenling	34.0	24.0	24.0	10.0	12.0	568.66	8.62	3.88	106.92	1.62
Lingcod	32.0	22.0	22.0	10.0	10.0	548.86	8.32	3.75	87.12	1.32
Rock Greenling	4.0	4.0	4.0	0.0	2.0	19.80	0.30	0.14	19.80	0.30
Halibut	70.0	38.0	36.0	46.0	20.0	4,678.08	70.88	31.93		
Rockfish	52.0	42.0	42.0	16.0	10.0	3,954.72	59.92	26.99	1,054.68	15.98
Black Rockfish	6.0	6.0	6.0	0.0	0.0	158.40	2.40	1.08	105.60	1.60
Red Rockfish	50.0	40.0	40.0	16.0	10.0	3,796.32	57.52	25.91	949.08	14.38
Sablefish	2.0	2.0	2.0	0.0	0.0	14.65	0.22	0.10	3.96	0.06

SOURCE: Alaska Department of Fish and Game, Division of Subsistence, Household Survey, 1999

Table 3.2 Top Ten Resources Used by the Most Households in Naukati, and Other Selected Communities with Customary and Traditional Uses of Halibut and Groundfish, 1997-2000*

	Species in Rank Order for Naukati	% of HH in Naukati (1998)	Species in Rank Order for Klawock	% of HH in Klawock (1997)	Species in Rank Order for Craig	% of HH in Craig (1997)	Species Rank Order for Petersburg	% of HH in Petersburg (2000)
1	Coho Salmon	82.0%	Halibut	85.8%	Halibut	80.9%	Halibut	69.6%
2	Dungeness Crab	72.0%	Deer	71.7%	Deer	75.7%	Dungeness Crab	65.6%
3	Halibut	70.0%	Sockeye salmon	68.9%	Coho Salmon	64.2%	Chinook Salmon	63.2%
4	Deer	68.0%	Coho Salmon	67.9%	Dungeness Crab	63.6%	Berries	55.2%
5	Berries	68.0%	Berries	67.9%	Berries	61.8%	Deer	40.0%
6	Wood	60.0%	Chinook Salmon	60.4%	Rockfish	58.4%	Coho Salmon	39.2%
7	Shrimp	58.0%	Dungeness Crab	54.7%	Chinook Salmon	57.2%	King Crab	35.2%
8	Mushrooms	58.0%	Rockfish	52.8%	Shrimp	55.5%	Clams	32.8%
9	Clams	56.0%	Shrimp	46.2%	Sockeye Salmon	54.9%	Shrimp	32.8%
10	Rockfish	52.0%	Herring Spawn on Kelp	43.4%	Wood	37.0%	Tanner Crab	26.4%

* The year indicates the survey year.

Table 3.3. Estimated Harvest of Groundfish by Gear Type, Naukati Bay, 1998

	Harvest Units	Subsistence Gear		Removed From Commercial Catch		Rod and Reel		Any Method	
		Total	HH Mean	Total	HH Mean	Total	HH Mean	Total	HH Mean
Groundfish	lb	0.00	0.00	0.00	0.00	9,229.97	139.85	9,229.97	139.85
Pacific Cod (gray)	lb	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Pacific Tom Cod	lb	0.00	0.00	0.00	0.00	9.90	0.15	9.90	0.15
Unknown Cod	lb	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Unknown Flounder	lb	0.00	0.00	0.00	0.00	3.96	0.06	3.96	0.06
Lingcod	lb	0.00	0.00	0.00	0.00	548.86	8.32	548.86	8.32
Rock Greenling	lb	0.00	0.00	0.00	0.00	19.80	0.30	19.80	0.30
Halibut	lb	0.00	0.00	0.00	0.00	4,678.08	70.88	4,678.08	70.88
Black Rockfish	lb	0.00	0.00	0.00	0.00	158.40	2.40	158.40	2.40
Red Rockfish	lb	0.00	0.00	0.00	0.00	3,796.32	57.52	3,796.32	57.52
Unknown Rockfish	lb	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Sablefish (black cod)	lb	0.00	0.00	0.00	0.00	14.65	0.22	14.65	0.22
Buffalo Sculpin	lb	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Red Irish Lord	lb	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Table 3.4. Estimated Harvest and Use of Groundfish, Craig, 1997

Resource Name	Percentage of Households					Lb Harvested			Amount Harvested	
	Use	Att	Harv	Recv	Give	Total	Mean HH	Per capita	Total	Mean HH
Fish	96.0	79.8	78.0	73.4	58.4	224,288.53	368.90	127.13		
Cod	8.7	5.2	5.2	3.5	2.9	1,856.26	3.05	1.05	664.23	1.09
Pacific Cod	6.4	3.5	3.5	2.9	2.9	1,630.71	2.68	0.92	509.60	0.84
Pacific Tom Cod	1.2	1.2	1.2	0.0	0.0	12.30	0.02	0.01	24.60	0.04
Walleye Pollock	1.2	1.2	1.2	0.0	0.6	152.53	0.25	0.09	108.95	0.18
Unknown Cod	1.2	0.6	0.6	0.6	0.0	60.73	0.10	0.03	21.09	0.03
Flounder	2.3	2.3	2.3	0.0	0.0	105.43	0.17	0.06	35.14	0.06
Unk. Flounder	2.3	2.3	2.3	0.0	0.0	105.43	0.17	0.06	35.14	0.06
Greenling	32.9	26.0	25.4	10.4	14.5	5,759.83	9.47	3.26	1,047.31	1.72
Kelp Greenling	0.6	0.6	0.6	0.0	0.0	42.17	0.07	0.02	42.17	0.07
Lingcod	32.9	26.0	25.4	10.4	14.5	5,601.68	9.21	3.18	889.16	1.46
Rock Greenling	2.9	2.3	2.3	0.6	0.0	115.98	0.19	0.07	115.98	0.19
Halibut	80.9	52.0	46.2	49.1	35.3	54,115.51	89.01	30.67		
Perch	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Sea Perch	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Unknown Perch	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Rockfish	58.4	42.2	41.0	24.3	19.1	15,651.68	25.74	8.87	4,762.08	7.83
Black Rockfish	14.5	12.1	12.1	2.9	2.9	1,855.63	3.05	1.05	1,237.09	2.03
Red Rockfish	55.5	39.3	38.2	23.1	16.8	12,806.66	21.06	7.26	3,201.66	5.27
Unknown Rockfish	4.0	3.5	3.5	1.2	0.6	989.39	1.63	0.56	323.33	0.53
Sablefish	8.7	4.0	3.5	5.2	1.7	1,066.28	1.75	0.60	288.18	0.47

SOURCE: Alaska Department of Fish and Game, Division of Subsistence, Household Survey, 1998

Table 3.5. Estimated Harvest and Use of Groundfish, Klawock, 1997

Resource Name	Percentage of Households					Lb Harvested			Amount Harvested	
	Use	Att	Harv	Recv	Give	Total	Mean HH	Per capita	Total	Mean HH
Fish	97.2	76.4	75.5	81.1	62.3	154,669.55	510.46	182.80		
Cod	2.8	1.9	1.9	0.9	1.9	496.81	1.64	0.59	177.23	0.58
Pacific Cod	0.9	0.0	0.0	0.9	0.9	0.00	0.00	0.00	0.00	0.00
Pacific Tom Cod	0.9	0.9	0.9	0.0	0.0	2.86	0.01	0.00	5.72	0.02
Walleye Pollock	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Unknown Cod	0.9	0.9	0.9	0.0	0.9	493.95	1.63	0.58	171.51	0.57
Flounder	1.9	1.9	1.9	0.9	0.0	42.88	0.14	0.05	14.29	0.05
Unk. Flounder	1.9	1.9	1.9	0.9	0.0	42.88	0.14	0.05	14.29	0.05
Greenling	29.2	22.6	22.6	7.5	4.7	2,528.05	8.34	2.99	437.35	1.44
Lingcod	29.2	22.6	22.6	7.5	4.7	2,485.17	8.20	2.94	394.47	1.30
Rock Greenling	0.9	0.9	0.9	0.0	0.0	42.88	0.14	0.05	42.88	0.14
Halibut	85.8	50.9	48.1	50.9	38.7	35,390.97	116.80	41.83		
Perch	0.9	0.9	0.9	0.0	0.0	5.72	0.02	0.01	5.72	0.02
Sea Perch	0.9	0.9	0.9	0.0	0.0	5.72	0.02	0.01	5.72	0.02
Unknown Perch	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Rockfish	52.8	41.5	41.5	15.1	13.2	7,954.44	26.25	9.40	2,781.31	9.18
Black Rockfish	8.5	7.5	7.5	1.9	1.9	1,775.12	5.86	2.10	1,183.42	3.91
Red Rockfish	50.0	37.7	37.7	15.1	9.4	5,488.30	18.11	6.49	1,372.08	4.53
Unk. Rockfish	2.8	2.8	2.8	0.0	1.9	691.01	2.28	0.82	225.82	0.75
Sablefish	3.8	1.9	1.9	1.9	0.9	84.61	0.28	0.10	22.87	0.08

SOURCE: Alaska Department of Fish and Game, Division of Subsistence, Household Survey, 1998

Table 3.6. Estimated Harvest and Use of Groundfish, Petersburg, 2000

Resource Name	Percentage of Households					Lb Harvested			Amount Harvested	
	Use	Att	Harv	Recv	Give	Total	Mean HH	Per capita	Total	Mean HH
Fish	89.6	62.4	58.4	70.4	36.8	301,580.36	281.85	102.42	301,580.36 lbs	281.85
Cod	14.4	7.2	7.2	8.0	1.6	5,204.48	4.86	1.77	1,626.40 ea.	1.52
Pacific Cod	12.8	7.2	7.2	6.4	1.6	5,204.48	4.86	1.77	1,626.40 ea.	1.52
Pacific Tom Cod	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00 ea.	0.00
Walleye Pollock	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00 ea.	0.00
Unknown Cod	1.6	0.0	0.0	1.6	0.0	0.00	0.00	0.00	0.00 ea.	0.00
Flounder	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00 ea.	0.00
Greenling	6.4	4.8	4.8	1.6	1.6	4,422.10	4.13	1.50	701.92 ea.	0.66
Lingcod	6.4	4.8	4.8	1.6	1.6	4,422.10	4.13	1.50	701.92 ea.	0.66
Rock Greenling	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00 ea.	0.00
Halibut	72.0	39.2	33.6	49.6	17.6	55,973.84	52.31	19.01		
Perch	0.8	0.0	0.0	0.8	0.8	0.00	0.00	0.00	0.00 ea.	0.00
Sea Perch	0.8	0.0	0.0	0.8	0.8	0.00	0.00	0.00	0.00 ea.	0.00
Rockfish	26.4	16.0	15.2	12.8	2.4	8,423.04	7.87	2.86	2,105.76 ea.	1.97
Black Rockfish	3.2	3.2	3.2	0.0	0.0	1,369.60	1.28	0.47	342.40 ea.	0.32
Red Rockfish	23.2	12.8	12.0	12.0	2.4	5,855.04	5.47	1.99	1,463.76 ea.	1.37
Unknown Rockfish	2.4	1.6	1.6	0.8	0.0	1,198.40	1.12	0.41	299.60 ea.	0.28
Sablefish (black cod)	17.6	4.0	4.0	13.6	4.0	2,533.76	2.37	0.86	633.44 ea.	0.59

SOURCE: Alaska Department of Fish and Game, Division of Subsistence, Household Survey, 1998

The float will be secured at the two seaward corners by two 500 lb. anchors at the -60' level, each attached to the float by a 150' chain. The shoreward section of the float is attached by two chains to a one ton 6' x 4' rock anchor below mean high water at the -2.0' tide level. In this position there will be approximately 8' of water under the float so it will not ground at any stage of the tide. The approximate location is at 54° 44' 48" North, 130° 41' 56" West, Section 24, Township 82 S., Range 98 E., Copper river Meridian, approximately 52 miles southeast of Ketchikan, on the east side of Lincoln Channel adjacent to Sitklan Island, near Dixon Entrance.”

The float is reported to have been at the above location for more than 25 years, when it replaced a similar float that was at the same site during the 1920s to 1940s. The float and vessel are located in Nakat Inlet at the site of the abandoned village of Old Port Tongass. An appeal was submitted to the Council requesting a customary and traditional use finding for halibut and rockfish. The appellant is the sole resident at the site.

The appeal was forwarded to the Board for consideration during its February 2004 meeting. ADF&G Division of Subsistence staff reported that it has no harvest or pattern of use data for Old Port Tongass. However, the surrounding area supports stocks subject to customary and traditional uses. As mentioned above, the Board had invited public input to refine customary and traditional use findings when the McDowell decision modified the customary and traditional determination focus from communities and areas, to stocks subject to customary and traditional uses, after its 1989 findings in Southeast. It is conceivable that this area has similar patterns of use as the larger area that is determined to have customary and traditional uses. Therefore, the Board recommended that the Council consider whether to include this place as eligible to participate in the subsistence halibut fishery. The Council took no action on adding Port Tongas Village, because only one individual resides at the location and the Council does not recognize a community of one person, nor does it make individual eligibility determinations.

3.3 Benefit Cost Analysis

The preferred alternative to add Naukati as an eligible community to the subsistence halibut program is a policy decision. Approximately 109 Naukati residents could benefit from the privilege to fish halibut for subsistence use under more liberal gear (30 hooks per longline) and harvest limits (20 fish per day) than under the no action alternative (2 hooks on rod and reel gear and 2 fish per day under sportfish regulations). Residents may be positively affected, either directly (as a subsistence harvester), or indirectly (as a recipient of subsistence caught fish). As previously discussed, food needs that cannot be supplied by subsistence sources would have to be obtained from commercial sources at increased cash cost. Within a “mixed cash” economy, such as is typical of most remote rural subsistence-dependent communities, access to sources of cash for such purchases can create a significant burden, in and of itself. Access to subsistence resources provides benefits, in the form of economic and community stability, when alternative economic opportunities are limited or non-existent. Beyond the obvious food value associated with consuming the fish, there are benefits directly attributable to the action, accruing in the form of cultural, communal, and social values, as well. Adding Naukati would increase the overall value of the subsistence program.

The costs of implementing the preferred alternative are expected to be nominal. Costs are expected to be exceeded by the associated social and economic benefits to Naukati residents by allowing them to subsistence fish for halibut, rather than be subject to the more restrictive limits in the sport fishery, or to replace subsistence caught halibut through retail purchases. The use of more efficient gear would also reduce the per unit cost associated with harvesting subsistence halibut.

As described in Section 2.3, the original subsistence program was found to not result in a significant regulatory action, as defined under E.O. 12866 (NPFMC 2002). Adding Naukati would marginally increase the value of this program. A general estimate of the total replacement food cost of subsistence harvested halibut (and

associated incidental catch), under the preferred alternative, is between \$10,000 and \$17,000⁶. As discussed for Action 1, the total benefit of subsistence halibut fishing includes not only the replacement food value, but also the cultural importance of subsistence activity and food sharing. The costs of subsistence fishing are unreported, but are expected to be substantially less than the replacement value of halibut. If this were not the case, the residents of this community would return to their historic use patterns (i.e., use sport gear and adhere to sport seasons and bag limits), since they were preferred to cash transactions to obtain food stuffs.

Administrative, Enforcement and Information Costs. No administration and enforcement costs would accrue as a result of the proposed alternative.

3.4 Conclusions

The preferred alternative would include Naukati as an eligible rural community for subsistence halibut purposes based on the Board's recommendation. The Council declined to include Port Tongass Village following testimony and evidence that indicated the proposed rural community consists of only one individual. The Council believed that the right to fish for subsistence halibut should be restricted to rural communities or Alaska Native tribes and not individuals. Therefore, this proposed action would add only Naukati to the list of eligible communities found at § 300.65(f).

Table 3.7 summarizes the costs and benefits of Action 2. The subsistence catch under the preferred alternative is not expected to impact the halibut or groundfish resources in either the local or IPHC regulatory area. Naukati residents are expected to benefit from being allowed to harvest halibut (and associated rockfishes and lingcod) under subsistence rules. The preferred alternative aims to better recognize the social, cultural, educational, and community benefits that derive from balancing the food needs of subsistence users and perceived conservation needs to protect halibut and rockfish stocks in that community.

⁶ Assume 32 lb per capita as reported in Table 3.1 and \$3-\$5 per pound as reported in Section 2.

Table 3.7. Summary of the cost and benefit analysis of Action 2.

	Alternative 1. No Action	Alternative 2. Add Naukati to the list of eligible communities (Preferred)	Alternative 3. Add Port Tongass Village to the list of eligible communities
Resource Impacts	baseline	▶Expected to have no discernable affect on the halibut or groundfish stocks.	▶Same as Alternative 2.
Benefits	baseline	▶Expected to benefit the 109 residents of Naukati by adding them as eligible subsistence halibut users, subject to more liberal gear and harvest limits than in the sport sector. Intended to better recognize the social, cultural, educational, and “communal” benefits that derive from balancing the food needs of subsistence fishermen and those with whom they share the catch, and perceived conservation needs to protect halibut and rockfish stocks in local areas, as compared to the status quo. Non-market values cannot be quantified, but are expected to be high for both subsistence halibut participants and non-participants of the communities.	▶Same as Alternative 2, except limited to 1 resident of Port Tongass Village.
Costs	baseline	▶Any costs would be completely voluntary, so are not attributable to the proposed action, itself.	▶Same as Alternative 2.
Net benefits	baseline	▶Expected to be positive.	▶Not in compliance with Council policy.
Action objectives	Fails to correct omission of qualified communities from the original list.	▶Best meets the objectives of the proposed action (i.e., to evaluate whether additional communities meet Council criteria for inclusion as an eligible community)	▶Does not comply with the Council’s objectives for the proposed action, because it would include a “community” of 1; the Council does not determine individual eligibility.

4.0 Action 3 - Subsistence Halibut Harvest Restrictions

In October 2003, the IPHC staff reported to the Council that subsistence regulations changed the legal definition of halibut possession significantly. IPHC staff reported that they believe a new group of users would be harvesting halibut, under subsistence regulations, in areas where previous removals were permitted under recreational harvest regulations. Staff noted that these regulations allow significant expansion of subsistence use, over those that had been allowed previously, both in terms of harvest limits, and amounts of gear fished. Further, subsistence harvest was not conducted historically using longline gear, but with rod and reel in most southcentral and southeastern areas of the State. IPHC staff expressed concern that this increased fishing power, allowed all eligible users (including those for whom longline gear was not a customary and traditional practice), will lead to increased participation.

The IPHC staff reported that these allowances for an increased population of eligible users make it essential that an effective monitoring program be implemented. They expressed concern with the overall enforcement of the subsistence program and the legal possession limits for halibut. They identified that enforcement officers have no means to verify time on the water for subsistence halibut harvesters who possess more than one daily bag limit. Such enforcement difficulties hamper accurate accounting of halibut removals. In October 2003, the Enforcement Committee supported an IPHC staff proposal and recommended that the Council adopt a possession limit to clarify this conservation and enforcement issue. A possession limit could limit abuses of daily bag limit privileges, and enhance enforcement of daily harvest limits.

In a letter dated April 12, 2004, IPHC staff clarified that the proposed possession limit is recommended only for those areas that have experienced increased fishing power, in more densely populated areas of Southeast Alaska and the Gulf of Alaska (Area 2C, 3A, and 3B) only. This proposed action would not apply in those areas where the Council has eliminated daily bag limit restrictions (Area 4CDE), and is not intended to hamper traditional subsistence harvests.

In June 2004, the Council adopted the following problem statement.

The current halibut subsistence regulations do not include a possession limit. As a result, enforcement officers are unable to verify compliance with daily catch limits. A possession limit would enhance enforcement of daily bag limits.

4.1 Action and Alternatives Considered

Action 3. Create a subsistence halibut possession limit for Area 2C, and/or 3A, and/or 3B.

Alternative 1. No action.

Taking no action would result in continued potential difficulty in enforcing the daily harvest limit.

Alternative 2. Possession limit equal to two daily limits for Area 2C, and/or 3A, and/or 3B.

Alternative 2 would limit possession of subsistence halibut to 40 fish, generally. "Possession limit" means the maximum number of unpreserved fish a person may have in his/her possession (from State of Alaska regulations). IPHC regulations state, "the possession limit for halibut in the waters off the coast of Alaska is two daily bag limits."

There are two types of daily limits in the subsistence halibut regulations: (1) a daily harvest (bag) limit in Area 3 and 4; and (2) a daily vessel limit in Area 2C. The harvest limit for subsistence-caught halibut is 20 halibut per day per person, in Areas 3A, 3B.

A daily vessel limit of 20 halibut is in effect in Area 2C (instead of a per person limit). Therefore, the possession limit for Area 2C would be 40 halibut per vessel, under Alternative 2. Under the Action 1 preferred alternative, this daily vessel limit would be reduced to 5 halibut from June 1 to August 31, and 10 halibut, from September 1 through May 31, in the Sitka LAMP area only. Therefore, the possession limits would be twice those vessel limits, i.e., 10 halibut from June 1 to August 31, and 20 halibut, from September 1 through May 31, in the Sitka LAMP area only, under Alternative 2.

Alternative 3. Possession limit equal to one daily limit in for Area 2C, 3A, and 3B. (Preferred)

Alternative 3 would limit possession of subsistence halibut to 20 fish, even under a multi-day trip. This preferred alternative would result in a possession limit equal to one daily vessel limit in Areas 2C (i.e., 20 halibut per vessel). Under the Action 1 preferred alternative, this daily vessel limit would be reduced to 5 halibut from June 1 to August 31, and 10 halibut, from September 1 through May 31, in the Sitka LAMP area only; under this preferred alternative the possession limit would be set equal to the reduced seasonal vessel limits. The preferred alternative would also result in a possession limit of 20 halibut per person in Areas 3A and 3B.

Preferred alternative. Possession limit equal to one individual or vessel limit

Area	Possession limit per person	Possession limit per vessel
Areas 3A and 3B	20 halibut per day	
Area 2C		20 halibut per day
Sitka LAMP area		10 halibut per day - September 1 - May 31 5 halibut per day - June 1 - August 31

4.2 Expected effects of the Alternatives

Action 3, Alternative 1. Current subsistence halibut regulations do not restrict the number of daily bag limits that may be in the possession of the subsistence user. A possession limit (2 daily harvest limits, or 4 fish) is in effect only for the sport (guided and non-guided) halibut fisheries. Generally, a 20-fish per day harvest (bag) limit and 30-hook gear limit is in effect for subsistence halibut fisheries in Areas 2C, 3A, 3B, 4A, and 4B; vessel and gear limits for the Sitka LAMP area are described elsewhere in this document. Harvest and gear limits are not in effect for Areas 4C, 4D, and 4E.

IPHC staff suggested that the increased fishing power of longline gear, with up to 30 hooks, could result in increased fishing effort by current SHARC holders who had been harvesting halibut using the 2-hook limit, under sportfishing (personal use) regulations. However, subsistence halibut removals were not expected to dramatically increase, since there is a fixed amount of halibut that individuals, families, and communities can eat. Sale of subsistence halibut is strictly prohibited, and barter for cash is currently limited to \$400⁷. The

⁷The preferred alternative under Action 5 would eliminate the “fixed” dollar limit, although some constraints on what “related fishing expenses” may and may not be compensated for through cash payments theoretically prevent overt commercial sale of subsistence fish.

subsistence halibut fishery survey has verified the projection of subsistence halibut removals, from the original RIR (NPFMC 2002), at approximately 1.4 million lb annually.

The 2003 subsistence halibut survey compared 2000 and 2001 subsistence halibut harvest estimates with 2003 survey results (Fall et al. 2004). There are a number of comparisons that may be made. Figure 4.1 compared the percentage of subsistence halibut harvests by regulatory area for 2000 and 2003. Expressed as a percentage of the statewide harvest, the rankings of most regulatory areas are similar in the subsistence halibut harvest estimates for 2000 and 2003 (Fall et al. 2004). Southeast Alaska (Area 2C) ranked first in both years, at 54 percent of the total for 2000, and 60 percent for 2003. Southcentral Alaska (Area 3A) ranked second (19 percent and 30 percent, respectively), although its percentage of the total harvest was higher in 2003, due to the lower harvest estimate for Area 4A (eastern Aleutians), which dropped from 12 percent of the total in 2000, to 2 percent in 2003. Areas 3B and 4B harvests were less than 3 percent and 1 percent, respectively, in both years.

Figure 1.8 from Section 1 indicates potential increased use of longline gear and harvest in Areas 2C and 3A.

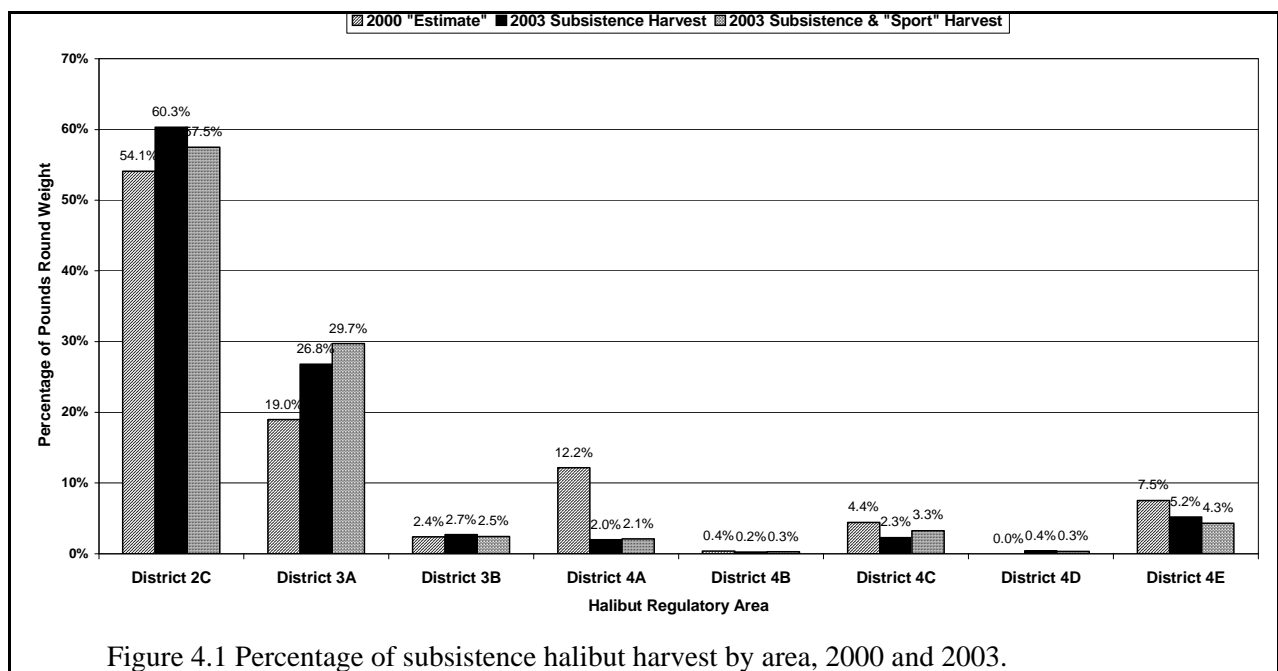
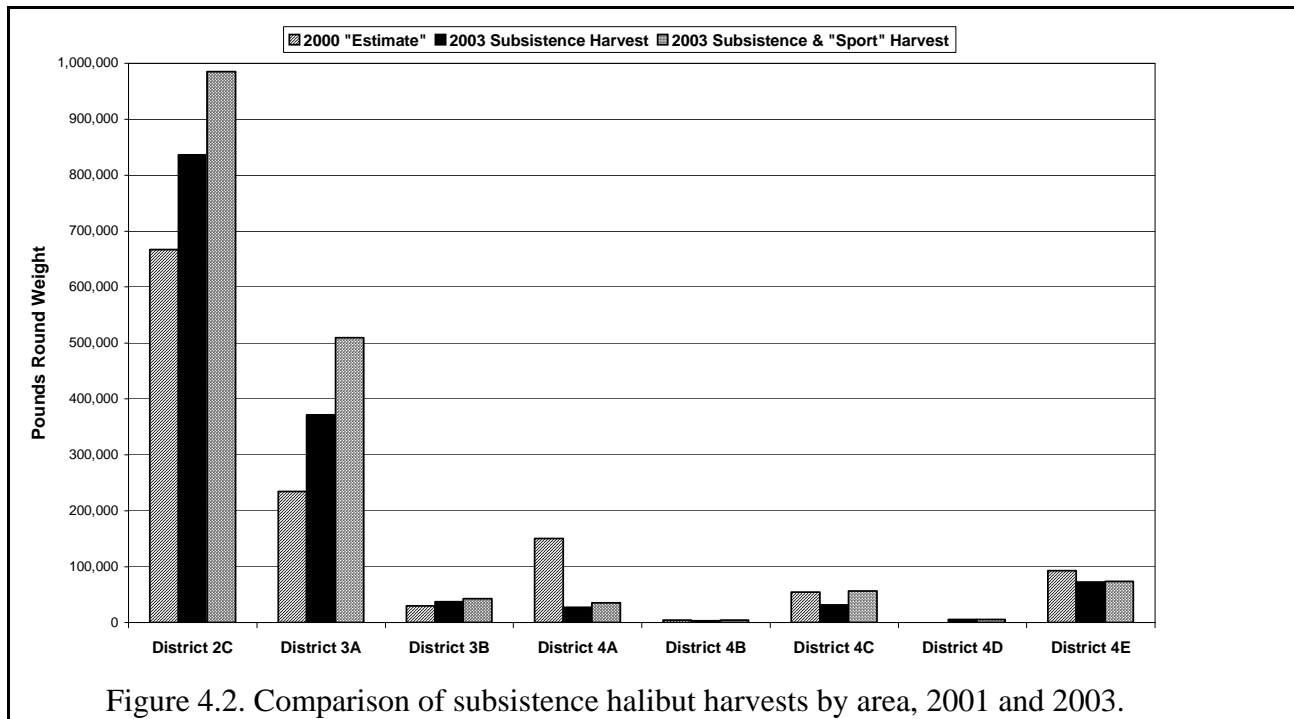


Figure 4.1 Percentage of subsistence halibut harvest by area, 2000 and 2003.

The estimated harvest of about 1,000,000 pounds of halibut with set hook gear in 2003, increased over 2000 estimates of 247,021 pounds. Differences between the two years also can be discerned by comparing the estimates by area (Table 4.1, Figure 4.2). Estimates for Area 2C and Area 3B are higher for 2003 than for 2000. Set hook gear harvests in 2003 account for much of this higher harvest. On the other hand, the 2003 estimate for Area 4A is much lower than that for 2000, because of a lower estimate for Unalaska/Dutch Harbor. The 2003 estimate for Area 4E is lower than that for 2000; this is likely the result of relatively low enrollment of subsistence fishermen in the SHARC program in some key halibut fishing communities in this area (e.g., Tununak). Further, when comparing the 2003 estimate with those of previous years, in addition to considering differing research methods, the possible effects of the new subsistence halibut regulation on fishing patterns must also be taken into account. This last point is the principal concern raised by the IPHC as the rationale for the proposed action. Taking no action may result in difficulty in enforcing daily harvest limits. IPHC staff has suggested that the status quo is insufficient for adequate enforcement of daily harvest limits in Areas 2C, 3A, and 3B.



Action 3, Alternative 2. Alternative 2 would implement a possession limit equal to two daily limits (40 halibut per person in Area 2C, 3A and/or Area 3B, except in the Sitka Sound LAMP area, where the possession limit would be equal to 20 halibut per day from September 1 - May 31 and 10 halibut per day from June 1 - August 31 (based on changes recommended under the Action 1 preferred alternative)).

Action 3, Alternative 3 (Preferred Alternative). The Council's preferred alternative would implement a possession limit equal to one daily bag limit (20 halibut per person in Area 2C, 3A, and/or Area 3B, except in the Sitka Sound LAMP area, where the possession limit would be equal to 10 halibut per day from September 1 - May 31 and 5 halibut per day from June 1 - August 31 (based on changes recommended under the Action 1 preferred alternative)).

The Alaska Native Tribes and rural communities that would be affected are listed in Appendix 2. Halibut removals by subsistence users are not expected to be constrained by either bag limit. Subsistence users are currently subject to daily limits, and may need to fish on multiple days to harvest the fish necessary to meet their needs. The preferred alternative would enhance enforcement of daily limits. Since documentation of daily limits, such as a catch record card, is not required at the time of fishing, IPHC staff report that it would be difficult for NOAA Enforcement to determine the number of days in a subsistence halibut fishing trip and, therefore, the number of legal fish allowed. NOAA Enforcement and the Enforcement Committee recommended a possession limit to enhance enforcement of the daily bag limit. The preferred alternative was added to the analysis in October 2004, after staff identified that daily limits are implemented per vessel, rather than per person.

A possession limit itself does not address the difficulty of determining how many days a subsistence fisherman has been fishing; however, it does limit harvests to the maximum allowable number of fish in possession.

The Council adopted community harvest permits (CHPs) and ceremonial and educational permits (CEPs) in April 2002, to mitigate the impacts of more restrictive harvest and gear limits in Area 2C, and is considering them for proposed reductions in gear limits under Action 1. The proposed rule for implementation of the April 2002 regulatory changes was published in the *Federal Register* at 69 FR 41447, dated July 9, 2004. Therefore, staff interprets Council intent to allow Area 2C (except for the Sitka LAMP) subsistence users, fishing under special permits, to be exempt from possession limits, since those users are also exempt from other program restrictions. This exemption will apply to CHPs and CEPs in all areas. Under a CHP, Area 2C tribes or communities may appoint individuals to harvest an unlimited number of halibut, subject to more stringent reporting requirements. Ceremonial and Educational Permits allow tribes only a slight increase in harvest potential (up to 25 halibut per permit) and also remain subject to more stringent registration and reporting requirements. Staff assumes that special permits would allow such an exemption for all areas for which Action 3 is implemented, unless otherwise clarified by the Council.

4.3 Benefit Cost Analysis

Approximately 10,278 subsistence users (using 2003 records) would be affected by proposed Action 3, Alternative 2, implementing a possession limit. Approximately 7,230 SHARC holders in Area 2C; 2,610 SHARC holders in Area 3A; 260 SHARC holders in Area 3B; 150 SHARC holders in Area 4A; and 20 SHARC holders in Area 4B, would be affected directly by Alternative 2 (Table 4.2).

Table 4.2 SHARC holders by area for 2003. (Source: Fall et al. 2004)).

Area	Tribal	Non-Tribal	Total
2C	3,132	4,095	7,227
3A	936	1,674	2,610
3B	204	59	263
4A	70	84	154
4B	6	18	24
Total	4,348	5,930	10,278

This action is intended to increase conservation fish resources by allowing better enforcement of daily catch limits for the subsistence halibut fishery. Subsistence harvesters, indeed all users of this resource, should benefit by reducing the potential for illegal fishing and also by increasing enforcement efficiency. The limits selected under both Alternative 2 and the preferred alternative should allow sufficient harvest to fulfill the needs of those participating in the subsistence fishery. Subsistence harvests should not be hampered by Alternative 2, or by the more restrictive preferred alternative. Possession limits offer an additional method for enforcing daily harvest and vessel limits, by placing a limit on the number of fish that may be held in possession. Implementation of a possession limit does not assume that additional trips must be made. Daily (i.e., trip) limits are already regulated through individual and vessel limits. A possession limit is simply another enforcement tool to ensure adherence with daily limits. The preferred alternative was selected as the best choice to facilitate enforcement of the individual and vessel limits.

Administrative, Enforcement and Information Costs. No additional administration and enforcement costs would occur as a result of the proposed alternatives. It is expected that Alternative 2, as well as the preferred alternative would enhance enforcement of daily harvest and vessel limits, and decrease associated enforcement costs. Possession limits are intended to be in effect at all times during and after a subsistence fishing trip, until all affected halibut are processed at the harvester's place of permanent residence.

4.4 Conclusions

In general, the daily harvest (bag) limit for subsistence halibut is up to 20 halibut per eligible subsistence fisherman, except in Area 2C where allowable retention was reduced to 20 halibut per vessel and Areas 4C, 4D, and 4E where there are no limits on retention. IPHC staff notified the Council that subsistence regulations allowed a substantial increase in harvest that necessarily required more effective monitoring. IPHC staff specifically expressed concern with overall enforcement of the subsistence program and the allowable

possession of halibut. IPHC staff identified that enforcement officers have no means to verify time on the water for subsistence halibut fishermen who possess more than one daily bag limit, thereby hampering accurate accounting of halibut removals. The Council subsequently adopted a preferred alternative to implement a possession limit, to reduce potential abuses of the daily bag limit, and enhance enforcement of daily harvest limits in those areas that have experienced increased effort (i.e., in areas of higher population density, including only Areas 2C, 3A, and 3B). The Council clarified that the proposed possession limit would not be considered for Areas 4A and 4B, because those areas were not perceived to experience corresponding increases in fishing effort.

The preferred alternative would implement a possession limit of one daily limit in Area 2C, 3A, and 3B. For instance, a fisherman in Area 2C is restricted to 20 halibut per vessel, per day, thus that fisherman's possession limit would be equal to his or her daily bag limit, which is 20 halibut per vessel. Likewise, a fisherman in Areas 3A or 3B is restricted to 20 halibut per person, per day, thus that fisherman's possession limit would be equal to his or her daily bag limit, which is 20 halibut per person. Additionally, the possession limit would be set equal to vessel limits proposed under the preferred alternative under Action 1. These would be 10 halibut per day, during September 1 through May 31, and 5 halibut per day, during June 1 through August 31 in the Sitka Sound LAMP area.

Table 4.3 summarizes the costs and benefits of Action 3. Possession limits are not expected to affect the halibut or groundfish resources. They were proposed by Federal agency staff to facilitate enforcement of individual and vessel daily harvest limits. As compared to the status quo, both Alternatives 2 and 3 better recognize the social, cultural, educational, and “communal” benefits that derive from balancing the needs of subsistence users with halibut and rockfish conservation needs in local areas. Net benefits mainly accrue due to enhanced enforcement of subsistence halibut regulations.

Table 4.3. Summary of the cost and benefit analysis of Action 3.

	Alternative 1. No action.	Alternative 2. Possession limit equal to two daily limits.	Preferred Alternative 3. Possession limit equal to one daily limit.
Resource Impacts	baseline	▶Not expected to affect the halibut or groundfish stocks.	▶Same as Alternative 2.
Benefits	baseline	▶Expected to facilitate enforcement of daily harvest limits better than the status quo.	▶Expected to facilitate enforcement of daily harvest limits better than Alternatives 1 or 2, as one individual or vessel daily limit was recommended to be the most enforceable measure by agency staff. It is intended to simplify enforcement, making it easier to ensure that conservation and compliance benefits of this proposed action are achieved.
Costs	baseline	▶Costs could increase for subsistence harvesters who would have conducted fishing trips of more than two days duration. ▶No additional costs have been estimated for enforcement.	▶Costs could increase for subsistence harvesters who would have conducted a fishing trip of more than one day ▶No additional costs have been estimated for enforcement.
Net benefits	baseline	▶Expected to result in net benefit gain, by balancing enforceability with the subsistence users' need to acquire subsistence food resources.	▶Expected to result in net benefit gain, as compared to status quo. Increases in enforceability, relative to Alternative 2, come at potentially higher costs to subsistence users (more restrictive "one day trip" limit). Thus, whether net benefits exceed or fall short of Alternative 2 is indeterminate.
Action objectives	Fails to facilitate enforcement of current harvest limits.	▶Addresses enforcement requirements better than the status quo.	▶Better facilitates the enforcement objectives of this action, than either the status quo, or Alternative 2.

5.0 Action 4 - Charter Vessel Prohibition

Prohibitions at 50 CFR 300.66 make it unlawful for any person to retain subsistence halibut that were harvested using a charter vessel. Regulations at 50 CFR 300.61 define charter vessel as “a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator.” NOAA Office of Law Enforcement staff have advised the Council that this language does not provide them with a clear definition of a charter vessel. The definition above is from IPHC regulations and was written for sport fishing. It is the only definition to which NOAA Enforcement may refer when enforcing the subsistence halibut regulations.

There are two “necessary, but not sufficient” components to the IPHC definition:

- 1) “a vessel used for hire in sport fishing for halibut” (subsistence clearly is not sport fishing); and
- 2) “but not including a vessel without a hired operator.”

Enforcement has always had difficulty proving an operator of a given vessel was being paid for his/her services onboard . In the past, this was mainly a concern of the State of Alaska, when State enforcement officers tried to prove a private vessel was being used for charter and it was not registered as such. The problem has expanded to Federal regulations under the current subsistence halibut program.

Since current Federal subsistence halibut fishery regulations are difficult to enforce, NOAA Enforcement staff and the Enforcement Committee recommended that the regulations be revised to clarify the definition of a charter boat, and restrict subsistence users on a charter vessel to be the owner and immediate family members (Alternative 3). NOAA Enforcement and Enforcement Committee also recommended eliminating the prohibition on the use of charter vessels for subsistence halibut fishing (Alternative 2), if appropriate language under Alternative 3 is not adopted, rather than retaining the status quo.

In June 2004, the Council adopted the following problem statement.

Prohibiting the use of charter vessels for hire in the subsistence halibut fishery is difficult to enforce under current regulations.

5.1 Action and Alternatives Considered

Action 4. Revise the definition of charter vessels.

Alternative 1. No action.

Taking no action would leave the regulations as written.

Alternative 2. Allow the use of charter boats for hire in the subsistence halibut fishery.

Implementation of Alternative 2 would eliminate the prohibition on the use of a charter vessel for hire in the subsistence halibut fishery.

Alternative 3. Preferred Alternative.

Define a charter vessel as “a vessel registered as such with the Alaska Department of Fish and Game.” Restrict the use of the charter vessel to the owner of record and the owner’s immediate family (the owner must be an eligible subsistence user). Prohibit the use of a charter vessel for subsistence fishing, while clients are on board. Prohibit the transfer of subsistence halibut to clients.

The Council adopted NOAA Enforcement's recommendation and provided additional guidance to ensure the prohibition continued to restrict subsistence fishing to legitimate practices. The Council recommended revising the definition of charter vessel to "a vessel registered as such with the Alaska Department of Fish and Game" under the first part of the preferred alternative. NOAA Enforcement believes this definition would better support the identification of vessels used illegally for charter fishing for subsistence halibut, as well as the enforcement of other charter vessels restrictions.

After the Council adopted the recommended revised definition for a charter vessel in December 2004, new regulations at 05 AAC 75.007, effective February 10, 2005, were adopted by the Alaska Department of Fish and Game. Under these regulations, a vessel is registered with the Alaska Department of Fish and Game as a "sport fishing guide vessel" as opposed to a "charter vessel." Therefore, under advice from NOAA Enforcement, the regulatory definition for a charter vessel would be revised to be "a vessel registered as a sport fishing guide vessel with the Alaska Department of Fish and Game."

Under the second part of the preferred alternative, the Council recommended that a charter vessel may be used for subsistence halibut fishing, but that use for that purpose must be restricted to the owner of record as indicated on the State of Alaska vessel registration, provided the owner is eligible to fish for subsistence halibut, and the owner's immediate family. This provision would allow qualified subsistence halibut fishermen, who also engage in charter fishing, to use their vessels to conduct subsistence fishing, but limit such fishing to the vessel owner and his or her immediate family. The Council recommended not defining "immediate family" in regulation.

The Council added the third and fourth parts to prevent abuses of the proposed charter vessel allowance by the owner of the vessel and his immediate family. The Council recommended prohibiting the use of a charter vessel for subsistence halibut fishing while charter clients are on board the vessel. And, lastly, it recommended that the transfer of subsistence halibut to charter clients be prohibited. These prohibitions are intended to prevent the vessel owner, or any other person on board the vessel, from engaging in subsistence fishing at any time while a charter client is on board the vessel. This would preclude the use of any gear not classified as sport fishing gear, or retention of any halibut in excess of the sport limits, while charter clients are on board any vessel. Additionally, a prohibition on the transfer of subsistence halibut to charter clients would apply at all times, meaning that at no time may subsistence halibut be provided by a charter operator to any person who has chartered a sportfishing trip with that charter operator.

5.2 Expected effects of the Alternatives

Action 4, Alternative 1. A charter boat may not be used for sport fish charters and subsistence fishing at the same time. However, it may be used for subsistence fishing if it is not being used during the same trip as a charter boat for sport fishing. Enforcement officials have not been able to pursue cases where a charter operator may have been circumventing the intent of the regulations, due to lack of evidence that a contractual arrangement for the hire of the charter boat had been entered into between the owner/operator and paying clients who were subsistence halibut fishing. Subsistence fishermen may use a commercially licensed charter vessel, if it is not being used during the same trip in a commercial fishery. Taking no action (i.e., adopting the status quo alternative) will continue to hinder enforcement of Council policy and current regulations.

Action 4, Alternative 2. Alternative 2 proposes to remove the restriction on the use of a charter vessel for hire by eligible subsistence halibut users, since the current regulation is difficult to enforce. Under this proposed action, as many as 1,240 State licensed charter vessel operators could be hired by as many as 11,635 SHARC holders (2003), and have the potential for increased commercial gain. It is not known how many SHARC holders would hire a charter operator to harvest subsistence halibut, but the number is expected to be small. It is not known what the charter fee for subsistence halibut fishing would be.

A subsistence fisherman would only choose to incur the cost of chartering a vessel if the expected benefit from doing so exceeded the cost. Any number of circumstances could exist under which this calculation would be positive. For example, a charter vessel may be larger, more seaworthy, better equipped to maintain catch quality, allow safe fishing in more distant and productive location, etc., than alternative boats available to a subsistence fisherman. Chartering a vessel eliminates the need for the subsistence fisherman to incur capital, operating, and maintenance costs for a boat that may be used for only a few days each year. Chartering a vessel and skipper reduces the minimum “necessary” vessel operating and fishing skill level of the subsistence user. In other words, relatively unskilled fishermen and/or unschooled boat handlers may still fish for subsistence food supplies safely, efficiently, and effectively by “hiring” the skilled help they, themselves, do not possess. While the expected net benefit calculation would vary from individual to individual, for some eligible subsistence users, hiring a charter vessel and skipper may represent the optimal means of accessing the halibut resource.⁸

Alternative 3 [Preferred Alternative]. The preferred alternative would revise the current regulatory language that prohibits the use of a charter vessel for hire by eligible subsistence halibut users, since the current regulatory language is difficult to enforce. The language adopted under the preferred alternative incorporated language in State statute (AS 16.05.490), which defines a charter vessel as “*one which is registered as such by the State of Alaska Department of Fish and Game.*” The State definition would allow enforcement to more easily identify the vessel, without having to prove it is chartered. Staff recommended that the Council may wish to provide additional revision to the proposed definition under this alternative because the State’s definition of charter vessel is not sufficient, as described above. The proposed language comports with recommendations from NOAA Enforcement and the Enforcement Committee.

It would also include language to restrict the use of the charter vessel to the owner/operator and immediate family members, which enforcement staff advised the Council would not need to be specified in regulation. It also would specify that clients may not be on board, and that subsistence halibut may not be transferred to clients (during the trip, or subsequently).

There are no expected direct impacts on the 151 State licensed charter operators who also are eligible subsistence halibut users, because their ability to use their boats to meet their own subsistence needs is unaffected. There may, nonetheless, be adverse indirect impacts on these individuals. Presumably, when a vessel owner/operator includes non-family, but qualified subsistence users in his/her fishing excursion, (at the very least) the variable costs of operation are shared. By excluding non-family members from participating in this way, the entire cost of the trip falls upon the owner/operator (except for such part as may subsequently be recovered from those with whom the catch is shared or bartered). In addition, an unknown number of eligible users who are not an immediate family member of the charter boat owner could be negatively affected by this new restriction on access to the halibut resource.

5.3 Benefit Cost Analysis

⁸ Except for being “licensed” by the State as a charter operation, there may be very little difference between “hiring” a charter vessel and skipper, and “stacking” subsistence limits on a single vessel. In the latter case, variable operating costs are “likely” distributed among those fishing (as well as those not onboard, but with whom the catch will be shared). If the skipper is the vessel owner and an eligible subsistence fisherman, *presumably* there is some “compensation” made to him/her by others for use of the boat. If the skipper/owner is not himself or herself an eligible subsistence fisherman, *presumably* he/she will be compensated in some fashion for the use of the boat and for operating it during the trip. This compensation need not be in the form of a cash exchange.

As of July, 106 individuals held both subsistence and charter vessel permits in Area 2C in 2004, out of approximately 7,800 total SHARC holders, and 800 charter vessel permit holders. Of approximately 3,000 SHARC (2004) and 600 charter vessel permit holders in Area 3A, 45 held both. No one held both types of permits in other regulatory areas.

The economic costs of Action 4 are unknown, because the number of eligible subsistence users who would be impacted by the proposed alternatives cannot be predicted. There are no estimates of the number of charter owner/operators who may have been hired historically by subsistence halibut harvesters, because the subsistence halibut fishery was not legally recognized until May 2003. At that time, the use of charter vessels for hire was prohibited in this fishery. In small, primarily Alaska Native communities (e.g., Angoon, Kake), where commercial fishing has declined, charter boats have taken the place of the large commercial salmon boats, as the vessels used by the community to harvest subsistence halibut. Therefore, restrictions on subsistence use of charter boats will impact more than the charter owner and may include some unknown number of subsistence harvesters who relied on these larger vessels as a platform for subsistence fishing (Mike Turek, pers.comm.).

If adopted, Alternative 2 could benefit a number of charter owner/operators (including those otherwise not eligible to harvest subsistence halibut), and a number of eligible subsistence users who may choose to use a charter vessel to harvest their subsistence halibut. The number of individuals in each category cannot be estimated, *a priori*. Nonetheless, for several reasons identified above, this practice may yield real benefits to many individuals in each group.

The preferred alternative would disadvantage those same operators, and the eligible subsistence fishermen who would wish to employ the boats and skippers' services to obtain access to the halibut resources (although it is not known if such hiring would occur, if permitted). However, NOAA Enforcement recommended that the Council take action to facilitate enforcement of Council policy, by revising the subsistence regulations to more clearly define the prohibition on the hiring of a charter vessel in this fishery.

Administrative, Enforcement, and Information Costs. No administration and enforcement costs would accrue as a result of the proposed alternatives. Listing family members to be allowed on a charter vessel for subsistence fishing purposes may not be inclusive (e.g., spouse). Documentation of a familial relationship with the charter owner/operator would be difficult to provide onboard the vessel, thus, reintroducing enforcement complicating provisions in the regulations.

5.4 Conclusions

Current regulations prohibit the retention of subsistence halibut harvested using a charter vessel. NOAA Enforcement notified the Council that the prohibition under the current definition was difficult to enforce because of the problems associated with determining whether the vessel operator is under "hire." NOAA Enforcement recommended revising the definition of charter vessel to improve enforcement of the prohibition, consistent with the Council's intent. The Council subsequently clarified that the prohibition was intended only to prohibit subsistence fishermen from hiring someone to take them subsistence fishing, but not to prohibit the use of vessels registered as charter vessels from being used for subsistence fishing. The resulting Alternative 3 was adopted as the preferred alternative to provide additional regulatory guidance to ensure the prohibition continued to restrict subsistence fishing to what the Council regards as legitimate subsistence practices. The preferred alternative would revise the definition of charter vessel to "a vessel registered as such with the Alaska Department of Fish and Game." NOAA Enforcement believes this definition would better support the identification of vessels used illegally for charter fishing for subsistence halibut, as well as the enforcement of

other charter vessels restrictions. The rationale is that NOAA Enforcement need not prove an operator was “hired” to identify an infraction

The Council further recommended that a charter vessel may be used for subsistence halibut fishing, but that use for that purpose must be restricted to the owner of record, as indicated on the State of Alaska vessel registration, provided the owner is eligible to fish for subsistence halibut, and the owner’s immediate family. This provision would allow qualified subsistence halibut fishermen, who also engage in charter fishing, to use their vessels to conduct subsistence fishing, but limit such fishing to the vessel owner and his or her immediate family. The Council recommended not defining “immediate family” in regulation, based on an Enforcement staff recommendation.

Table 5.1 summarizes the costs and benefits of Action 4. Alternative 2 has the *potential* to benefit up to 1,400 licensed charter operators who may be hired by any of 11,000 eligible SHARC holders (in Areas 2C and 3A), although only a small fraction of charter vessels are expected to be hired by a small fraction of eligible users. Again, in the limit, Alternative 2 may dramatically increase fishing power for all eligible users, with the potential for increasing fishing effort and resource utilization by the subsistence sector. However, as noted, one would expect only a very small number of charter trips to actually be purchased by eligible subsistence fishermen to access the halibut resource. This is likely so for several reasons. First, for the majority of eligible subsistence fishermen living in villages and rural communities, wage earning economic opportunities are relatively limited. Cash is a scarce commodity and acquiring sufficient cash to pay the market rate for a charter, while operating within a “mixed-cash/subsistence economy,” may represent a significant barrier to accessing these services. Second, like any other scarce resource, there is an opportunity cost associated with its use. That is, expenditure of “cash” to hire a charter subsistence fishing trip means that same “cash” is not available to make other purchases, payments, and acquisitions in the wider economic world. And, third, recognizing this fact, there may be alternative mechanisms (CHPs) provided in the regulations that would allow acquisition of needed quantities of subsistence halibut, without resorting to a cash transaction to hire a charter.

Notwithstanding these facts, the *potential* for an increase of significant size has been of concern to the public and management agencies. Some costs to the commercial sector could accrue, as the harvestable quota of halibut is reduced to account for subsistence halibut removals. As the analysis above demonstrates, Alternative 2 would be expected to have positive economic benefits, but may not fully meet Council policy objectives. It eliminates an unenforceable restriction, but may not adequately maintain the “customary and traditional” nature of this fishery.

The preferred alternative may adversely impact as many as 151 holders of both SHARC and charter vessel permits. It better recognizes the social, cultural, educational, and “communal” benefits that derive from balancing the needs of subsistence users and the perceived conservation needs to protect halibut and rockfish stocks in local areas, compared with the status quo. However, it may limit eligible subsistence users’ access to the resource for non-vessel owners, or for skiff owners whose boats are too small for safe and efficient subsistence-scale halibut fishing. Also, documentation of familial relationship, as required under this alternative, will be difficult to provide and verify on board a small fishing vessel, and may prove to be unenforceable (ironically, the very “problem” responsible for initiating this proposed action). Alternative 3 may better meet the objectives of the subsistence halibut regulations as they pertain to accommodating customary and traditional users of the halibut resource, than either the status quo or Alternative 2, while simultaneously meeting Council intent to maintain, but not increase, resource utilization by this sector.

The Council selected the preferred alternative because it corrected a deficiency that staff identified with identifying which family members may be allowed to subsistence fish. The Council felt that sufficient benefit accrued from facilitating enforcement of its policy to prohibit the hire of charter vessels for use in the subsistence fishery to warrant the proposed action.

Table 5.1. Summary of the cost and benefit analysis of Action 4.

	Alternative 1. No Action.	Alternative 2. Allow the use of charter boats for hire in the subsistence halibut fishery.	Alternative 3. [Preferred Alternative]. Define a charter vessel such that it is registered with the State.
Resource Impacts	baseline	▶Not expected to affect the halibut or groundfish stocks.	▶Not expected to affect the halibut or groundfish stocks.
Benefits	baseline	<ul style="list-style-type: none"> ▶Removes enforcement problem ▶Potentially improves fishing access for eligible users who have limited or costly access to a vessel. ▶Potentially increases additional employment, asset utilization, and revenue for charter operators, particularly those charterboat owners located in more remote areas and/or with very short seasons. This could represent a significant economic opportunity where few others exist, introducing additional cash-flow into mix-cash economies. ▶Only a small fraction of charter vessels are expected to be hired, and then by only a small fraction of eligible users from among 1,400 charter operators and 11,000 SHARC holders. 	<ul style="list-style-type: none"> ▶Would better conform with Council policy to limit the use of hired vessels in the subsistence fisheries . ▶Would facilitate, but not completely resolve, the enforcement problem, but could clarify the prohibition for the public.
Costs	baseline	▶indeterminate	<ul style="list-style-type: none"> ▶May limit access to the resource by a few non-vessel owners, or skiff owners whose boats are too small for safe and efficient subsistence-scale fishing. ▶Documentation of familial relationship will be difficult to provide on board the vessel.
Net Benefits	baseline	▶indeterminate	▶uncertain, but likely positive
Action objectives	Does not address inadequately enforceable regulations.	▶Would eliminate an unenforceable restriction and facilitate enforcement (by removing regulation that is difficult to enforce), but may not meet objectives to maintain the customary and traditional practices.	▶Would accommodate customary and traditional practices more fully than other alternatives, while meeting Council intent to maintain, but not increase, resource utilization.

6.0 Action 5 - Customary and Traditional Trade Restrictions

Current regulations at § 300.66(j) specify that it is unlawful for any person to retain or possess subsistence halibut for commercial purposes, sell, barter, or otherwise enter commerce or solicit exchange of subsistence halibut for commercial purposes, except that a qualified subsistence fisherman may engage in the customary trade of subsistence halibut through monetary exchange of no more than \$400 per year. The Council intended the \$400 annual limit to allow a recipient of subsistence halibut to help defer the donating harvester's costs of harvesting subsistence halibut.

The final rule to implement the subsistence halibut program in 2003 [68 FR 18145] explained Council intent regarding customary trade. "Customary trade is a customary and traditional use of halibut and should be an integral part of any subsistence policy. The Council recommended and NMFS approved this customary trade policy and the \$400-per-year monetary limit because it was considered an insignificant amount. The Council determined, and NMFS agrees, that the \$400 limit would allow a subsistence fisherman to be reimbursed for the cost of his or her fuel or other incidental expenses incurred while subsistence fishing for halibut. Such customary trade can occur without subsistence halibut being deemed as entering commerce."

Current regulations are enforceable in terms of sale to commercial businesses, in cases of blatant solicitation, or where the \$400 limit is exceeded during a trip, if persons are caught engaged in such activities. But, since no "paper trail" (e.g., fish ticket) accompanies these sales, unless a particular transaction exceeds \$400 and was observed, the provision is difficult to enforce in the subsistence fishery. This is consistent with advice provided by NOAA Enforcement to the Council when the latter approved the \$400 cash exchange as part of the original subsistence halibut program.

The Council became concerned that continuing the \$400 customary trade limit would result in the circumvention of Council intent by allowing *de facto* "sale" of subsistence halibut, outside customary and traditional trade, based on a reiteration of these concerns by Enforcement staff. In June 2003, the Council's Enforcement Committee reviewed issues related to customary trade and determined that: (1) despite the Council's intent to not create a new commercial fishery, sales of subsistence halibut under current regulations are essentially allowed, up to the \$400 annual limit; (2) the \$400 annual limit is not enforceable, because it is not possible for enforcement officers to distinguish between sale and customary and traditional exchange for cash; and (3) it is unclear whether current regulations prohibit advertising and solicitation for commercial sale. The Enforcement Committee recommended that the Council revise the regulations to meet the original intent of only allowing customary and traditional trade.

The Council determined that the identification of a dollar amount for the allowance of customary trade in the regulations has resulted in some subsistence users "selling" halibut to other subsistence users, outside of customary and traditional practices. In other words, the \$400 annual cap effectively operates as a target, rather than a limit. NOAA Enforcement also reported subsistence halibut illegally entering the commercial market, due in part to the difficulty of enforcing the \$400 annual limit. In response to recommendations described above, the Council adopted the following problem statement.

The identification of a dollar amount for the allowance of customary trade in the regulations has resulted in some subsistence users "selling" halibut to other subsistence users outside of customary and traditional practices. NOAA Enforcement also reports that subsistence halibut is illegally entering into the commercial market.

6.1 Action and Alternatives Considered

Action 5. Revise the \$400 customary trade limit for subsistence halibut by IPHC regulatory area.

Alternative 1. No action.

Regulations presently allow a cash exchange (of \$400) for subsistence halibut between eligible participants. The \$400 annual limit would allow someone receiving subsistence-caught halibut from a SHARC holder to help pay for some of the costs of its harvest. For example, if a SHARC holder provides halibut to several families who are not able to fish for themselves, the expense of catching the halibut may be defrayed by those receiving the halibut, up to an aggregate \$400 per year, for each SHARC holder.

While exchanging cash for food incorporates customary and traditional practices, it also established an undesirable precedent, and/or may have induced “sales,” above the level that would have occurred without such regulatory “authority.” In small rural villages, or among Alaska Native tribal groups, the volume of additional halibut harvested is likely to have been small due to this added incentive, as the pool of consumers is demographically limited. In mid-sized towns (Sitka, Kodiak City, Unalaska) and urban places (Juneau, Ketchikan, Anchorage) with larger populations and seasonal visitors, the potential for the incentive to create additional harvests is greater.

Alternative 2. Revise the customary trade limit to \$100.

Alternative 2 would lower the annual cash trade limit to \$100.

Alternative 3. Eliminate the customary trade limit.

Alternative 3 would eliminate the allowance for exchanging cash (of any amount) for subsistence halibut, such that any cash exchange for subsistence halibut would be unlawful.

Alternative 4. Eliminate the \$400 customary trade limit, but allow:

- ▶ Rural residents eligible for subsistence harvest of halibut to share the expenses directly related to subsistence harvest of halibut with other members of their community; and
- ▶ Allow customary trade and barter between a member of an Alaska tribe eligible to harvest halibut for subsistence and any other member of an Alaska tribe, provided that monetary exchange be limited to sharing expenses directly related to the subsistence harvest of halibut.

Alternative 4 would eliminate the dollar limit on cash exchanges and identify more specifically the circumstances under which cash exchanges would be allowed, as recommended by Enforcement staff during initial review of the analysis.

Preferred Alternative. Eliminate the \$400 customary trade limit, but limit customary trade as follows :

- ▶ Rural residents eligible for subsistence harvest of halibut may be reimbursed by other residents of the same rural community for actual trip expenses of ice, bait, food, and/or fuel directly related to the harvest of subsistence halibut; or
- ▶ Members of an Alaskan tribe eligible for subsistence harvest of halibut may be reimbursed by other members of an eligible Alaskan tribe for actual trip expenses of ice, bait, food, and/or fuel expenses directly related to the harvest of subsistence halibut.
- ▶ Subsistence-caught halibut may not enter commerce.

The preferred alternative was selected , after modifications made to Alternative 4, based on public testimony. It would eliminate the \$400 dollar limit but allow limited cash exchanges by identifying the specific items for

which cash exchanges would be allowed, as recommended by Enforcement staff during final review of the analysis.

6.2 Expected effects of the Alternatives

Action 5, Alternative 1.

Alternative 1 would continue to allow a cash exchange for subsistence halibut of up to \$400 per year, per eligible harvester. NOAA Enforcement staff and the Enforcement Committee advised the Council that it is difficult to distinguish between an unlawful “sale” and an allowed cash exchange to defray fishing expenses. Further, the committee advised the Council that by taking no action, it would be implicitly accepting that such ‘sales’ of halibut would occur because the regulation, as written, is not enforceable. Alternative 1 results in continuation of a regulation that can not be enforced.

Action 5, Alternative 2. Alternative 2 would lower the annual dollar limit for cash exchange for subsistence halibut from \$400 to \$100, annually. The Enforcement Committee noted that changing the dollar limit for cash exchanges does not address the problem. Alternative 2 suffers from all the deficiencies cited under Alternative 1 and does not enhance enforcement. The committee and staff advised the Council to not adopt this alternative.

Action 5, Alternative 3. Alternative 3 would not allow the exchange of cash for subsistence halibut. It was identified by the committee and Enforcement staff as the most enforceable alternative under consideration, although it does not meet the customary and traditional practices of Alaskans. There is an extensive administrative record of the Council’s intent to allow customary and traditional practices, including exchanges of cash for halibut. However, much public concern continues regarding the “sale” of subsistence fish. While the Council was prepared to recognize a distinction between a cash trade and sale, the enforcement community is not. Alternative 3 is the most enforceable alternative, because a clear line is identified - cash exchange for subsistence fish would not be allowed.

Action 5, Alternative 4. Alternative 4 was added to the analysis to address concerns that: 1) enforcing a \$400 limit for cash exchanges for subsistence halibut could not be achieved as the regulations were written; and 2) the Council intends to allow traditional ways of sharing food, which includes cash exchanges. Alternative 4 would eliminate the \$400 annual limit for cash exchanges and stipulate that the expenses for which cash compensation may be made for the sharing of subsistence halibut be for direct compensation of the costs associated with the harvest of that fish. Alternative 4 includes two ways in which compensation may be made. The first addresses how compensation would be implemented for rural SHARC holders; the second identifies how compensation would be implemented for tribal SHARC holders. This alternative incorporates the recommendations of the Alaska Native Subsistence Halibut Working Group (a consultant to NOAA Fisheries), which advised the Council on this action in compliance with Executive Order 13175.

Alternative 4, however, is no more enforceable than Alternative 1 or 2 because it does not specify the direct expenditures for which a cash exchange would be allowed. Although Enforcement staff identified a model for documenting reimbursable expense for this alternative, used by other agencies, they further recommended new language that specified the items for which cash exchanges would be allowed. That language was accepted by the Council under the preferred alternative (see below).

Alternative 4 recognizes that the actual dollar amount in the limit is not an enforcement element and would be removed under this alternative. While current regulations stipulate an upper limit (\$400) on cash exchanges, it is widely recognized that it has not been “effective” because annual limits (at any dollar amount) can not be enforced. Those receiving cash in exchange for subsistence halibut need not have been concerned about the aggregate size of the cash exchanges they made over the course of the year.

The alternative would no longer constrain cash exchanges in excess of \$400, annually, for distribution of subsistence halibut. Therefore, this alternative results in the potential for increased revenues to subsistence harvesters.

Action 5, Alternative 5 [Preferred Alternative]. During final action, the Council selected a modified Alternative 4, based on agency and public testimony. The preferred alternative would eliminate the \$400 customary trade limit and restrict customary trade specifically to reimbursement of actual trip expenses directly related to the harvest of subsistence halibut. Revised regulations would stipulate that actual trip expenses would be limited to ice, bait, food, and/or fuel only. Examples of costs that would not be allowed to be compensated are the cost of the boat, repairs, or hydraulic gear that would be used for a duration longer than the fishing trip that produced the halibut that is being shared. Enforcement staff advised the Council that this approach still would be extremely difficult to enforce. Enforcement may occur through investigations, whereby receipts could be examined to verify expenses. Staff reported that, while this preferred alternative does not facilitate enforcement directly, it facilitates public understanding of Council intent and may enhance enforcement of egregious violations. No new recordkeeping and reporting requirements would be imposed under the preferred alternative.

The Council deemed that its Alternative 5, preferred alternative, best recognizes the social, cultural, educational, and “communal” benefits that derive from participation in customary and traditional practices of sharing halibut, while providing additional tools for enforcing the prohibition on commercial sale of subsistence halibut. Therefore, the Council rejected the most readily enforceable alternative (#3), which would have prohibited any cash exchange, in favor of Alternative 5, which was drafted with the assistance of Enforcement staff, based on the extensive administrative record in support of allowing customary and traditional practices, as described above.

Under the preferred alternative, persons who qualify as rural residents under § 300.65(f)(1), and hold a subsistence halibut registration certificate in their name under § 300.65(h), may be reimbursed only by residents of the same rural community listed on his or her subsistence halibut registration certificate. The Council proposed this restriction as an additional measure to discourage the entry of subsistence halibut into commerce, while allowing for customary and traditional trade among residents of the same rural community.

Persons who qualify as Alaska Native tribe members under § 300.65(f)(2), and hold a subsistence halibut registration certificate in their name under § 300.65(h), would be eligible for reimbursement only from an Alaska Native tribe or its members. Reimbursement of an Alaska Native tribal member eligible to fish for subsistence halibut by any Alaska Native tribe is consistent with centuries old traditions of coastal tribes conducting trade with interior tribes. However, persons possessing a SHARC designated as tribal would be ineligible to receive reimbursement from anyone other than another Alaska Native tribe, or its members. In other words, they could not participate in compensated exchanges within their own rural community (as provided for above), if the recipient was not a member of an Alaska tribe.

6.3 Benefit Cost Analysis

This action is intended to clarify regulations that are currently difficult to enforce, while maintaining the current policy to recognize customary and traditional subsistence sharing practices. An unknown number of subsistence halibut users (11,635 in 2003) would be affected by the proposed Action 5 alternatives (Table 1.1); therefore, benefits or costs can not be quantitatively estimated. Overall, society should benefit by reducing the potential for illegal sales of subsistence fish, and also by increasing enforcement efficiency in the halibut subsistence fishery. By imposing new limits under which cash exchanges are allowed, all subsistence users, even those who would never be involved in such sales, have additional compliance requirements to meet. For the vast majority, these “costs” will be small.

Under Alternative 1, the status quo, there is an established annual “limit” of \$400 for sales of subsistence caught halibut, under the practice of customary trade. The lack of an enforceable definition of this limit and the likelihood of enforcement occurring on a fishing trip, rather than at the end of a year, has created an enforcement problem. The alternatives proposed for Action 5 are intended to address current and anticipated future problems with subsistence halibut entering “commercial” avenues of exchange and with potential abuse of the \$400 annual limit for cash exchanges. Failure to control this activity may, in effect, constitute an economic incentive for some subsistence users to engage in actions which generate “cash” income; something that is often exceedingly limited, but very important, in remote villages and communities based upon “mixed-cash” economies. However, there are no data with which to document, or even estimate, the number of individuals participating in the practice of customary trade of subsistence caught halibut for cash. Therefore, the economic benefits and costs that may be attributable to this practice, realized annually, cannot be quantified. Nonetheless, the existence of such exchanges among individuals in the subsistence eligible population confirms the “value” of this practice (e.g., economic, social, communal, and cultural).

Alternative 2, if adopted, would revise the current \$400 limit, to a \$100 annual limit on halibut customary trade. While adopting Alternative 2 would demonstrate support for a smaller level of customary trade of subsistence caught halibut, it would not in any meaningful way resolve the enforcement issues of the status quo. There is no mechanism for enforcement to track or enumerate customary trade transactions. Enforcement agents would have no legally sufficient method to detect undocumented transactions, the sums of which exceed a total of \$100 (or for that matter, any specific dollar amount) during the year. Alternative 2 does not appear to address the issue of inadequate enforcement, and it *potentially* lowers the legitimate direct economic benefits (i.e., cash payment to defray a portion of trip costs) to the harvester of subsistence fish that share their catch with others, beyond their immediate family, compared with the status quo.

Alternative 3 would eliminate the customary trade provision entirely. That is, no exchange of money for subsistence caught fish would be legal. From an enforcement perspective, at least in theory, this would be the easiest regulation to enforce, and would provide a clear separation between the halibut subsistence fishery and the commercial fishery.

Alternative 3 does have the advantage that “any” exchange of money for fish constitutes evidence of a violation. None of the other alternatives under consideration provides such a “bright line,” and, thus, offer no prospect at all of addressing the enforcement problem, identified by the Council as one of primary objectives for this action. Alternative 3 also would not provide the legal opportunity for customary “trade” (i.e., exchange of cash for fish) of subsistence caught halibut. In the Council discussions of this issue, it has been assumed that the amount of customary trade of subsistence caught halibut is sufficiently small that it has no discernable effect on the demand or prices in the commercial halibut fishery. These interdependent assumptions cannot be empirically evaluated and verified, at present.

Alternative 4 would eliminate the \$400 dollar limit for customary trade. While examples of expense items eligible for reimbursement have been identified, there is not a period of time defined during which the expense had to occur (although, reference to “a trip related” expenditure appears in the discussion above). For the repayment of expense under customary trade, it is not clear if the Council intended to include direct expenses associated with a particular trip, or more general expenses incurred over a longer period. In either case, without specific legal provisions requiring record keeping and documentation of trip expenditures, transference of fish, and reimbursement amounts, this regulation would be extremely difficult to enforce, so could yield very little *potential* benefit over the status quo alternative. Alternative 4 would presumably provide enforcement with sufficient direction to be able to investigate large shipments of halibut from one region to another, and, if justified on the basis of that investigation, to take action in the case of a violation.

Alternative 5, the preferred alternative, is similar to Alternative 4, in that the \$400 annual limit is eliminated. In place of limits, the regulations would define customary trade as limited to the exchange of subsistence halibut for reimbursement of actual trip expenses, limited to ice, bait, and/or fuel expenses, which were directly related to the harvest of subsistence halibut, by residents of the same community. Enforcement staff reported to the Council that an officer could verify a cash exchange by inspecting receipts for allowed expenses for that trip. The regulations could stipulate that a subsistence user must provide such receipts to an officer to verify the cash exchange was lawful.

Elimination of dollar limits, while allowing cash compensation for subsistence exchanges, under either Alternative 4 or Alternative 5, are expected to allow for sufficient reimbursement of direct fishing costs, so as not to restrict harvest and exchange of subsistence halibut to fulfill the needs of those dependent on this practice. The preferred alternative is more enforceable than Alternatives 2 or 4, but not as prohibitive as Alternative 3, which was identified as the most enforceable. Alternative 5 is preferable, because it better conforms with Council policy and the unambiguous and verifiable documentation of “trip specific” expenditures (limited to fuel, oil, bait, and ice) through a “paper trail” of receipts, allowing for the clear documentation of source, transfers, and compensation paid. The preferred alternative also results in the potential to bound the population of individuals who may engage in subsistence sharing activities, which may reduce blatantly “commercial” exchanges.

The Council’s intent is to enhance enforcement, recognizing that customary trade opens the door to the possibility of commercial sale of subsistence halibut. The alternatives to the status quo, attempt, to varying degrees, to resolve the enforcement problem. None is wholly effective at achieving this objective. Nonetheless, in contrast to the status quo, benefits from revising the regulations may include: (1) increased clarity within the regulations, which better reflect the intent of the Council, thus reducing (or eliminating) confusion among subsistence users as to the bounds of authorized subsistence trade; (2) commercial users may benefit, to the extent that the potential for competition from subsistence-caught halibut that would have entered the commercial marketplace *may be* reduced; and (3) social and cultural benefits from continuing to allow subsistence trade, rather than criminalizing customary and traditional practices, in rural coastal Alaska, and among Alaska Native Tribes (and members thereof).

Subsistence use has priority over recreational and commercial uses, in Federal law. As long as customary trade practices remain between Alaska Tribal members, or eligible rural residents of Alaska, there should not be a large effect on non-subsistence users. The costs of the program are expected to be relatively small. In the absence of data on the number of users, the specific benefits and costs for each of the alternatives are difficult to quantify. However, one may suggest some general (ordinal) rankings for benefits and costs under the different alternatives. Alternatives 1, 2, and 4 provide the least effective, least enforceable, and least verifiable restriction on the potential for subsistence halibut to enter commerce, and, as such, may provide the greatest economic incentive for expanded “subsistence” harvests of the halibut resource. Alternative 3 may result in the lowest level of subsistence halibut entering commerce, and provide the smallest economic incentive for

expanded “subsistence” harvests of the halibut resource (both principal objectives of the Council for this action). It also may result in diminished enforcement costs and increase enforcement effectiveness (the latter reflecting another of the Council’s key objectives). However, in its deliberations, the Council determined that it was also desirable to enact regulations that would leave an opportunity for customary trade, through reimbursement of harvest expenses. Thus, the preferred Alternative 5 was selected for enhanced enforcement, while allowing customary practices.

Administrative, Enforcement, and Information Costs. No incremental increase in administration or enforcement costs would be expected to occur as a result of the proposed alternatives. Alternative 3 was identified as the most enforceable, and Alternative 5 was identified as the optimal alternative, balancing enforcement and customary practices. The changes proposed in this amendment focus on requirements to prevent halibut, caught in the subsistence fishery, from entering commercial markets. Enforcement staff also proposed that a regulatory change that identified the specific purchases (e.g., fuel, ice) for which a cash exchange would be permitted, would enhance public understanding of permissible compensation and provide an enforcement tool for a cash limit. However, the lack of a specific time interval over which “reimbursable” expenses may be accumulated, and subsequently recovered through cash payments in exchange for subsistence-caught halibut, within the Council’s preferred alternative, largely negates any potential enforcement improvement.

6.4 Conclusions

The economic benefits and costs of Action 5 are uncertain (Table 6.1). Taking no action perpetuates an enforcement problem, the solution to which was a primary motivation for this action. Alternative 2 is functionally no different than taking no action. Alternative 3 has been identified as the most enforceable alternative, but would prohibit customary trade and not adequately provide for the social, cultural, educational, and “communal” benefits that derive from participating in customary and traditional practices of “bartering” subsistence halibut (for cash). Harvesters of subsistence halibut would not be allowed to engage in the exchange of cash for fish, as they could under either Alternative 2 or Alternative 1. However, Alternative 3 likely best accomplishes the enforcement objectives, and would be the most effective alternative in reducing commercial sale of subsistence caught halibut. Alternative 4 and Alternative 5, each recognize the social, cultural, educational, and “communal” benefits that derive from participating in customary and traditional practices of sharing subsistence halibut. And both seek to accommodate these customary and traditional practices, while attempting to provide additional tools for enforcing the prohibition on “sale” of subsistence halibut. Implementing regulations could achieve these objective by identifying a specific interval of time associated with recoverable fishing trip costs as a “trip” and mandating documentation of expenditures on reimbursable fishing expenses through receipts that could be used to corroborate the source, transfers, quantity, and compensation paid for “traded” subsistence halibut. Alternative 4 was modified into the preferred alternative by incorporating revised language, based on advice from Enforcement staff. Under the preferred alternative, harvesters may be more limited in their ability to recoup legitimate fishing costs, from beneficiaries of subsistence-caught halibut with whom they share. While it does not address completely the enforcement objectives, compared with Alternative 3, it would provide additional enforcement tools and allow customary and traditional practices, addressing, if not fully accomplishing, these competing objectives of the proposed action.

Table 6.1 Summary of the cost and benefit analysis of Action 5.

	Alternative 1. No Action.	Alternative 2. Revise customary trade limit to \$100.	Alternative 3. Prohibits exchanging cash for subsistence caught halibut	Alternative 4. Eliminates limit on compensation for fishing expenses.	Alternative 5. [Preferred Alternative] Eliminates limit, defines ‘compensable’ fishing costs.
Resource Impacts	baseline	▶Not expected to affect the halibut or groundfish stocks.	▶Not expected to affect the halibut or groundfish stocks.	▶Not expected to affect the halibut or groundfish stocks.	▶Not expected to affect the halibut or groundfish stocks.
Benefits	baseline	▶Would support the social, cultural, educational, and communal benefits that derive from participating in customary and traditional practices by allowing cash reimbursement of some costs associated with sharing subsistence halibut, although at a reduced total dollar amount (\$100 annually).	▶Would be most enforceable because it prohibits all “sales” of subsistence caught halibut (i.e., exchange of “cash” for subsistence halibut is precluded).	▶Would support the social, cultural, educational, and communal benefits that derive from participating in customary and traditional practices by allowing cash reimbursement of some costs associated with sharing subsistence halibut, without limit on total dollar amount. May enhance public understanding of Council intent in permitting cash exchanges for subsistence halibut. ▶May have the potential to reduce commercial sales of subsistence caught halibut.	▶Would support the social, cultural, educational, and communal benefits that derive from participating in customary and traditional practices by allowing cash reimbursement of specific variable input costs associated with harvesting subsistence halibut, without limit on total dollar amount. May enhance public understanding of Council intent in permitting cash exchanges for subsistence halibut. ▶May have the potential to reduce commercial sales of subsistence caught halibut better than Alternatives 1, 2, or 4, by clearly defining compensable costs, and allows for regulations to explicitly provide access by OLE to expenditure receipts.

	Alternative 1. No Action.	Alternative 2. Revise customary trade limit to \$100.	Alternative 3. Prohibits exchanging cash for subsistence caught halibut	Alternative 4. Eliminates limit on compensation for fishing expenses.	Alternative 5. [Preferred Alternative] Eliminates limit, defines 'compensable' fishing costs.
Costs	baseline	<ul style="list-style-type: none"> ▶ Recouping a share of fishing costs, through cash payments made by beneficiaries of shared fish would be more limited, resulting in increased transaction costs for customary and traditional exchanges of subsistence food. These practices may be adversely affected, perhaps by having less subsistence halibut offered for sharing, and/or sharing among a smaller circle of people. This could place a greater economic burden on those members of the community that will find it necessary to replace this halibut through alternative means (e.g., commercial sources). ▶ Social and cultural linkages may be adversely impacted. ▶ Mixed-cash economies may be severely stressed and disrupted. ▶ Would result in no enforcement gains. 	<ul style="list-style-type: none"> ▶ Would not allow for any cash exchange for subsistence halibut. Reimbursement would be limited to "in-kind" barter to offset costs. Precluding "cash" exchanges would increase transactions costs. Customary and traditional trading practices may be adversely affected, perhaps by having less subsistence halibut offered for sharing, and/or sharing among a smaller circle of people. This could place a greater economic burden on those members of the community that will find it necessary to replace this halibut through alternative means (e.g., commercial sources). ▶ Social and cultural linkages may be adversely impacted. Mixed-cash economies may be severely stressed and disrupted. 	<ul style="list-style-type: none"> ▶ May create economic incentives to "sell" subsistence caught halibut as means of generating "cash" in mixed-cash economies ▶ Enforcement problems are not completely resolved . 	<ul style="list-style-type: none"> ▶ Inadequate definition of what time interval "compensable fish costs" may be tallied creates additional opportunities for "misinterpretation" of exchange of cash for fish. ▶ Absent mandatory record keeping requirements for compensable fishing expenses, and legal documentation of original source, all recipients and transfers, quantity, and compensation paid, enforcement problems are not resolved.

	Alternative 1. No Action.	Alternative 2. Revise customary trade limit to \$100.	Alternative 3. Prohibits exchanging cash for subsistence caught halibut	Alternative 4. Eliminates limit on compensation for fishing expenses.	Alternative 5. [Preferred Alternative] Eliminates limit, defines ‘compensable’ fishing costs.
Net benefits	baseline	►Data are not available with which to quantitatively estimate the net impacts of this alternative. It is <i>likely</i> that any net impact will be small and “negative”.	►Data are not available with which to quantitatively estimate the net impacts of this alternative. Enforceability will be enhanced, however, communal and traditional practices will be impaired. It is <i>likely</i> that any net impact will be largely “negative”.	►Data are not available with which to quantitatively estimate the net impacts of this alternative. Enforceability remains a challenge. It is <i>likely</i> that any net impact will be small, but “positive”.	►Data are not available with which to quantitatively estimate the net impacts of this alternative. Enforceability may be improved, if implementing regulations mandate access to receipts. Customary and traditional practices are sustained, while explicit bounds are put on who may participate, and what costs may be compensated for. It is <i>likely</i> that any net impact will be maximized under this alternative, when compared to the others considered under this action
Action objectives	Fails to address enforcement objectives. May provide economic incentives to “sell” subsistence halibut. .	►Does not meet enforcement objectives. May adversely affect traditional sharing of subsistence halibut, which is contrary to action’s objective.	►Best meets enforcement objectives, but does not accommodate traditional and customary practices and uses objective.	►Would address customary and traditional fishing practices objective, but may provide economic incentives to “sell” subsistence-caught halibut, which is contrary to action’s objective. ►Would address some, but not all, enforcement objectives.	►Would better balance customary and traditional subsistence practices objective, with objective to discourage commercial sales, and enforcement objectives ►Would address some, but not all, enforcement objectives.

7.0 Action 6 - Special Permits in Non-subsistence Areas

Generally, eligible persons may harvest subsistence halibut in all Convention waters, in and off Alaska, except for areas designated as one of four non-subsistence areas. These areas include the Ketchikan non-subsistence area, the Juneau non-subsistence area, the Anchorage/Matsu/Kenai non-subsistence area, and the Valdez non-subsistence area. Action 6 proposes an exception to that general rule. The Alaska Native Halibut Subsistence Working Group proposed that the use of special permits be allowed in non-subsistence use areas by tribes whose traditional fishing grounds are located within areas designated in regulation as non-subsistence use areas.

In June 2004, the Council adopted the following problem statement.

There is no provision for subsistence halibut fishing by anyone in non-subsistence areas. If a resident of an urban area qualifies because he or she is a member of an Alaska Native Tribe with customary and traditional use of halibut, that fisherman must still travel outside of the four non-subsistence areas. Similarly, an eligible subsistence user must harvest subsistence halibut outside a non-subsistence use area, even if the area was traditionally fished for halibut by subsistence users.

7.1 Action and Alternatives Considered

Action 6. Allow subsistence halibut fishing in non-subsistence areas, under special permits.

Alternative 1. No action.

Taking no action would continue a prohibition on subsistence halibut fishing in areas designated as non-subsistence fishing areas.

Alternative 2. Allow the use of community harvest permits, educational permits, and ceremonial permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within these areas, with the associated daily bag limit.

Alternative 2 would allow an exception, for some subsistence users and uses, to the non-subsistence fishing areas, through the use of special permits. The Alaska Native Subsistence Halibut Working Group (a consultant to NMFS in compliance with Executive Order 13175) recommended Alternative 2 during public testimony.

Alternative 3. [Preferred Alternative]

Allow the use of educational permits and ceremonial permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within these areas, with the associated daily bag limit.

The Council sought to balance the recommendations provided by the public, by adopting its preferred alternative which would allow the use of educational and ceremonial permits, but not CHPs, in non-subsistence use areas. The preferred alternative was subsequently supported by the Working Group.

7.2 Expected effects of the Alternatives

Action 6, Alternative 1. Alternative 1 is the ‘no action’ option and would retain the status quo prohibition on all subsistence halibut fishing in areas designated as “non-subsistence.” In the original design of the subsistence halibut program, the Council recommended that it include non-subsistence use areas adjacent to eligible urban areas. The Council selected the State’s list of non-rural areas as a feature of its preferred alternative for closed

areas for subsistence purposes. These four non-subsistence areas are defined in regulations at 50 CFR § 300.65(g)(3) as: (1) the Ketchikan non-subsistence area, (2) the Juneau non-subsistence area, (3) the Valdez non-subsistence area, and (4) the Anchorage/Matsu/Kenai non-subsistence area. Provisions were made to allow Alaska Native Tribes in urban areas to subsistence halibut fish outside these closed areas. An Alaska Native tribal member whose tribe is located in an urban area may subsistence halibut fish in any IPHC regulatory area off Alaska, open to subsistence fishing.

Action 6, Alternative 2. Alternative 2 would allow thirteen Tribes, listed in Table 7.1, whose traditional fishing grounds are located within four areas that currently are closed to subsistence halibut fishing, to subsistence halibut fish in these closed waters through the use of special permits. The permits would limit this catch to 20 fish per day (per permit). The use of the permits is summarized in Section 2.3 and described in detail in *69 FR 41447*, July 9, 2004. This alternative would allow the use of three types of subsistence halibut permits in waters currently identified in regulation as non-subsistence use areas. The Council could, under this alternative, select any or all of the special permits for use in those areas.

Table 7.1 Non-subsistence use area and associated urban Alaska Native Tribes

Juneau:	Central Council of Tlingit/Haida Indians Douglas Indian Association Aukquan Traditional Council
Ketchikan:	Central Council of Tlingit/Haida Indians Ketchikan Indian Corporation Organized Village of Saxman
Valdez:	Native Village of Tatitlek
Anchorage/Matsu/Kenai:	Kenaitze Indian Tribe Seldovia Village Tribe Ninilchik Village Native Village of Port Graham Native Village of Nanwalek Village of Salamatoff

Section 3.2 noted that the Board of Fisheries re-authorized subsistence regulations for Southeast Alaska, in 1993. That action reestablished subsistence fisheries for the Yakutat and Southeast Areas that had existed prior to passage of the 1992 State of Alaska subsistence law. Those State regulations do not permit subsistence fishing in non-subsistence areas in Southeast Alaska. Therefore, it appears that subsistence groundfish could not be retained in the subsistence halibut fishery in Southeast State waters, under Action 6, Alternative 2. Therefore, Alternative 2 would create a dissimilarity in halibut and groundfish retention allowances between State and Federal regulations.

Action 6, Alternative 3 [Preferred Alternative]. In December 2004, the Council recommended allowing the use of ceremonial and educational permits in non-subsistence areas, but only by tribes whose traditional fishing grounds are located within Area 2C or Area 3A. This would directly benefit thirteen Alaska Native tribes by allowing eligible persons in possession of a ceremonial and/or educational permit to conduct subsistence fishing for halibut in the non-subsistence areas, subject to other pertinent regulations. That is, use of ceremonial and educational permits within the non-subsistence areas would remain subject to the gear and harvest restrictions for those permits, consistent with the IPHC regulatory area where they are used. Ceremonial and educational permits allow Alaska Native tribes in Areas 2C and/or 3A, as listed in §300.65(f)(2), to harvest up to 25 halibut per permit. Ceremonial and educational permits maintain the same gear limitations as those required when fishing under a subsistence halibut registration certificate in Areas 2C and 3A (i.e., 30 hooks per vessel in Area 2C, and 30 hooks per person, or up to 90 hooks per vessel, in Area 3A). Use of ceremonial and educational permits in these areas would also be required to fully comply with the more stringent application and reporting obligations accompanying these permits elsewhere in IPHC waters off Alaska.

The preferred alternative seeks to balance competing recommendations from the public, by allowing the use of educational and ceremonial permits in non-subsistence use areas by qualifying tribes, while not allowing the use of CHPs. Excluding the use of CHPs in this exception, limits subsistence halibut fishing to the purposes of meeting the educational and/or ceremonial needs for halibut, but not for general subsistence use. This was viewed as an acceptable compromise, compared with either Alternative 2, or the status quo. As with Alternative

2, a dissimilarity in halibut and groundfish retention allowances, between State and Federal regulations, would be created under this alternative.

7.3 Benefit Cost Analysis

Thirteen Alaska Native Tribes have been excluded from their customary and traditional practice of fishing in areas now designated as closed for the purposes of subsistence halibut fishing, although members may subsistence fish in any other area open for halibut subsistence fishing in Alaska, to mitigate the impacts of that prohibition. Six Tribes in Area 2C and seven Tribes in Area 3A would potentially benefit directly from the provisions contained in the preferred alternative, if adopted and implemented as proposed. Any of these Tribes that choose to avail themselves of this new fishing opportunity most likely will realize a cost savings directly attributable to this management action. If there were not cost savings, presumably none of the Tribes would voluntarily choose to employ their ceremonial and/or educational permits in the newly available areas. There may also be cultural, communal, and social benefits directly attributable to opening “traditional” Tribal fishing grounds, once again to Native cultural and educational use.

As noted above, Alternative 2 and Alternative 3 would create a dissimilarity between State and Federal regulations concerning non-subsistence marine areas. Under both alternatives, current State regulations generally would require the discard of rockfish incidentally caught during Federal subsistence halibut fishing in non-subsistence marine areas. Usually rockfish that are caught incidentally during halibut fishing are dead upon reaching the surface. If the rockfish happen to be alive, they would not survive upon being returned to the water. It is contrary to customary and traditional use to discard these fish; it would be considered wasting fish that could be used for food.

The issue of rockfish discards that would likely be caused by permitting subsistence halibut fishing in non-subsistence marine areas under Federal regulations while concurrent State regulations prohibit subsistence fishing for groundfish and all fish species in those areas, would be best addressed by the Alaska Board of Fisheries. Only a small number of rockfish would be expected to be caught incidentally when using a Ceremonial Permit or Educational Permit for subsistence halibut fishing because only 25 halibut may be retained under these permits. If the proposed alternative is approved by the Secretary of Commerce, a holder of a Federal subsistence halibut Educational Permit currently may apply for an “educational fishery permit” under the State’s “Educational Fishery Program” (5AAC 93.200-235) and must comply with the specifications outlined in those regulations. A ceremonial or cultural permit for fisheries does not exist under State regulations, but is under consideration for proposed regulatory change by the Alaska Board of Fisheries. Until such a permit is available, all rockfish caught incidentally under a Federal subsistence halibut Ceremonial Permit would have to be discarded.

It is unknown how many rockfish would be caught with subsistence halibut gear in non-subsistence areas; however, Tribal SHARC holders reportedly caught 913 rockfishes in Area 2C and 397 rockfishes in Area 3A, outside of the non-subsistence areas in 2003 (Appendix 2). Rockfish harvests by Tribes who registered under a rural permit are not counted in the previous estimates. It is not known if comparable rockfish removals would have occurred if Tribal ceremonial and/or educational fishing were allowed in the non-subsistence areas.

The Council believes the preferred alternative balances the desire to accommodate customary and traditional practices, against concerns related to opening restricted fishing grounds. Note that these grounds are only closed to subsistence fishing, and remain open to commercial and sport fishing.

Administrative, Enforcement and Information Costs. No additional administrative or enforcement costs would accrue as a result of the proposed alternatives. Existing permits would be allowed to be used under the preferred alternative.

7.4 Conclusions

Alternative 3, the preferred alternative under Action 6, may result in increased benefits to eligible Tribes from increased opportunities for “communal” subsistence halibut fishing. Such opportunities may have additional unintended seasonal benefits to Tribes, if their members would otherwise have been unable to access open areas, outside of non-subsistence areas, for ceremonial and/or educational fishing, say, in winter when sea conditions could raise safety concerns.

State regulations in Southeast, prohibit subsistence fishing for groundfish in the non-subsistence fishing areas. Under the preferred alternative, all groundfish caught while subsistence halibut fishing in Southeast State waters could not be retained, to conform with State regulations. Many of these groundfish, especially rockfishes, cannot survive being caught and released. High rates of rockfish incidental catch, resulting in mortality, are associated with commonly employed halibut fishing gear, including that used for subsistence. It is possible that Tribal members have local knowledge that may allow them to avoid such unintended catches, while ceremonial and/or educational subsistence fishing halibut.

No estimates of fishing costs are available for the ceremonial and/or educational halibut subsistence fisheries. The preferred alternative appears to meet the objectives of the proposed action, namely, accommodating qualifying Tribes’ customary and traditional use of the halibut resource for ceremonial and educational purposes, adjacent to fishing areas closed to halibut subsistence use. It also appears to do so more effectively than either the status quo, or Alternative 2, but (like Alternative 2) may have potential unintended negative consequences for groundfish (especially rockfish) stocks, and State/Federal enforcement conflicts in Southeast Alaska.

Table 7.2. Summary of the cost and benefit analysis of Action 6.

	Alternative 1. No action.	Alternative 2. Allow 13 Tribes to use three types of special permits	Alternative 3 [Preferred]. Allow 13 Tribes to use two types of special permits in non-
Resource Impacts	baseline	▶Not expected to affect the halibut or groundfish stocks because there is no evidence of localized depletion, although depletion is widely cited by local residents.	▶Same as Alternative 2.
Benefits	baseline	▶Potentially provides social, cultural, educational, and “communal” benefits to 13 Tribes, whose traditional fishing grounds are contained within designated “non-subsistence” areas, by allowing local opportunities to acquire halibut for food, ceremonial, and training needs. ▶ Decreases Tribal fishing costs and risks to safety, by opening local waters to subsistence uses for qualifying tribes.	▶Potentially provides social, cultural, educational, and “communal” benefits to 13 Tribes, whose traditional fishing grounds are contained within designated “non-subsistence” areas. Limiting use to ceremonial and/or educational permit holders would reduce potential fishing effort, halibut and groundfish removals and benefit those who perceive a need to protect and conserve these stocks in local areas. Decreases Tribal fishing costs and risks to safety by opening local waters to ceremonial and/or educational uses for qualifying tribes.

	Alternative 1. No action.	Alternative 2. Allow 13 Tribes to use three types of special permits	Alternative 3 [Preferred]. Allow 13 Tribes to use two types of special permits in non-
Costs	baseline	<ul style="list-style-type: none"> ▶May result in additional amounts of groundfish discards, due to dissimilar State and Federal subsistence regulations in Southeast Alaska. ▶Would increase fishing effort in areas adjacent to population centers, currently designated “non-subsistence,” adversely impacting other users (e.g., sport, commercial, public). ▶May lead to conflicts between competing user groups, especially if CHP, and other Tribal subsistence fishing activities, substantially increased externalities (e.g., crowding, gear loss or damage, reduced sport and/or commercial catch rates). 	<ul style="list-style-type: none"> ▶Would not provide subsistence food harvests in non-subsistence use areas.
Net benefits	baseline	<ul style="list-style-type: none"> ▶Expected to have positive net benefits 	<ul style="list-style-type: none"> ▶Likely to have largest net benefit, when compared with other alternatives, by enhancing Tribal access, while providing a limited exception to current regulations, thus conserving the resource and safe guarding other users’ interests.
Action objectives	Fails to meet the objectives of this action	<ul style="list-style-type: none"> ▶Meets the objectives of the proposed action by accommodating the needs of customary and traditional users of the halibut resource living in urban areas without adjacent subsistence fishing areas. ▶ May have unintended negative consequences for groundfish stocks by creating a regulatory conflict with the State in Area 2C ▶ May impose externalities (costs) on other users and uses of the resources in these areas. 	<ul style="list-style-type: none"> ▶Creates a regulatory and enforcement conflict between State and Federal rules in Area 2C, although likely less so than Alternative 2, given a large category of potential subsistence users are not included in this action. ▶By limiting the “non-subsistence” area exception to thirteen qualifying Tribes, and then <u>only</u> with ceremonial and/or education permits, excluding the use of community harvest permits, Alternative 3 best meets the objectives of the proposed action by balancing the needs of customary and traditional users of the halibut resource living in urban areas, with potential unintended negative consequences for groundfish stocks, other uses, and users.

8.0 Regulatory Flexibility Act

8.1 Introduction

This Final Regulatory Flexibility Analysis (FRFA) evaluates the potential for adverse economic impacts on small entities attributable to two revisions to Federal regulations that define subsistence fishing for Pacific halibut for eligible Alaska Native Tribes and eligible Alaska rural communities that are subject to the RFA (the remaining five actions affect individuals, rather than ‘entities’, as defined by RFA, and are not addressed here). The actions recognize the cultural significance of subsistence fishing for eligible participants. Two preferred

alternatives that would affect Tribes were adopted. The Action 1 preferred alternative will revise gear limits and the use of community harvest permits (CHPs) by eligible Alaska Native Tribes, in Kodiak and Chiniak Bay, and seasonal gear and vessel limits in Sitka Sound. The Action 6 preferred alternative will allow fishing in non-subsistence use areas by eligible Alaska Native Tribes for ceremonial and educational purposes.

This FRFA addresses the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601-612). It specifically addresses the requirements at section 604(a).

8.2 The Purpose of a FRFA

The Regulatory Flexibility Act (RFA), first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action.

On March 29, 1996, President Clinton signed the Small Business Regulatory Enforcement Fairness Act. Among other things, the new law amended the RFA to allow judicial review of an agency's compliance with the RFA. The 1996 amendments also updated the requirements for a final regulatory flexibility analysis, including a description of the steps an agency must take to minimize the significant economic impact on small entities. Finally, the 1996 amendments expanded the authority of the Chief Counsel for Advocacy of the Small Business Administration (SBA) to file *amicus* briefs in court proceedings involving an agency's alleged violation of the RFA.

In determining the scope, or 'universe', of the entities to be considered in a FRFA, the National Marine Fisheries Service (NMFS) generally includes only those entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NMFS interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the regulatory action are insufficient, at present, to permit preparation of a "factual basis" upon which to certify that the regulatory action does not have the potential to result in significant adverse economic impacts on a substantial number of small entities (as those terms are defined under RFA). Because, based on all available information, it is not possible to 'certify' this outcome, should the proposed action be adopted, a formal FRFA has been prepared and is included in this package for Secretarial review.

8.3 What is Required in a FRFA?

Under 5 U.S.C., Section 604(a) of the RFA, each FRFA is required to contain:

- a succinct statement of the need for, and objectives of, the rule;
- a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

- a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;
- a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
- a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

8.4 What is a Small Entity?

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern,’ which is defined under Section 3 of the Small Business Act. ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and which is not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.... A (small) business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$4.0 million, for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$4.0 million criterion for fish harvesting operations. Finally, a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with

other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50 percent or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners controls the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venturers if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations. The RFA defines “small organizations” as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

8.5 Need for, and objectives of, the rule

Consistent with the Council’s working relationship with the Alaska Board of Fisheries, the Council requested in its original action to define the North Pacific subsistence halibut program, that the Board investigate whether or not modifications to the program would better reflect subsistence halibut fishing patterns, needs, and uses. Specifically, the Board, through its public input process, was requested to address any concerns, and make recommended changes to the Council’s regulatory framework regarding gear, daily catch limits, reporting requirements, customary and traditional designations for Tribes or rural communities, and non-rural area definitions for halibut subsistence fishing areas. Consultations with tribal officials, under E. O. 13175 (see Section 10), resulted in recommendations to allow the use of special permits in non-subsistence use areas. Specific problem statements are described in more detail in Sections 2.0 and 7.0.

The objective of the preferred alternatives under the two actions of interest here, is to enhance management of the subsistence halibut fishery as it pertains to use by Alaska Native Tribes, for the purpose of recognizing and appropriately accommodating customary and traditional practices. Specific objective statements are described in more detail in Sections 2.0 and 7.0. This action is taken under the authority of the Northern Pacific Halibut Act of 1982.

8.6 Significant Issues Raised by Public Comments on the Initial Regulatory Flexibility Analysis (IRFA)

The proposed rule for the subsistence halibut amendments was published in the Federal Register on April 14, 2008 (73 FR 20008). An IRFA was prepared for the proposed rule, and described in the classification section of the preamble to the rule. The public comment period ended on May 14, 2008. NMFS received five letters of comment on the proposed rule, including one with a comment on the IRFA. The comment concerned the lack of information in the IRFA regarding Action 5. Action 5 revises regulations regarding customary trade. However, Action 5 applies only to individuals and not to small entities as defined by the RFA, therefore, no changes were made to the analysis based on that comment. A detailed discussion of the effects of Action 5 is provided in section 6.0 of the RIR. For a summary of the comments received, including those on action 5, refer to the section of the final rule titled “Response to Comments.” No changes were made from the proposed rule to the final rule.

8.7 Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Alaska Native Tribes (or governmental entities, in the absence of tribes) that are eligible to participate in the subsistence halibut program off Kodiak and Chiniak Bay, are directly regulated under Action 1. There are 9 tribes that would be governed by Action 1 (Table 9.1). There are thirteen Tribes that may be affected under Action 6 (Table 7.1).

Table 9.1 Kodiak Alaska Native Tribes

Lesnoi Village (Woody Island)
Native Village of Afognak
Native Village of Akhiok
Native Village of Karluk
Native Village of Larsen Bay
Native Village of Ouzinkie
Native Village of Port Lions
Shoonaq' Tribe of Kodiak
Village of Old Harbor

8.8 Description of Recordkeeping, Reporting, and Other Compliance Requirements

No additional recordkeeping, reporting requirements, or other compliance requirements are anticipated as a result of either action.

8.9 Description of Significant Alternatives and Steps Taken to Minimize the Significant Economic Impact on Small Entities

Multiple alternatives were addressed for each action under the RFA. Under action 1, three alternatives were analyzed: (1) no action; (2) change gear restrictions and annual limits in Kodiak, Prince William Sound, Cook Inlet, and the Sitka LAMP; and (3) change gear restrictions and annual limits only in Kodiak and the Sitka LAMP. Alternative 3 was selected as the preferred alternative for action 1. For action 6, three alternatives were analyzed: (1) no action; (2) allow the use of CHPs, educational permits, and ceremonial permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within IPHC Areas 2C and 3A, with the associated daily bag limit; and (3) allow the use of educational permits and ceremonial permits, but not CHPs, in non-subsistence use areas by tribes whose traditional fishing grounds are located within IPHC Areas 2C and 3A, with the associated daily bag limit. Alternative 3 was selected as the preferred alternative for action 6.

Alternative 1 for action 1 was rejected because it does not address the localized depletion concerns in the areas under consideration. Alternative 2 for action 1 was rejected because it includes restrictions in the Prince William Sound and Cook Inlet areas. Measures for Prince William Sound and Cook Inlet were found to be unwarranted, therefore, alternative 2 would be more restrictive than the preferred alternative.

Alternative 1 for action 6 was rejected because it would continue the prohibition on subsistence halibut fishing under all circumstances in designated non-subsistence fishing areas and would not meet provide social, cultural, educational, and “communal” benefits to the 13 affected tribes. Alternative 2 for action 6 was rejected because it allows the use of CHPs in non-subsistence fishing areas, but the preferred alternative prohibits such use. CHP use was rejected in non-subsistence fishing areas because of potential unintended negative consequences for groundfish stocks.

On the basis of the best available scientific data and information, the foregoing analysis (including the RIR) reveals that none of the significant alternatives to the action have the potential to accomplish the objectives of the Halibut Act, the RFA, and other applicable statutes, and minimize the adverse economic impacts of the rule on directly regulated small entities. That is, in both actions considered here, the preferred alternative was the least burdensome among all available alternatives, consistent with the objectives of each respective action.

8.10 RFA Conclusion

“Small entities,” as defined by the Regulatory Flexibility Act, would be directly regulated only by Action 1 and by Action 6. All attributable impacts on directly regulated small entities, accruing from either action, appear to be “beneficial.”

It is NMFS policy to consider only “adverse” impacts, when preparing a FRFA, consistent with Congress’ direction to “... minimize effects on small entities...”. Based upon the foregoing analysis, no such adverse impacts appear to be associated with the proposed actions. Nonetheless, detailed information and empirical data about the operational structures, strategies, and fiscal conditions of the various Tribes, which are likely to be directly regulated by the proposed actions, are not presently available to the analysts to support preparation of a “factual basis” upon which to “certify,” under RFA provisions. Therefore, the foregoing FRFA was prepared to fulfill the requirements of the RFA, despite the high probability that the actions will not have a significant adverse effect on a substantial number of small entities, as these terms are defined under RFA.

9.0 Other applicable law

Executive Order 13175. E. O. 13175 established regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications to strengthen the United States government-to-government relationships with Indian tribes and to reduce the imposition of unfunded mandates upon Indian tribes. NMFS implemented contracts with the Rural Alaska Community Action Program (RurALCAP) for purposes of consulting with Alaska Native Tribes to fulfill the mandate of E.O. 13175. As the subsistence halibut program is revised, NMFS will need the cooperation of the affected tribal entities to distribute information about registration, reporting harvest information, and general compliance with the rules which may be best achieved through ongoing consultation with the affected tribes. The Council and NMFS have requested that the Alaska Native Halibut Subsistence Working Group (ANHSWG), under the auspices of RurALCAP, receive written authorization from all 120 Alaska Native Tribes listed in the regulations as eligible to participate in the subsistence halibut fishery so that it may advise the Council and NMFS on their behalf.

Staff of the NMFS SF, NMFS Enforcement, Council staff, International Pacific Halibut Commission (IPHC), and Alaska Department of Fish and Game (ADF&G) Subsistence Division and Council member Hazel Nelson met with ANHSWG on May 6, 2004 to consult on proposed Council actions. The Group recommended the following changes to Alternative 2 for consideration by the Council.

- ▶Alternative 2(b) Prince William Sound: Add Option 3. 15 hooks;
- ▶Alternative 2(c) Cook Inlet: Add Option 3. 15 hooks;
- ▶Alternative 2(d) Sitka LAMP area: Do not apply measures proposed under (d) to all of Area 2C.
- ▶Option for rockfish retention: Ensure that lingcod are not included in this provision and that the intent is to stop fishing once the current State legal limit for rockfish is caught, but not to restrict subsistence users below the current bag limits. This will prevent a zero bag limit which could happen for yelloweye rockfish. If the State later increases the bag limit for rockfish, this greater limit should apply.

The group met again during the December 2004 Council meeting, when final action occurred. Members provided additional guidance to the Council during public testimony and supported the preferred alternative.

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Appendix 1. First Annual Halibut Harvest Survey Design (from Wolfe (2002)).

“The most common and effective method for collecting subsistence harvest information is a retrospective harvest survey. In a retrospective harvest survey, a respondent reports information on subsistence harvests made during a specified time period. The retrospective recall survey is the standard methodology used by the Division of Subsistence, Alaska Department of Fish and Game (Fall 1990). It is also used by the State of Alaska for collecting harvest information on annual subsistence salmon harvests. Carefully administered retrospective surveys have been found to produce accurate information and to be sustainable as annual programs. Because of this track record and its familiarity in rural Alaska areas, the retrospective harvest survey is the preferred methodology for gathering information on subsistence halibut harvests.

Harvest information on certain incidental fish (lingcod and rockfish) was identified as a priority by some experts. Limits on the number of hooks and daily bags in the subsistence halibut fishery have been discussed for certain management areas to reduce subsistence harvests of lingcod and rockfish, if that is a management goal. Surveys conducted by the Division of Subsistence, Alaska Department of Fish and Game suggest that the harvests of lingcod and rockfish during subsistence halibut fishing are relatively small in rural villages, compared with harvests in sport and commercial fisheries. However, complete and systematically-gathered information on rockfish and lingcod harvests in subsistence fisheries is lacking.

The following information about lingcod and rockfish harvested while subsistence halibut fishing may be useful to collect each year: (1) number of lingcod harvested; and (2) number of rockfish harvested. The collection of information on (*sic*) rockfish has the potential for substantially increasing the costs and effectiveness of an annual subsistence halibut survey. There are a relatively large number of rockfish species. It is difficult to generalize about the biology and management of the various types. Local names for rockfish vary by area, hampering clear communication, particularly in a mailed survey. Clear identification of species reported as harvested may be difficult without colored pictures and fish variety descriptions as reference materials. Experience has shown that face-to-face surveys work best for gathering subsistence information on complex and potentially ambiguous research questions. However, funding constraints may not allow for face-to-face surveys in most communities. As a further complication, rockfish and lingcod harvests may not be regarded as a “by-catch” by subsistence fishermen. Customary and traditional harvest patterns of harvest for rockfish and lingcod exist in many villages. Documenting these patterns of use would be necessary for understanding reported harvests and their relationships to subsistence halibut fisheries.

The (*sic*) author suggests implementing a two-staged research approach, given these methodology and cost issues. In the first stage, two simple harvest questions on lingcod and rockfish would be asked, serving as an initial “screening” on the by-catch issue. The first-stage question would ask about harvests of “rockfish” as a single generic type. Using this general information, researchers can identify any areas where relatively significant harvests of rockfish or lingcod are reported. In the second stage, research designed to collect more detailed information about rockfish or lingcod would be directed toward these special areas. Face-to-face surveys using color pictures as references would be administered to fishermen in the special areas to collect more in-depth information at the species level. Information on the patterns of use of rockfish and lingcod would be collected. A two-staged approach provides for an efficient use of labor (respondent and surveyor) and project funding, while identifying areas with potentially significant by-catch. If rockfish and lingcod harvests are found to be insignificant during the first stage, research at the second stage may not be indicated.

The ADFG subsistence halibut survey was not designed to answer the questions to which it is being applied in these analyses. The simplicity of the design was intended to maximize the response rate. Therefore, survey results may be of limited use in assessing the effects of the proposed actions. Additional information regarding the subsistence halibut harvest assessment methodologies may be found in Wolfe (2002) and Fall (in prep.)”

Fall et al. (2004) reported that during a meeting of the ANSHWG on October 9, 2003, community representatives expressed concern that not all fishermen would know what fish are to be included under the category “rockfish” for the incidental harvest (“by-catch”) question on the survey form. This could lead to an

overestimation of this harvest if fishermen report fish such as Pacific cod or sculpins in response to this question. The instructions mailed with the survey provided guidance on this question, and incorporated local English and/or Alaska Native language names when known.

Appendix 2. Estimated Alaska subsistence halibut harvest by gear type, 2003

Community/Tribe	Regulatory Area	Number of SHARCs Issued	Estimated Harvest by Gear Type								
			Set Hook Gear			Hook & Line or Handline			All Gear		
			Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested
ANGOON COMMUNITY ASSOCIATION	2C	118	56	749	17955	17	195	4,119	62	944	22,074
AUKQUAN TRADITIONAL COUNCIL	2C	2	1	3	150	0	1	60	2	4	210
CENTRAL COUNCIL TLINGIT AND HAIDA INDIAN TRIBES	2C	537	118	1,151	41353	48	392	10,419	167	1,543	51,772
CHILKAT INDIAN VILLAGE	2C	42	16	31	1059	1	0	0	16	31	1,059
CHILKOOT INDIAN ASSOCIATION	2C	41	10	38	1569	2	4	99	12	42	1,668
CRAIG COMMUNITY ASSOCIATION	2C	52	18	96	3948	3	14	623	19	110	4,572
DOUGLAS INDIAN ASSOCIATION	2C	22	3	47	608	0	20	608	5	68	1,217
HOONAH INDIAN ASSOCIATION	2C	199	62	1,260	52386	10	139	3,533	71	1,400	55,919
HYDABURG COOPERATIVE ASSOCIATION	2C	174	56	378	22511	8	54	4,297	57	432	26,808
KETCHIKAN INDIAN CORPORATION	2C	639	94	808	31499	26	265	8,913	127	1,073	40,412
KLAWOCK COOPERATIVE ASSOCIATION	2C	159	41	383	25365	11	35	1,413	55	418	26,778
METLAKATLA INDIAN COMMUNITY, ANNETTE ISLAND RESERVE	2C	343	82	774	32876	5	50	919	111	824	33,795
ORGANIZED VILLAGE OF KAKE	2C	119	38	300	18434	3	18	718	40	318	19,152
ORGANIZED VILLAGE OF KASAAN	2C	3	3	6	450	0	0	0	3	6	450
ORGANIZED VILLAGE OF SAXMAN	2C	58	14	55	1463	3	0	0	19	55	1,463
PETERSBURG INDIAN ASSOCIATION	2C	119	33	283	5179	6	81	1,507	45	364	6,686
SITKA TRIBE OF ALASKA	2C	409	123	1,518	55890	26	157	5,374	132	1,675	61,264
SKAGWAY VILLAGE	2C	1	0	0	0	0	0	0	0	0	0
WRANGELL COOPERATIVE ASSOCIATION	2C	95	23	152	5764	6	11	362	23	163	6,126
Subtotal	2C	3,132	791	8,032	318459	175	1,436	42,964	966	9,470	361,425
KENAITZE INDIAN TRIBE	3A	48	5	37	671	4	53	1,466	11	90	2,137
LESNOI VILLAGE (WOODY ISLAND)	3A	259	7	12	406	1	35	1,271	17	47	1,677
NATIVE VILLAGE OF AFOGNAK	3A	22	3	19	497	1	21	738	8	40	1,235
NATIVE VILLAGE OF AKHIOK	3A	16	0	0	0	0	53	2,406	15	53	2,406
NATIVE VILLAGE OF CHENEGA	3A	27	14	90	5170	0	27	1,548	18	117	6,718
NATIVE VILLAGE OF EYAK	3A	46	12	73	2336	4	60	835	12	134	3,171
NATIVE VILLAGE OF KARLUK	3A	4	0	0	0	0	10	1,120	2	10	1,120
NATIVE VILLAGE OF LARSEN BAY	3A	25	8	45	1420	6	105	2,831	16	150	4,251
NATIVE VILLAGE OF NANWALEK	3A	32	6	126	3009	3	327	4,953	25	453	7,962
NATIVE VILLAGE OF OUZINKIE	3A	30	20	81	2979	6	89	2,607	23	170	5,586
NATIVE VILLAGE OF PORT GRAHAM	3A	42	8	293	6775	1	273	4,235	27	565	11,011
NATIVE VILLAGE OF PORT LIONS	3A	53	15	152	4199	7	46	1,094	25	197	5,293
NATIVE VILLAGE OF TATITLEK	3A	16	8	47	2442	1	26	1,442	13	73	3,884
NINILCHIK VILLAGE	3A	78	6	50	1419	12	147	3,778	24	197	5,196
SELDOVIA VILLAGE TRIBE	3A	35	9	153	4200	4	134	4,479	16	286	8,679
SHOONAQ' TRIBE OF KODIAK	3A	132	60	689	25758	25	221	9,533	71	910	35,291
VILLAGE OF OLD HARBOR	3A	16	3	14	593	1	29	1,035	9	42	1,628
VILLAGE OF SALAMATOFF	3A	2	0	0	0	0	0	0	0	0	0
YAKUTAT TLINGIT TRIBE	3A	53	24	220	6233	6	72	1,913	26	292	8,147
Subtotal	3A	936	208	2,101	68107	82	1,728	47,284	358	3,826	115,392
AGDAAGUX TRIBE OF KING COVE	3B	28	7	173	2285	3	133	4,615	19	306	6,900
CHIGNIK LAKE VILLAGE	3B	4	0	0	0	1	8	219	3	8	219
NATIVE VILLAGE OF BELKOFSKI	3B	2	0	0	0	0	0	0	0	0	0
NATIVE VILLAGE OF CHIGNIK	3B	11	4	39	2249	1	35	2,070	7	73	4,319
NATIVE VILLAGE OF CHIGNIK LAGOON	3B	33	8	48	1538	2	132	3,045	29	180	4,583
NATIVE VILLAGE OF FALSE PASS	3B	13	0	0	0	0	20	477	4	20	477
NATIVE VILLAGE OF PERRYVILLE	3B	12	7	75	2067	1	5	343	8	81	2,410
NATIVE VILLAGE OF UNGA	3B	10	3	41	833	0	1	28	3	42	860
PAULOFF HARBOR VILLAGE	3B	57	12	126	3427	7	40	904	14	167	4,332
QAGAN TOYAGUNGIN TRIBE OF SAND POINT VILLAGE	3B	34	2	0	0	0	7	340	3	7	340
Subtotal	3B	204	43	502	12399	15	381	12,041	90	884	24,440
NATIVE VILLAGE OF AKUTAN	4A	44	6	25	308	3	281	12,298	33	305	12,606
NATIVE VILLAGE OF NIKOLSKI	4A	12	0	0	0	2	28	2,250	6	28	2,250
QAWALINGIN TRIBE OF UNALASKA	4A	14	3	6	193	0	14	476	6	20	669
Subtotal	4A	70	9	31	501	5	323	15,024	45	353	15,525

continued

Community/Tribe	Regulatory Area	Number of SHARCs Issued	Estimated Harvest by Gear Type									
			Set Hook Gear			Hook & Line or Handline			All Gear			
			Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	
NATIVE VILLAGE OF ATKA	4B	6	2	11	264	1	8	240	4	19	504	
Subtotal	4B	6	2	11	264	1	8	240	4	19	504	
PRIBILOF ISLANDS ALEUT COMMUNITY OF ST GEORGE	4C	26	9	100	1649	0	37	586	13	137	2,235	
PRIBILOF ISLANDS ALEUT COMMUNITY OF ST PAUL	4C	251	35	607	13958	6	467	15,009	88	1,075	28,966	
Subtotal	4C	277	44	707	15607	6	504	15,595	101	1,212	31,201	
NATIVE VILLAGE OF GAMBELL	4D	6	2	4	140	0	0	0	6	4	140	
NATIVE VILLAGE OF SAVOONGA	4D	41	17	63	5113	0	8	593	19	71	5,706	
Subtotal	4D	47	19	67	5253	0	8	593	25	75	5,846	
CHEVAK NATIVE VILLAGE (KASHUNAMIUT)	4E	5	0	0	0	0	0	0	5	0	0	
CHINIK ESKIMO COMMUNITY	4E	1	0	0	0	0	0	0	0	0	0	
EGEGIK VILLAGE	4E	6	0	0	0	0	0	0	0	0	0	
KING ISLAND NATIVE COMMUNITY	4E	2	0	0	0	0	0	0	2	0	0	
NAKNEK NATIVE VILLAGE	4E	2	2	2	54	0	0	0	2	2	54	
NATIVE VILLAGE OF ALEKNAGIK	4E	2	0	0	0	0	1	40	1	1	40	
NATIVE VILLAGE OF DILLINGHAM (CURYUNG)	4E	16	3	15	360	1	1	61	4	16	421	
NATIVE VILLAGE OF EEK	4E	21	3	0	0	0	16	813	8	16	813	
NATIVE VILLAGE OF EKUK	4E	3	0	0	0	0	0	0	0	0	0	
NATIVE VILLAGE OF ELIM	4E	1	0	0	0	0	0	0	0	0	0	
NATIVE VILLAGE OF GOODNEWS BAY (MUMTRAQ)	4E	15	7	40	1369	0	89	3,866	12	129	5,235	
NATIVE VILLAGE OF HOOPER BAY	4E	90	10	75	375	0	73	485	25	148	860	
NATIVE VILLAGE OF KIPNUK	4E	89	6	83	1418	0	512	9,608	67	595	11,025	
NATIVE VILLAGE OF KONGIGANAK	4E	8	0	0	0	0	68	1,682	8	68	1,682	
NATIVE VILLAGE OF KWIGILLINGOK	4E	1	0	0	0	0	8	155	1	8	155	
NATIVE VILLAGE OF KWINHAGAK	4E	10	2	4	350	0	28	740	8	32	1,090	
NATIVE VILLAGE OF MEKORYUK	4E	15	9	96	2059	0	17	320	9	113	2,378	
NATIVE VILLAGE OF NAPAKIAK	4E	3	0	0	0	0	0	0	0	0	0	
NATIVE VILLAGE OF NIGHTMUTE	4E	4	2	40	360	0	40	300	4	80	660	
NATIVE VILLAGE OF SCAMMON BAY	4E	5	3	10	84	0	10	84	3	20	167	
NATIVE VILLAGE OF SHAKTOOLIK	4E	1	0	0	0	0	0	0	0	0	0	
NATIVE VILLAGE OF SHISHMAREF	4E	1	0	0	0	0	0	0	0	0	0	
NATIVE VILLAGE OF TOKSOOK BAY (NUNAKAUAYAK)	4E	533	8	256	4800	0	1,081	27,087	51	1,337	31,887	
NATIVE VILLAGE OF TUNUNAK	4E	1	0	0	0	0	3	30	1	3	30	
NATIVE VILLAGE OF UNALAKLEET	4E	6	0	0	0	0	0	0	0	0	0	
NATIVE VILLAGE OF WHITE MOUNTAIN	4E	1	0	0	0	0	0	0	0	0	0	
NEWTOK VILLAGE	4E	3	2	8	150	0	11	210	3	18	360	
NOME ESKIMO COMMUNITY	4E	13	2	0	0	0	2	74	4	2	74	
ORUTSARARMIUT NATIVE VILLAGE	4E	6	1	12	420	1	2	84	1	14	504	
PLATINUM TRADITIONAL VILLAGE	4E	2	0	0	0	0	2	40	2	2	40	
SOUTH NAKNEK VILLAGE	4E	1	0	0	0	0	0	0	0	0	0	
TRADITIONAL VILLAGE OF TOGIAK	4E	6	0	0	0	0	0	0	6	0	0	
UGASHIK VILLAGE	4E	4	1	2	38	1	1	25	2	3	63	
VILLAGE OF CHEFORNAK	4E	16	8	160	1400	8	280	3,000	16	440	4,400	
VILLAGE OF CLARK'S POINT	4E	2	0	0	0	0	0	0	0	0	0	
VILLAGE OF KANATAK	4E	11	0	0	0	0	0	0	0	0	0	
Subtotal	4E	906	69	803	13237	11	2,245	48,704	245	3,047	61,938	
			5,578	1,185	12,254	433,827	295	6,633	182,445	1,834	18,886	616,271

continued

Community/Tribe	Regulatory Area	Number of SHARCs Issued	Estimated Harvest by Gear Type								
			Set Hook Gear			Hook & Line or Handline			All Gear		
			Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested
ANGOON	2C	24	13	159	3,723	6	15	655	16	174	4,379
COFFMAN COVE	2C	39	26	161	6,065	13	30	838	30	191	6,903
CRAIG	2C	281	114	1,007	33,023	36	389	6,354	140	1,396	39,377
EDNA BAY	2C	43	21	89	4,992	7	62	1,496	32	151	6,488
ELFIN COVE	2C	16	4	22	775	1	15	369	6	37	1,144
GUSTAVUS	2C	52	16	147	3,409	10	98	2,417	27	244	5,825
HAINES	2C	380	219	1,206	36,251	29	93	2,762	235	1,300	39,013
HOLLIS	2C	41	20	91	3,360	4	17	300	22	108	3,660
HOONAH	2C	120	54	545	21,786	19	132	3,328	67	677	25,114
HYDABURG	2C	11	3	12	500	3	6	400	5	18	900
HYDER	2C	37	13	40	1,274	3	1	45	13	41	1,318
KAKE	2C	61	24	189	9,126	5	31	721	30	220	9,846
KASAAN	2C	16	7	54	1,798	0	0	0	7	54	1,798
KLAWOCK	2C	115	37	232	10,967	19	246	5,609	52	478	16,576
KLUKWAN	2C	3	3	9	285	0	0	0	3	9	285
METLAKATLA	2C	31	14	37	1,261	4	23	407	16	60	1,668
MEYERS CHUCK	2C	10	8	15	534	1	0	0	8	15	534
PELICAN	2C	41	18	122	3,500	3	21	644	24	143	4,144
PETERSBURG	2C	908	295	1,993	50,463	112	619	17,209	369	2,612	67,672
PORT ALEXANDER	2C	20	7	32	1,136	3	8	251	8	40	1,386
PORT PROTECTION	2C	13	8	36	956	4	21	875	9	56	1,831
PT. BAKER	2C	20	12	83	2,388	1	0	0	12	83	2,388
SAXMAN	2C	30	6	27	600	3	0	0	6	27	600
SITKA	2C	1,224	626	4,361	150,190	161	789	21,257	680	5,150	171,448
SKAGWAY	2C	40	18	27	912	2	0	0	19	27	912
TENAKEE SPRINGS	2C	36	21	103	3,688	8	28	992	21	131	4,679
THORNE BAY	2C	97	50	308	14,569	16	80	3,141	61	387	17,710
WHALE PASS	2C	24	6	5	260	0	6	411	7	11	671
WRANGELL	2C	362	168	910	30,993	49	212	5,948	189	1,122	36,941
Subtotal	2C	4,095	1,831	12,022	398,784	522	2,942	76,429	2,114	14,962	475,210
AKHIOK	3A	1	0	0	0	0	2	50	1	2	50
CHENEGA BAY	3A	6	4	30	1,260	2	8	400	4	38	1,660
CHINIAK	3A	5	3	36	950	3	24	915	5	60	1,865
CORDOVA	3A	316	59	289	8,640	37	416	9,970	93	705	18,610
ELLAMAR	3A	1	1	6	450	0	0	0	1	6	450
KODIAK	3A	1,100	383	3,572	117,550	247	2,200	63,401	564	5,773	180,951
LARSEN BAY	3A	12	4	35	1,676	8	92	2,620	12	126	4,296
NANWALEK	3A	7	2	40	1,457	0	76	1,355	6	116	2,812
OLD HARBOR	3A	37	5	26	883	9	129	4,375	26	155	5,258
OUZINKIE	3A	17	7	35	1,266	1	18	712	10	53	1,978
PORT GRAHAM	3A	15	4	68	1,766	1	163	5,178	12	231	6,943
PORT LIONS	3A	24	14	104	2,767	7	11	360	16	115	3,127
SELDOVIA	3A	89	27	383	8,552	20	410	10,570	47	793	19,122
STERLING	3A	1	0	0	0	0	0	0	1	0	0
TATITLEK	3A	7	6	69	2,141	0	5	234	7	74	2,375
YAKUTAT	3A	36	12	141	5,460	6	62	1,311	17	203	6,771
Subtotal	3A	1,674	531	4,834	154,818	341	3,616	101,451	822	8,450	256,268
CHIGNIK	3B	5	3	12	390	0	54	1,336	5	66	1,726
CHIGNIK LAGOON	3B	7	1	1	40	0	17	405	5	18	445
CHIGNIK LAKE	3B	7	1	5	234	5	30	246	6	35	480
COLD BAY	3B	18	11	71	1,843	5	22	1,177	13	92	3,020
FALSE PASS	3B	6	2	11	220	2	98	1,640	5	109	1,860
KING COVE	3B	11	3	37	1,173	0	65	2,898	7	102	4,071
SAND POINT	3B	5	1	25	625	0	3	638	3	28	1,263
Subtotal	3B	59	22	162	4,525	12	289	8,340	44	450	12,865

continued

AKUTAN	4A	5	2	0	0	2	7	150	5	7	150	
NIKOLSKI	4A	5	1	28	1,000	1	3	219	3	30	1,219	
UNALASKA	4A	74	30	296	7,102	12	143	3,627	40	438	10,729	
	Subtotal	84	33	324	8,102	15	153	3,996	48	475	12,098	
ADAK	4B	5	5	20	625	3	0	0	5	20	625	
ATKA	4B	13	4	17	1,083	4	17	1,083	4	35	2,165	
	Subtotal	18	9	37	1,708	7	17	1,083	9	55	2,790	
ST GEORGE ISLAND	4C	7	0	0	0	0	23	490	4	23	490	
ST PAUL ISLAND	4C	5	0	0	0	0	0	0	0	0	0	
	Subtotal	12	0	0	0	0	23	490	4	23	490	
GAMBELL	4D	1	0	0	0	0	0	0	1	0	0	
SAVOONGA	4D	2	0	0	0	0	0	0	0	0	0	
	Subtotal	3	0	0	0	0	0	0	1	0	0	
ALEKNAGIK	4E	1	0	0	0	0	0	0	0	0	0	
BETHEL	4E	4	0	0	0	0	3	29	3	3	29	
CHEFORNAK	4E	4	0	0	0	0	32	256	4	32	256	
CHEVAK	4E	4	0	0	0	0	0	0	3	0	0	
DILLINGHAM	4E	22	3	4	42	1	2	63	5	6	105	
EEK	4E	1	0	0	0	0	0	0	0	0	0	
GOODNEWS BAY	4E	2	0	0	0	0	0	0	0	0	0	
HOOPER BAY	4E	8	0	0	0	0	12	190	8	12	190	
KING SALMON	4E	4	4	28	300	0	0	0	4	28	300	
KIPNUK	4E	1	0	0	0	0	0	0	0	0	0	
KONGIGANAK	4E	4	0	0	0	0	16	450	4	16	450	
KOTLIK	4E	1	0	0	0	0	0	0	0	0	0	
KOYUK	4E	1	0	0	0	0	0	0	0	0	0	
MEKORYUK	4E	2	0	0	0	0	0	0	0	0	0	
NAKNEK	4E	4	0	0	0	0	0	0	1	0	0	
NEWTOK	4E	1	0	0	0	0	0	0	0	0	0	
NIGHTMUTE	4E	25	0	0	0	0	371	8,182	14	371	8,182	
NOME	4E	7	3	0	0	0	0	0	4	0	0	
PLATINUM	4E	2	0	0	0	0	0	0	0	0	0	
QUINHAGAK	4E	4	1	1	106	0	5	200	3	7	306	
SCAMMON BAY	4E	5	0	0	0	0	5	75	3	5	75	
SHELDON POINT	4E	1	0	0	0	0	0	0	0	0	0	
SOUTH NAKNEK	4E	1	0	0	0	0	0	0	0	0	0	
TOKSOOK BAY	4E	3	0	0	0	0	60	525	3	60	525	
	Subtotal	4E	112	11	33	448	1	506	9,970	59	540	10,418
			6,057	2,437	17,412	568,385	898	7,546	201,759	3,101	24,955	770,139

continued

Community/Tribe	SHARCs	Estimated Harvest by Gear Type								
		Set Hook Gear			Hook & Line or Handline			All Gear		
		Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested
Tribal Subtotals	5,578	1,185	12,254	433,827	295	6,633	182,445	1,834	18,886	616,271
Rural Community Subtotals	6,057	2,437	17,412	568,385	898	7,546	201,759	3,101	24,955	770,139
Grand Totals	11,635	3,622	29,666	1,002,212	1,193	14,179	384,204	4,935	43,841	1,386,410

2C	7,227	2,622	20,054	717,243	697	4,378	119,393	3,080	24,432	836,635
3A	2,610	739	6,935	222,925	423	5,344	148,735	1,180	12,276	371,660
3B	263	65	664	16,924	27	670	20,381	134	1,334	37,305
4A	154	42	355	8,603	20	476	19,020	93	828	27,623
4B	24	11	48	1,972	8	25	1,323	13	74	3,294
4C	289	44	707	15,607	6	527	16,085	105	1,235	31,691
4D	50	19	67	5,253	0	8	593	26	75	5,846
4E	1,018	80	836	13,685	12	2,751	58,674	304	3,587	72,356
	11,635	3,622	29,666	1,002,212	1,193	14,179	384,204	4,935	43,841	1,386,410

Appendix 3. Alaska Administrative Code regulations for local areas.

Kodiak Area

05 AAC 01.520. Lawful Gear and Gear Specifications

- (f) Rockfish may be taken only by a single hand-held line or a single longline, none of which may have more than five hooks attached to it.

05 AAC 01.545. Customary and Traditional Subsistence Uses of Fish Stocks

- (a) The daily bag limit for halibut is two fish and the possession limit is four fish. A person may not take or possess halibut under sport fishing regulations and under this section on the same day.
- (b) The daily bag limit for lingcod is two fish and the possession limit is four fish. A person may not take or possess lingcod under sport fishing regulations and under this section on the same day.
- (c) The daily bag limit for rockfish is 10 fish and the possession limits is 20 fish. A person may not take or possess rockfish under sport fishing regulations and under this section on the same day.

05 AAC 01.520. Lawful Gear and Gear Specifications

- (d) Subsistence fishermen must be physically present at the net at all times the net is being fished.
- (e) Lingcod may be taken only by a single hand-held line or a single longline, none of which may have more than five hooks attached to it.
- (f) Rockfish may be taken only by a single hand-held line or a single longline, none of which may have more than five hooks attached to it.

Cook Inlet

05 AAC 01.570. Lawful Gear and Gear Specifications

- (n) Rockfish may be taken only by a single hand troll, single hand-held line, or single longline, none of which may have more than five hooks attached to it.

05 AAC 01.595. Subsistence Bag, Possession, and Size Limits

- (c) The daily bag limit for lingcod is two fish and the possession limit is four fish. A person may not take or possess lingcod under sport fishing regulations and under this section on the same day. Lingcod retained must measure at least 35 inches from the tip of the snout to the tip of the tail, or 28 inches from the front of the dorsal fin to the tip of the tail. Undersized lingcod shall be returned to the water immediately without further injury.
- (d) The daily bag limit for rockfish is five fish and the possession limits is 10 fish, of which only one per day and two in possession may be non-pelagic rockfish. A person may not take or possess rockfish under sport fishing regulations and under this section on the same day.

Prince William Sound

05 AAC 01.616. Customary and Traditional Subsistence Uses of Fish Stocks and Amount Necessary For Subsistence Uses

- (d) The Board finds that the following amounts of fish, other than salmon, are reasonably necessary for subsistence uses in the Prince William Sound Area:
 - (2) 7,500 - 12,500 rockfish;

05 AAC 01.620. Lawful Gear and Gear Specifications

- (h) Groundfish may be taken only by a single hand troll, single hand-held line, or a single longline, none of which may have more than five hooks attached to it.

05 AAC 01.645. Subsistence Bag, Possession, and Size Limits

- (e) The daily bag limit for rockfish is as follows:
 - (1) from May 1 through September 15, the daily bag limit is five fish and the possession limit is 10 fish, of which only two per day and two in possession may be non-pelagic rockfish; a person may not take or possess rockfish under sport fishing regulations and under this section on the same day; from September 16 through April 30, the daily bag and possession limit is 10 fish, of

which only two per day and two in possession may be non-pelagic rockfish; a person may not take or possess rockfish under sport fishing regulations and under this section on the same day.

Southeast Alaska (including Sitka)

05 AAC 01.666. Customary and Traditional Subsistence Uses of Fish Stocks

- (2) groundfish and halibut in waters of Yakutat Bay, including Russell Fjord, and in waters of Alaska from Point Manby to Ocean Cape bounded by Loran C lines 7960-Y-30630 and 7960-Y-30430;

05 AAC 01.716. Customary and Traditional Subsistence Uses of Fish Stocks and Amount Necessary For Subsistence Uses

- (14) groundfish and halibut in waters of Section 3-B;
- (17) groundfish and halibut in waters of Section 3-A;

05 AAC 77.674. Personal Use Groundfish Fishery

In the personal use taking of groundfish

- (1) groundfish may be taken at any time;
- (2) groundfish may be taken for personal use only by longline or hand held line; unattended gear must be marked as described in 5 AAC 77.010(d) ;
- (3) there are no daily bag or possession limits, except
 - (A) in the Sitka vicinity:
 - (i) in Sitka Sound Special Use Area, which is that area of Sitka Sound enclosed on the north by lines from Kruzof Island at 57° 20.50' N. lat., 135° 45.17' W. long. to Chichagof Island at 57° 22.05' N. lat., 135° 43' W. long., and from Chichagof Island at 57° 22.58' N. lat., 135° 41.30' W. long. to Baranof Island at 57° 22.28' N. lat., 135° 40.95' W. long., and on the south and west by a line running from the southernmost tip of Sitka Point at 56° 59.38' N. lat., 135° 49.57' W. long. to Hanus Point at 56° 51.92' N. lat., 135° 30.50' W. long. to the green day marker in Dorothy Narrows to Baranof Island at 56° 49.28' N. lat., 135° 22.60' W. long., the daily possession limit for rockfish is three fish, of which no more than one may be a yelloweye rockfish (*Sebastes ruberrimus*);
 - (ii) the waters off Cape Edgecumbe enclosed by a box defined as 56° 55.5' N. lat. and 56° 57' N. lat., and 135° 54' W. long. and 135° 57' W. long., are closed to fishing for all species of groundfish;
 - (B) in the Ketchikan vicinity: in all waters of Section 1-E south of the latitude of Bushy Point Light and in the waters of Section 1-F north of lines from Point Alava to the southernmost tip of Ham Island, from Cedar Point to Dall Head, and from Dall Head to a point on the District 1 boundary in Clarence Strait at the latitude of Dall Head, the bag and possession limit for rockfish is three fish, no more than one of which may be yelloweye rockfish (*Sebastes ruberrimus*);
- (4) a person on Board a vessel from which a longline was used to take groundfish for personal use in the Northern Southeast Inside or the Southern Southeast Inside sections is subject to the restrictions in 5 AAC 28.180.
- (5) groundfish taken under personal use regulations may not be used as bait in a commercial fishery.

Appendix 4. State of Alaska closed areas for groundfish.

Sitka Pinnacles 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 to identify areas where fishing restrictions have been implemented for groundfish species; descriptions of these areas are provided below.

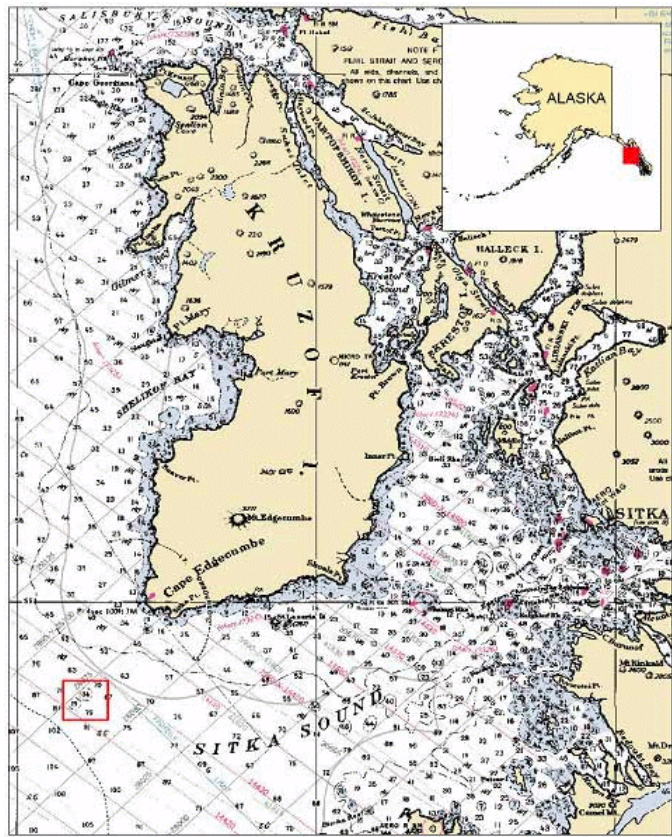


Figure 1. -The Sitka Pinnacles Marine Fishery Reserve.

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.

Similar closures were implemented in areas near Ketchikan in 1989 and Craig and Klawock in 1991.

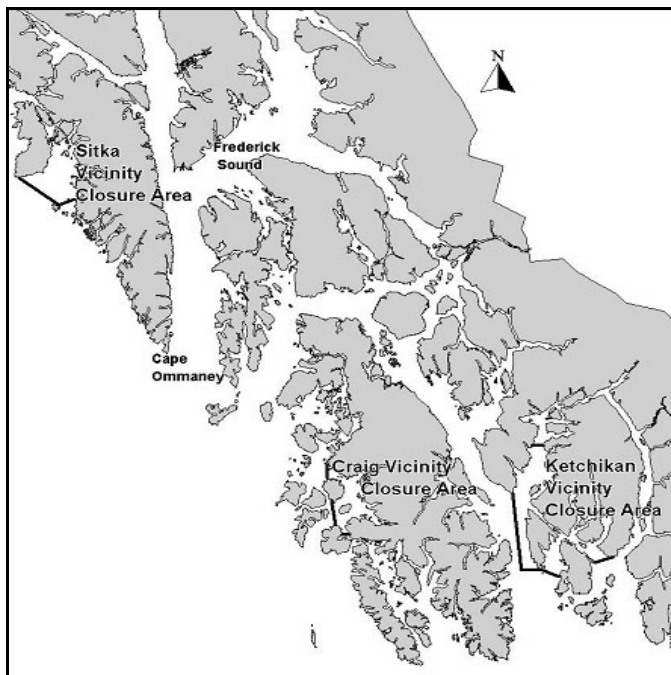


Figure 2. -Map showing areas where commercial harvests of demersal shelf rockfish are restricted by regulation.

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.

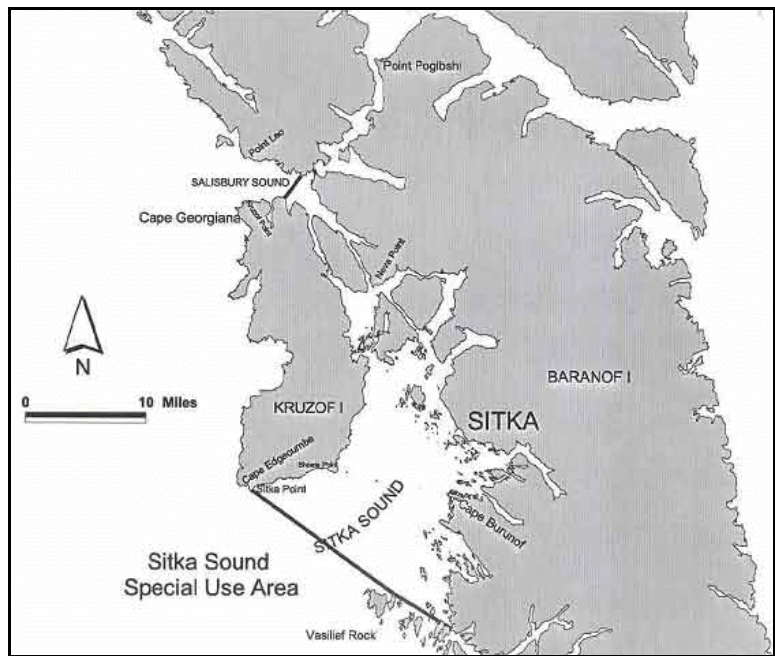


Figure 3. -Sitka Sound Special Use Area. By regulations, sport and personal use bag and possession limits are restricted for rockfish, and sport bag and possession limits are restricted for lingcod (nonresident anglers only).

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 LAMP boundaries (Figure 5).

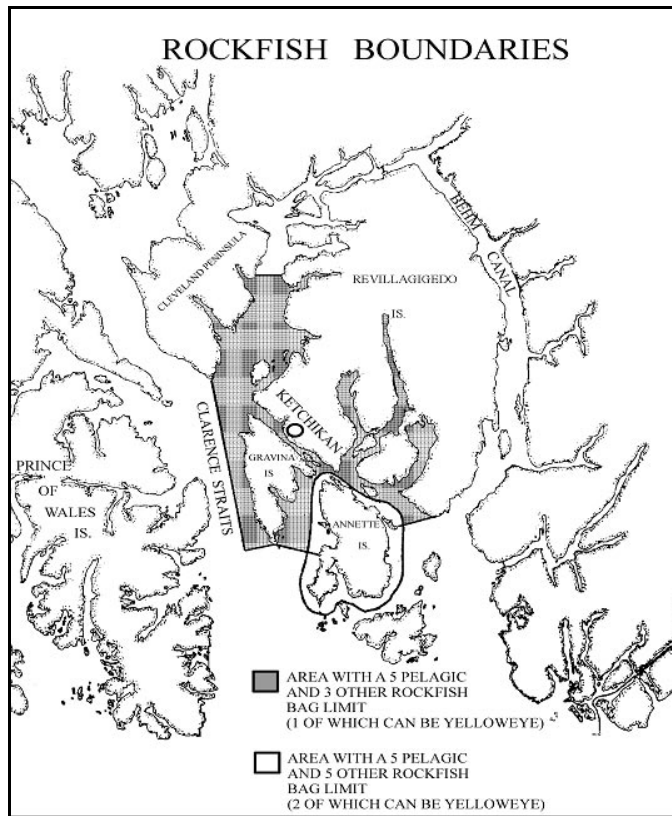


Figure 4. -Ketchikan area. Sport and personal use bag and possession limits are restricted by regulation for rockfish.

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 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.

Customary and traditional uses of groundfish have been identified in some areas of State waters. The gear limit for personal use fisheries for groundfish (which includes rockfish and lingcod) are 5 hooks and possession limit is 20 fish for South Central Alaska. In both the Sitka Sound Special Use Area and the Ketchikan vicinity, the daily possession limit for rockfish is three fish, of which no more than one may be a yelloweye rockfish (*Sebastes ruberrimus*). In State waters where there are gear and possession limits for groundfish, all incidental catch must be returned to the water (i.e., discarded) unless the fisherman uses legal gear (as defined by the State). The incidental catch only may be retained up to the legal limit if harvested with legal gear. Therefore, a subsistence halibut harvester retain rockfish and lingcod up to the legal daily and possession limits in State waters only if the harvester voluntarily limits the gear in the Federal subsistence halibut fishery to the legal State limit of 5 hooks.

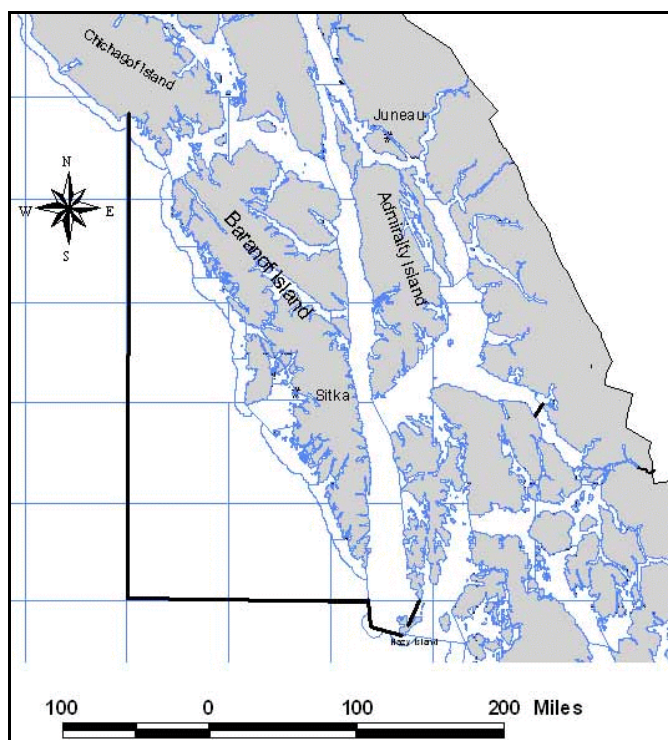


Figure 5. -Northern Southeast Alaska area encompassing Central Southeast Outside (CSEO), Northern Southeast Outside (NSEO) and Northern Southeast Inside (NSEI) groundfish management areas. In 2000, the department reduced harvest limits in the sport fishery to 1 lingcod per day, 2 in possession for all anglers and implemented a minimum size limit of 38 inches for guided and nonresident anglers to ensure that sport harvests did not exceed the lingcod allocation to the sport fishery.

Appendix 5. ADF&G Proposal #65.

**ALASKA BOARD OF FISHERIES AND ALASKA BOARD OF GAME
REGULATION PROPOSAL FORM, P.O. BOX 25526, JUNEAU, ALASKA 99802-5526**

<p>BOARD OF FISHERIES REGULATIONS</p> <p>? Fishing Area <u>Kodiak</u></p> <p><input checked="" type="checkbox"/> Subsistence ? Personal Use</p> <p>? Sport ? Commercial</p> <p>JOINT BOARD REGULATIONS</p> <p>? Advisory Committee ? Regional Council ? Rural</p>	<p>BOARD OF GAME REGULATIONS</p> <p>Game Management Unit (GMU) _____</p> <p>? Hunting ? Trapping</p> <p>? Subsistence ? Other _____</p> <p>? Resident</p> <p>? Nonresident</p>
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Please answer all questions to the best of your ability. All answers will be printed in the proposal packets along with the proposer's name (address and phone numbers. will not be published). Use separate forms for each proposal.

1. Alaska Administrative Code Number 5 AAC 01.520 Regulation Book Page No. 80

2. **What is the problem you would like the Board to address?** Current federal halibut subsistence regulations allow for the use of 30 hooks per person in a longline configuration. State subsistence regulations for halibut allows only two hooks on a single handline. In addition, subsistence regulations for the Kodiak Area specify that rockfish and lingcod may only be taken by hand lines or longlines with no more than five hooks. The lack of parity between state and federal subsistence language has led to confusion among the public and enforcement difficulties when rockfish or lingcod are caught while participating in the federal halibut subsistence fishery.

3. **What will happen if this problem is not solved?** Federal halibut subsistence users would not be able to legally retain rockfish and lingcod caught while fishing with 30 hooks.

4. **What solution do you prefer? In other words, if the Board adopted your solution, what would the new regulation say?** 5 AAC 01.520 Lawful Gear and Gear Specifications.
e) Lingcod and rockfish harvested in other subsistence fisheries are lawfully taken and may be retained for subsistence purposes up to the daily bag limit.

5. **Does your proposal address improving the quality of the resource harvested or products produced? No. If so, how?**

6. **Solutions to difficult problems benefit some people and hurt others:**

A. **Who is likely to benefit if your solution is adopted?** The public will benefit by parity in the federal and state subsistence language.

B. **Who is likely to suffer if your solution is adopted?** No one.

7. List any other solutions you considered and why you rejected them. None.	DO NOT WRITE HERE
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Submitted By: Name Alaska Department of Fish and Game
Individual or Group

Address 211 Mission Road Kodiak, Ak Zip Code 99615 Phone (907) 486-1840

