

INITIAL REVIEW DRAFT

Regulatory Impact Review for a Regulatory Amendment to

Amend Subsistence Halibut Fishery Regulations in Convention Waters

Date: September 22, 2004

Lead Agency: National Marine Fisheries Service
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Responsible Official: Jim Balsiger, Alaska Regional Administrator

Abstract: This document is a Regulatory Impact Review (RIR) for six actions to amend subsistence halibut regulations that define the legal harvest of halibut for subsistence use in Convention waters in and off Alaska. Action 1 re-addresses a preferred alternative adopted by the Council in April 2002. The proposed action would revise subsistence gear and harvest limits and add a community harvest permit program in Kodiak, Prince William Sound, Cook Inlet, and revise subsistence gear and harvest limits in the Sitka Sound LAMP. Action 2 would add Port Tongass Village and Naukati to the list of eligible subsistence halibut communities. Action 3 would implement a possession limit equal to two daily bag limits to enhance enforcement of daily harvest limits. Action 4 would either eliminate a prohibition on the use of charter vessels for hire or revise the regulatory language to identify that only immediate family members may also be onboard a charter vessel when it is being used to harvest subsistence halibut by an eligible owner/operator. Action 5 would revise the regulations that allow a \$400 customary trade limit for subsistence halibut to either eliminate cash trade or lower it to \$100. Action 6 would allow the use of special permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within areas designated as non-subsistence use areas.

RIR: None of the proposed actions are expected to have the potential to result in a “significant action” as defined in Executive Order 12866.

NEPA: Consistent with NAO 216-6, proposed actions 2 through 6 may be excluded from further NEPA analysis because they are changes to previously analyzed and approved actions or are administrative in nature and the proposed changes have no effect individually or cumulatively on the human environment.

IRFA: The proposed actions are excluded from the Regulatory Flexibility Act because they are not expected to result in adverse impacts on directly regulated small entities.

Comment Due Date: Public comments will be taken on this draft analysis through the October 2004 Council meeting. Additional comment periods will occur with the release of the public review draft and will be announced by NMFS in the proposed rule.

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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 halibut for subsistence use in Convention waters in and off Alaska. The six actions proposed for this regulatory amendment package are as follows.

(1) Action 1 re-addresses a preferred alternative adopted by the Council in April 2002. That decision was in response to a recommendation by the Alaska Board of Fisheries to address community concerns in three areas proposed for local area management plans (LAMPs) and the Sitka LAMP. On behalf of the communities, the Board recommended regulatory 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, the 2002 preferred alternative included numerous actions. One action modified the Board recommendations for subsistence halibut gear limits waters under Federal jurisdiction, which resulted in a conflict with State water gear limits for subsistence groundfish fisheries. In October 2003, the Council decided to bifurcate its April 2002 preferred alternative and reschedule final action on local area issues after the analysis was revised to incorporate data from the inaugural subsistence halibut survey.

(2) Action 2 would add Port Tongass Village and Naukati to the list of eligible subsistence halibut communities based on a recommendation by the Board in February 2004, when appropriate.

(3) Action 3 would implement a possession limit equal to two daily bag limits to enhance enforcement of daily harvest limits. It was proposed by the International Pacific Halibut Commission staff and supported by NOAA Enforcement and the Enforcement Committee.

(4) Action 4 would either eliminate a prohibition on the use of charter vessels for hire or revise the regulatory language to identify that only immediate family members may also be onboard a charter vessel when it is being used to harvest subsistence halibut by an eligible owner/operator. It was proposed by NMFS staff and supported by the Enforcement Committee.

(5) Action 5 would revise the regulations that allow a \$400 customary trade limit for subsistence halibut to either eliminate the cash trade or lower it to \$100. NOAA Enforcement and the Enforcement Committee have recommended Alternative 3, because an annual customary trade limit of *any* cash amount is unenforceable.

(6) Action 6 would allow the use of special permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within areas designated by the Council as non-subsistence use areas (using State criteria). It was proposed by the Alaska Native Halibut Subsistence Working Group during public testimony in October 2003.

RIR: None of the proposed actions are expected to have the potential to result in a “significant action” as defined in Executive Order 12866.

NEPA: Consistent with NAO 216-6, proposed actions 2 through 6 may be excluded from further NEPA analysis because they are changes to previously analyzed and approved actions or are administrative in nature and the proposed changes have no effect individually or cumulatively on the human environment.

IRFA: The proposed actions are excluded from the Regulatory Flexibility Act because they are not expected to result in adverse impacts on directly regulated small entities.

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

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

(d) in Sitka Sound LAMP:

Seasonal gear and vessel limits:

June 1 to August 31

15 hooks per vessel

no power hauling

5 halibut per day/vessel

September 1 to May 31

(30 hooks per vessel)

(power hauling allowed)

10 halibut per day/vessel

Option for areas (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.

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

Alternative 1. No action.

Alternative 2. Add to list of eligible communities:

Option 1. Naukati

Option 2. Port Tongass Village

Action 3. Create a subsistence halibut possession limit.

Alternative 1. No action.

Alternative 2. Possession limit equal to two daily bag limits.

Action 4. Revise the definition of charter vessels.

Alternative 1. No action.

Alternative 2. Allow the use of charterboats for subsistence halibut fishing

Alternative 3. Adopt the State of Alaska definition of charter vessels to redefine a charterboat vessel as State-licensed and restrict their use in the subsistence fishery to the owner and identified immediate family members (father, mother, brother, sister, children, legally adopted children).

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

Alternative 1. No action.

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

Alternative 3. Eliminate the customary trade limit (\$0).

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-traditional use areas by tribes whose traditional fishing grounds are located within these areas, with a 20-fish per day bag limit.

Regulatory Impact Review

1.0 Introduction

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 and off North Pacific Halibut Convention waters of 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.

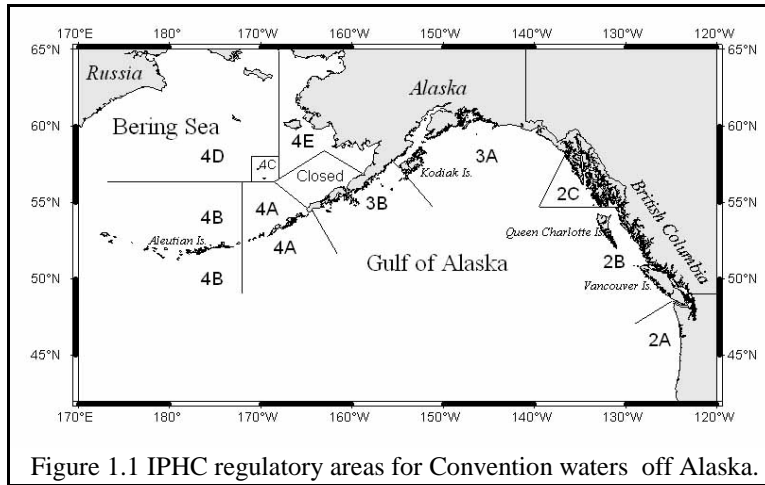
E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- 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 Alaska halibut fishery 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. The National Marine Fisheries Service (NMFS), 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.

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 is currently available to describe this fishery since its first season under management is still underway. 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 will be 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, 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 http://www.fakr.noaa.gov/ram/daily/sharc_by_city.pdf and by eligible Tribe, at http://www.fakr.noaa.gov/ram/daily/sharc_by_tribe.pdf.

The estimated total halibut removal in Alaskan waters in 2003 was 73,929,215 pounds (net weight) (Fall et al. 2004) (Figure 1.2). The subsistence fishery accounted for 1 percent of the total removal of halibut in

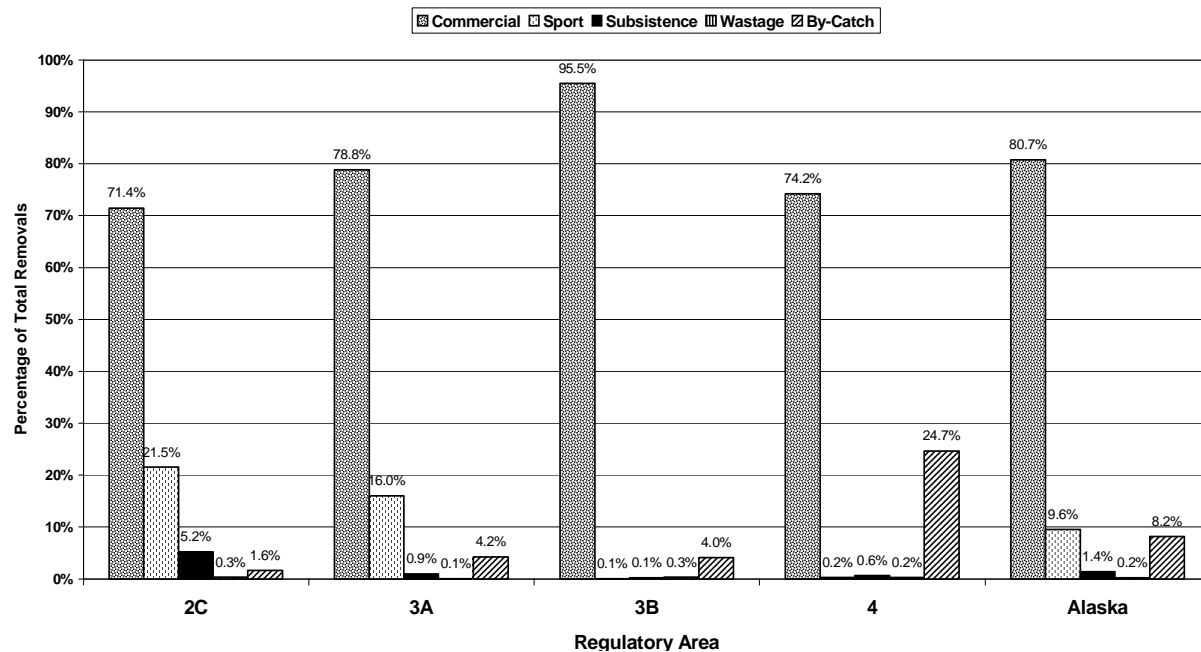


Figure 1.2 Halibut removals in Alaska by regulatory area and fishery, 2003

Alaska waters in 2003. 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.

Subsistence Halibut Harvests in 2003. The information in this section was prepared by the ADF&G Subsistence Division under contract with NMFS. 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 NMFS. 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 pounds (round weight), with most of this harvested with set hook gear (72 percent) and the remainder with hook and rod or 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 Alaska waters 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 SHARC issued. This is especially encouraging given that this was the first year of 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.

Estimated Number of Subsistence Halibut Fishers. 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 fishers in 2003 were from tribes and rural communities in Area 2C (Southeast Alaska), 3,080 (62 percent). There were 1,180 halibut fishers (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 fishers who were members of tribes and residents of communities in the five other regulatory areas (see Appendix 2).

Tribes with the most subsistence halibut fishers in 2003 included the Central Council of Tlingit and Haida Indians (167 subsistence halibut fishers), 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 fishers 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 Alaska subsistence halibut harvests for 2003 by SHARC type, regulatory area, and gear type. The total estimated subsistence halibut harvest in Alaska in 2003 was 1,386,410 pounds round weight (43,841 fish). As estimated in pounds round weight, 60 percent of the subsistence halibut harvest (836,635 pounds) was taken by fishers registered with tribes or rural communities in Area 2C (Figure 1.3). Fishers from Area 3A harvested 371,660 pounds (27 percent). Harvests totaled 72,356 pounds (5 percent) for communities and tribes in Area 4E. Tribes and communities in the remaining five regulatory areas harvested 105,759 pounds (8 percent).

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 had no harvest. In 13 others, individuals obtained SHARCs 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 in 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). Members of the remaining 111 tribes harvested 30 percent of the total. Members of 74 Alaska tribes harvested subsistence halibut in 2003. In three others, 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 these 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 per fisher in number of halibut. For the State overall, the average subsistence halibut fisher harvested 281 pounds round weight or about 9 halibut in 2003. Average harvests per fisher in round weight did not vary substantially between regulatory areas.

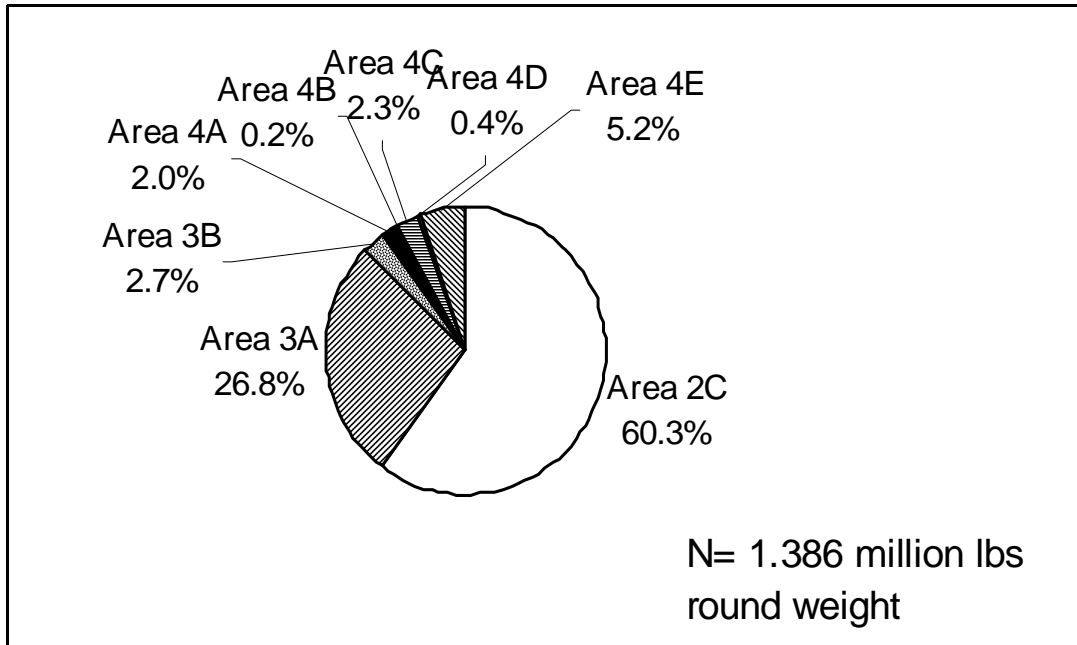


Figure 1.3 Percentage of subsistence halibut harvest by regulatory area, 2003

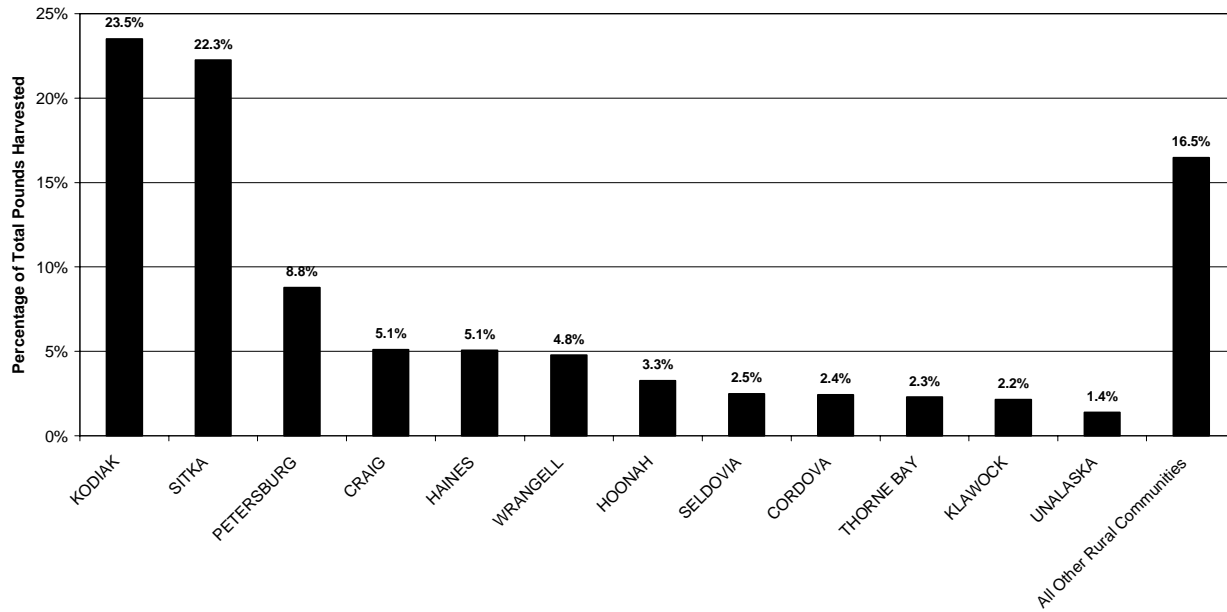


Figure 1.4 Percentage of rural community subsistence halibut harvests by community, 2003

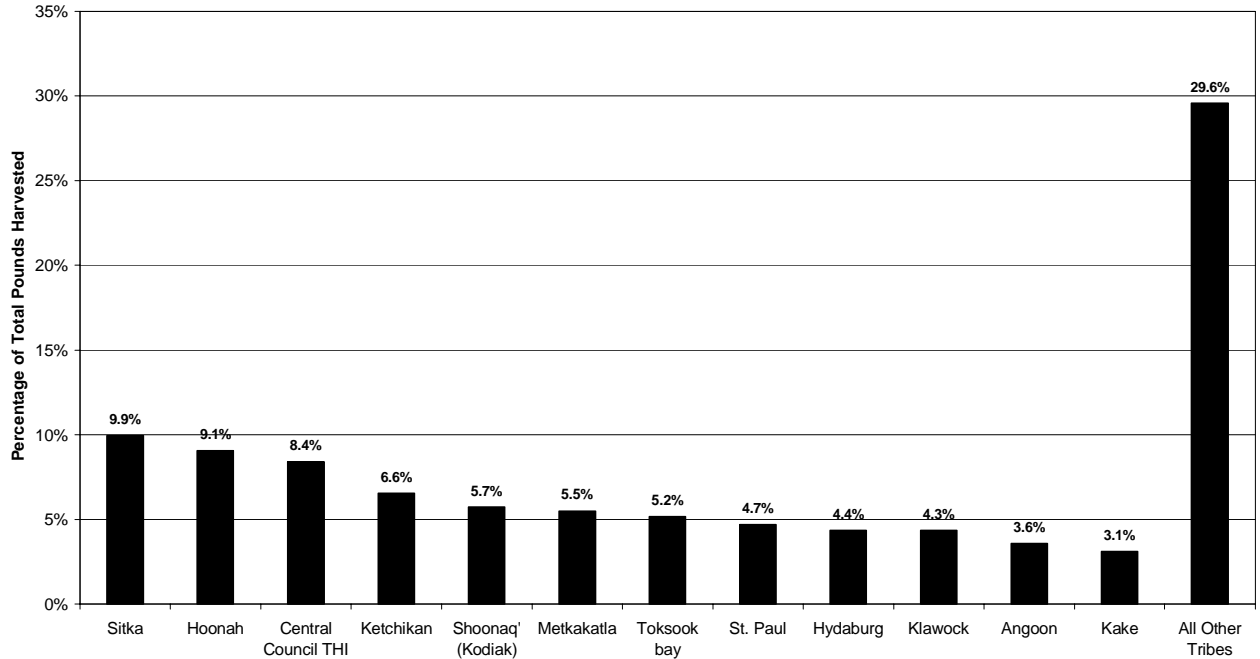


Figure 1.5 Percentage of tribal subsistence halibut harvest by tribe, 2003

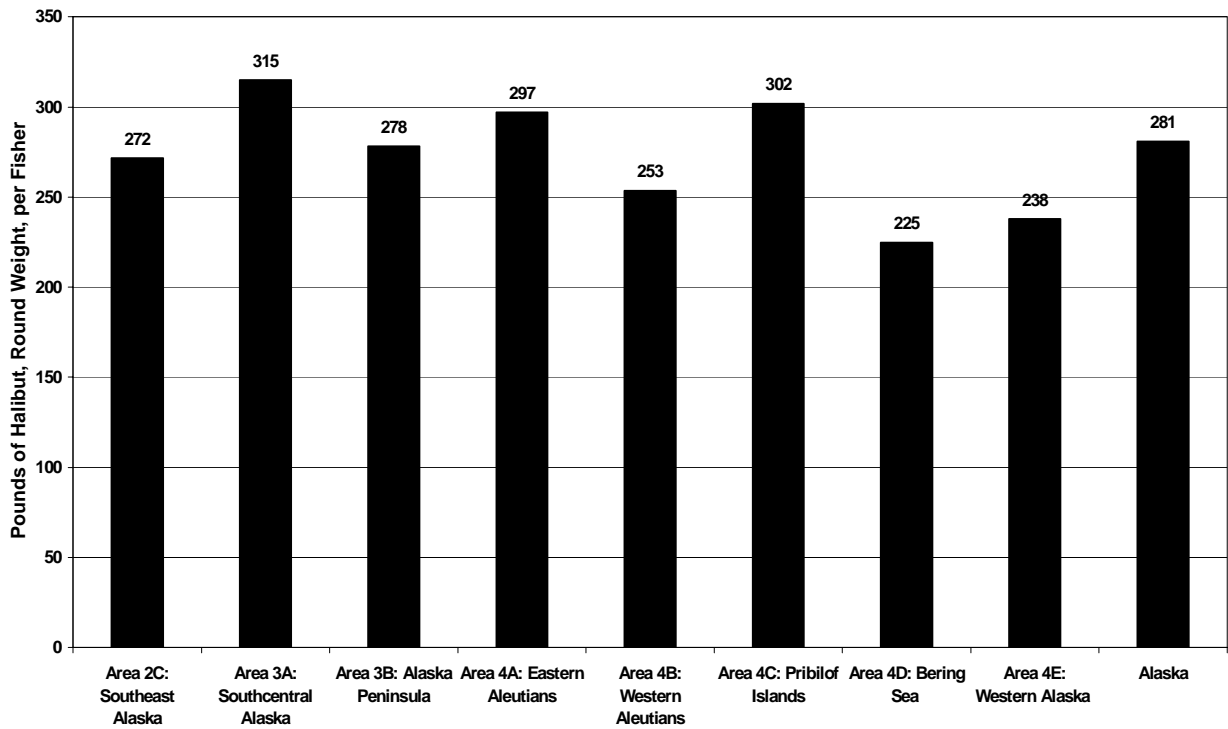


Figure 1.6 Average subsistence harvest of halibut per fisher in Alaska, 2003, by regulatory area in pounds round weight

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

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

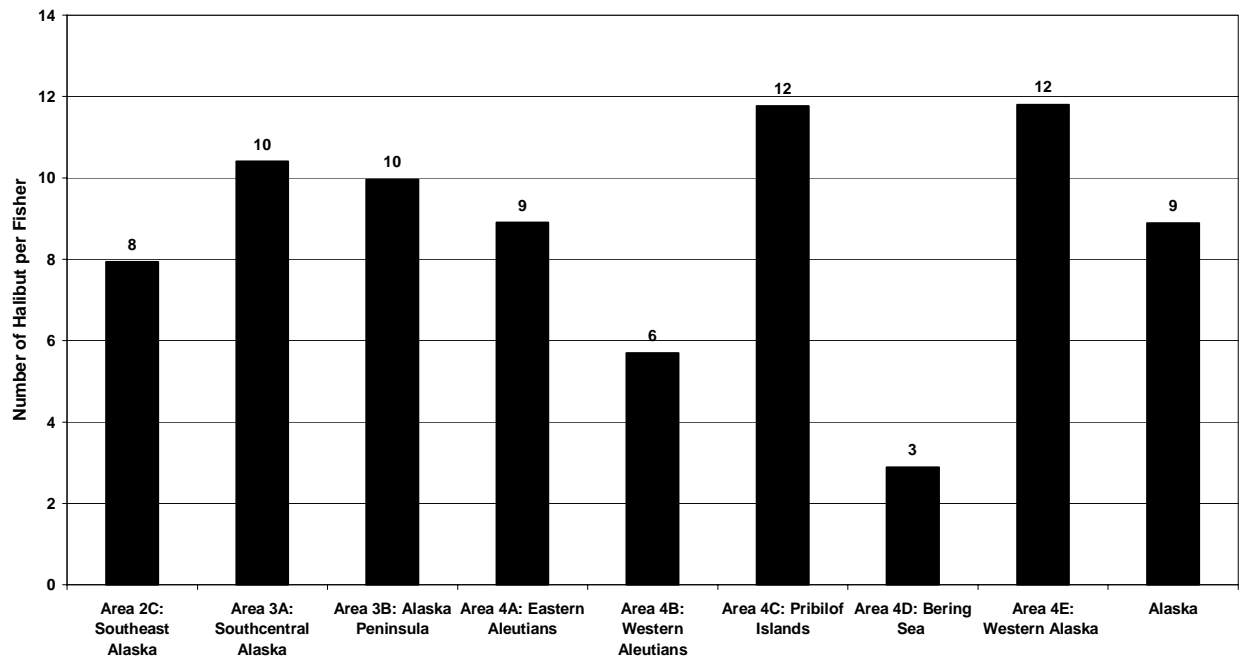


Figure 1.7 Average subsistence harvest of halibut per fisher in Alaska, 2003, by regulatory area, in number of fish

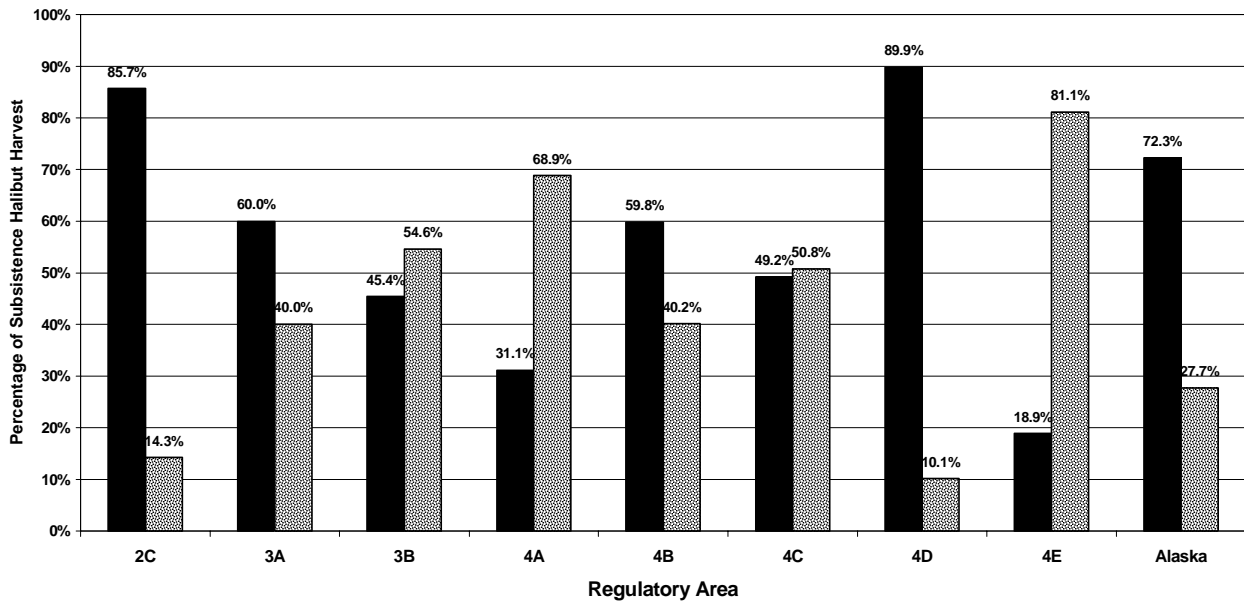


Figure 1.8 Percentage of subsistence halibut harvest by gear type by regulatory area, 2003

Table 1.1 reports the estimated subsistence harvests of halibut in Alaska in 2003 by gear type and regulatory area. In total, 1,002,212 pounds (72 percent) of halibut (round weight) were harvested using set hook gear (longlines or skates) and 384,204 pounds (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

In its original October 2000 action to recommend the subsistence halibut program to the Secretary, the Council incorporated a request to the State of Alaska Board of Fisheries (Board) to review the recommended program during the Board's 2000-2001 cycle and present recommendations for any potential changes to the Council in June 2001. The Board subsequently recommended specific restrictions on subsistence gear and harvest limits designed to address localized depletion concerns regarding halibut, rockfish, and lingcod in densely populated and easily accessible areas. In April 2002, the Council unanimously adopted modifications to its original October 2000) action to address concerns identified by the Board. In October 2003, the Council decided to bifurcate the actions in its April 2002 preferred alternative. Some proposed changes to the program under its April 2002 preferred alternative were submitted to the Secretary in June 2004. The proposed rule (69 FR 41447) for those actions is available at <http://www.fakr.noaa.gov/prules/default.htm>. The Council rescheduled the remaining proposed actions to increase restrictions for four local areas to Fall 2004 when the first Alaska Department of Fish and Game (ADF&G) subsistence halibut survey was completed. That analysis is the subject of **Action 1**.

Action 2 to add Port Tongass Village and Naukati to the list of eligible communities for the subsistence halibut program 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 enhance enforcement. **Actions 4 and 5** to eliminate cash trade for subsistence halibut and revise the definition of a charter vessel and its use in the subsistence halibut fishery were proposed by NMFS staff to address implementation problems identified in the fishery to enhance enforcement. **Action 6** to allow fishing in non-subsistence areas under special permits was proposed by the Alaska Native Halibut Working Group during public testimony 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 enhance 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).

2.0 Action 1 - Local area issues

Current Federal subsistence halibut regulations allow for the use of 30 hooks per person in a longline. State subsistence regulations for three local areas in Southcentral Alaska specify that rockfish and lingcod may only be taken by hand lines or longlines with no more than five hooks. There are no subsistence groundfish gear or bag limits in Southeast Alaska. Additionally, personal use regulations for halibut allows only two hooks on a single handline.

In response to a request by the Council to review its original preferred alternative for the design of the subsistence halibut program, the Alaska Board of Fisheries recommended in February 2002 that the Council consider adopting a suite of proposed measures to address community concerns in three areas proposed for local area management plans (LAMPs) in Southcentral Alaska (Area 3A) and the Sitka Sound LAMP. These proposed restrictions on subsistence gear and harvest limits were based on recommendations developed from public hearings conducted in the affected communities in 2001. These proposed restrictions were designed to address localized depletion concerns regarding halibut, rockfish, and lingcod in densely populated and easily accessible areas.

However, the Council's 2002 preferred alternative modified the Board recommendations for subsistence halibut gear limits in State waters (10 hooks). This resulted in a conflict with gear limits for State managed subsistence groundfish fisheries (5 hooks) in Area 3A. 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. A proposed option to retain rockfish requirements in the Sitka LAMP adds to the confusion as it may not be meaningful where no other fishery limits apply.

The Council decided to bifurcate its April 2002 preferred alternative based on NOAA Enforcement, Enforcement Committee, and ADF&G staff recommendations in October 2003. The proposed rule for those regulatory amendments that were submitted to the Secretary was published on July 9, 2004 (69 FR 41447). The Council rescheduled final action on the remaining issues related to local area management to October 2004 to incorporate data from a new subsistence halibut survey conducted in 2004 on the 2003 fishery. The remaining proposed actions that were not submitted to the Secretary are now the subject of Action 1, Alternative 2.

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 ling cod as a result of their catch in the subsistence halibut fishery in local areas.

The objective of Action 1, Alternative 2 is to address local community needs for subsistence for halibut, concerns regarding local depletion of halibut, and speculation regarding the effect of the subsistence halibut fishery on rockfish (*Sebastes* spp.) and ling cod (*Ophiodon elongatus*) populations. The Board identified its concern with bycatch of other species in the four specific areas of Sitka Sound, Cook Inlet, Kodiak and Prince William Sound¹. The Board reported that the potential pool of participants in Cook Inlet, Prince William Sound, Kodiak road zones and Sitka were unknown. Due to its concern for a potential conflict with the state's conservation concern on species such as rockfish, the board provided more cautious recommendations for subsistence halibut gear and harvest limits, while still recognizing and providing for subsistence use of halibut in the four specific areas described above. The Board also recognized concerns

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

for rockfish bycatch by non-local users who would be qualified to come to the area to fish but not possess the local knowledge necessary to avoid rockfish while longlining for halibut.

2.1 Alternatives Considered

Alternative 1. No action.

For Kodiak and Chiniak Bay², Cook Inlet³, and Prince William Sound⁴, status quo consists of 30 hooks per person, 3 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on Board the vessel, and no annual limit. For the Sitka Sound LAMP⁵, status quo consists of 30 hooks per vessel, power hauling, and no annual limit.

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

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 [lat and long] of Cape Chiniak to the easternmost point [lat and long] 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.

- (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
- (d) in Sitka Sound LAMP:
- Seasonal gear and vessel limits:
- | | |
|----------------------------|--------------------------------|
| <u>June 1 to August 31</u> | <u>September 1 to May 31</u> |
| 15 hooks per vessel | <i>(30 hooks per vessel)</i> |
| no power hauling | <i>(power hauling allowed)</i> |
| 5 halibut per day/vessel | 10 halibut per day/vessel |

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 additional restrictions on gear in the Kodiak, Prince William Sound, and Cook Inlet areas, adds an annual limit for the Kodiak area, and a community harvest permit (CHP) program to mitigate the effects of these reductions (as identified under proposed regulations for Area 2C). Alternative 2 also proposes a reduction in the vessel gear limit, vessel harvest limit of halibut, and a ban on power hauling in the Sitka LAMP.

In response to the concerns of Alaska Native and community groups regarding increased restrictions in Area 2C, Council recommended a CHP Program to mitigate those increased restrictions in its April 2002 preferred alternative. 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 as a mitigation measure to increased restrictions. Eligible Alaska Native tribes and communities would have to adhere to additional application and reporting requirements under the specialized permits which include Community Harvest Permits (CHP). These permits are proposed to relieve certain gear and harvest restrictions on persons fishing under them for subsistence halibut. The requirements for the use of these permits is described in Section 2.3.

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

Table 2.1. Comparison of the alternatives under Action 1.

	Alternative 1	Alternative 2
Kodiak Road Zone and Chiniak Bay (in Area 3A) (same as for Cook Inlet) Option.	No action. <ul style="list-style-type: none"> ▶Gear limit of 30 hooks per person; ▶Vessel limit equal to 3 times the number of hooks on a single unit of gear allowed per person, provided that the subsistence user(s) are on Board the vessel (up to 90 hooks). No action.	<ul style="list-style-type: none"> ▶Limit gear to 5 or 10 hooks per person; ▶Limit gear to 1 or 2 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on Board the vessel; ▶Limit to 20 halibut per person per year. ▶Mandatory retention of all rockfish in local areas may result in better information on rockfish mortality in this fishery.
Prince William Sound (In Area 3A) Option.	No action. [Same as above.]	<ul style="list-style-type: none"> ▶Reduce gear to 5 or 10 hooks per person ▶Reduce gear to 1 or 2 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on Board the vessel. ▶Same as above
Cook Inlet (in Area 3A) (same as for Kodiak) Option	No action. [Same as above.]	<ul style="list-style-type: none"> ▶Reduce gear to 5 or 10 hooks per person; ▶Reduce gear to 1 or 2 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on Board the vessel. ▶Same as above
Sitka Sound LAMP Area (in Area 2C) Option.	No action. <ul style="list-style-type: none"> ▶Gear limit of 30 hooks per person; ▶Gear limit of 30 hooks per vessel (no stacking in Area 2C). [Same as above]	<ul style="list-style-type: none"> ▶September 1 - May 31: reduce retention to 10 halibut/day/ vessel; ▶June 1 - August 3: reduce gear to 15 hooks per vessel, prohibit power hauling, limit retention to 5 halibut/day/vessel. Not meaningful to require rockfish retention up to State regulations, where there are not any limits.

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 representatives 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: Clarify the option to ensure that lingcod are not included in this provision and to ensure 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.

2.2 Expected Effects of the Alternatives

Action 1, Alternative 1. Taking no action under Action 1 would delay implementing regulatory changes to address public concerns regarding depletion of halibut and rockfish in local waters off more populated communities and conform with State regulations limiting the amount of legal gear allowed for the harvest of rockfish for subsistence use until a more thorough vetting with subsistence, private sport, guided sport, and commercial sectors through the development of LAMPs could be achieved. While there is no evidence from State or Federal biologists that either halibut or rockfish are locally depleted in terms of reduced population sizes, local area residents remain concerned about reduced catch rates in local waters.

Federal regulations for managing the subsistence halibut fishery supercede all State regulations for all halibut fisheries in State and Federal waters. There are no subsistence or personal use regulations for bottomfish in effect in Federal waters. However, State regulations for bottomfish (typically rockfishes and ling cod) have jurisdiction in State waters. Summaries of Federal and State regulations for these species follow.

Federal Regulations. Current Federal regulations define subsistence halibut in Convention waters in and off Alaska at 50 CFR 300.65. Those regulations, as adopted in April 2003 and proposed for revision in July 2004 (from October 2003 recommendations) 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 in the proposed rule for the proposed changes [69 FR 41447]. Current subsistence halibut regulations for gear and retention limits for Federal and State waters are described below and in more detail in Appendix 3.

Legal gear. Proposed 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 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 community harvest permit (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. Proposed 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 recreational, personal use, and subsistence rockfish fisheries. The BOF has established conservative regulations given the shortage of stock status information and lack of abundance-based fishery objectives. The following information is taken from a paper prepared by ADF&G for the Board’s Kodiak, Homer, and Cordova public hearings in April 2001 (ADFG 2001a). It identified State subsistence fishing regulations in Southeast Alaska for comparison 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 the Kodiak, Cook Inlet, and Prince William Sound areas allow use of hand-troll or hand-held line or a single longline, none of which may have more than five hooks attached. Daily bag limits for the subsistence fishery are relatively restrictive at five or ten rockfish and two lingcod, reflecting the Board’s precautionary approach to managing these species. These regulations were designed to allow sufficient opportunity to harvest rockfish and lingcod for subsistence while minimizing their waste.

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 currently 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		
		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)
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		
Amount Necessary	Not applicable	None specified		

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

Regulation	Federal Halibut	State		
		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 Necessary	Not applicable	750-1,350 fish	100-225 fish	None specified

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

Regulation	Federal Halibut	State		
		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), no more than 2 per day or in possession may be non-pelagic. Sep 16 - Apr 30: 10 (10 in possession), no more than 2 of which may be non-pelagic.	2 (4 in possession), 35 inch min.	None, except shark bag limit is 1 fish (2 in possession)
Open Waters	Entire area	Waters outside the non-subsistence area described in 5 AAC 99.015(a)(5)		
Amount Necessary	Not applicable	7,500-12,500 fish	1,000-1,500 fish	16,000-24,000 pounds

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 on the sale of overages are paid to the State of Alaska. These measures were implemented to provide for improved stock conservation and documentation of fishery removals.

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, 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 to year-round to all lingcod fishing to provide for rebuilding of the depressed stock in this area. The sport bag limit in adjacent State and Federal waters from Gore Point to Cape Puget is one fish daily, again to provide for stock rebuilding. The sport bag limit is two lingcod daily throughout the remainder of Southcentral Alaska. Commercial lingcod fisheries in Cook Inlet and Prince William Sound are managed under GHLS of 35,000 lb and 24,500 lb. The Prince William Sound GHLS is split between the Inside District (5,500 lb) and Outside District (19,000 lb).

Generally, bottomfish in Southeast Alaska may be taken at any time and there are no daily bag or possession limits. State subsistence regulations do not recognize rod and reel as a legal gear type for the bottomfish subsistence fishery. Bottomfish 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, bottomfish may be retained under personal use regulations.

The following information is taken from a paper prepared by ADF&G for the Board's Sitka public hearing in April 2001 (ADFG 2001b). State regulations authorize, but do not limit, the harvest of groundfish species for subsistence in Southeast Alaska. However, ADF&G staff is not aware of widespread participation in subsistence groundfish fisheries in Southeast Alaska. There are currently no reporting requirements for subsistence harvests of halibut or groundfish in Southeast Alaska.

There are State regulations for personal use fisheries for groundfish in Southeast Alaska (Figure 2.1). The gear limit for personal use fisheries for bottomfish (which includes rockfish and ling cod) are 5 hooks and possession limit is 20 fish for South Central Alaska. In both the Sitka Sound LAMP 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 bottomfish, all bycatch must be returned to the water (i.e., discarded) unless the fisherman uses legal gear (as defined by the State). The bycatch only may be retained up to the legal limit if harvested with legal gear. Therefore, a subsistence halibut harvester may retain rockfish and ling cod 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.

Federal gear limits are not more liberal than gear allowed under State subsistence regulations in Southeast Alaska for lingcod, rockfish, sablefish and other groundfish species (ADFG 2001b) (Table 2.5). For these species, State regulations currently permit the use of Federal subsistence halibut gear and other gear such as gillnets and purse seines, and do not limit the number of hooks attached to hook and line gear, including longlines. 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 ling cod savings area may be found in Appendix 4.

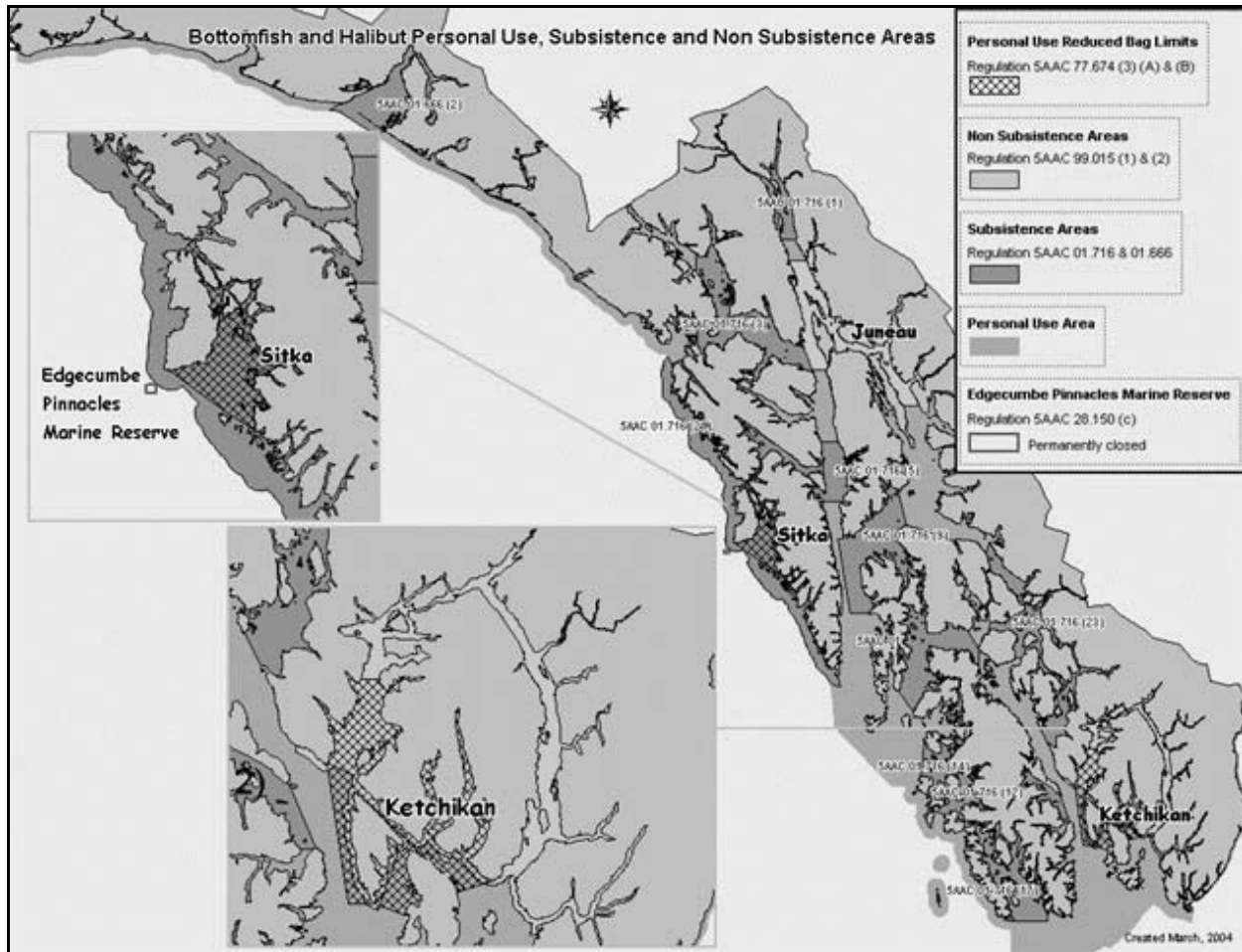


Figure 2.1. State of Alaska bottomfish and halibut personal use, subsistence, and non-subsistence areas. (Source: ADF&G)

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 per vessel, 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 per vessel; 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		
Amount Necessary	Not applicable	None specified		

A contract report to NMFS (memo from Norman Cohen to Jay Ginter, dated June 19, 2003) identified where State of Alaska groundfish and bottomfish subsistence and personal use regulations may place limitations on the conduct of Federal subsistence halibut program participants. It has not been determined whether other regulatory conflicts between Federal subsistence halibut regulations and State regulations occur.

<p>In areas of State waters where: customary and traditional uses of bottomfish have been identified, but no gear limits or possession limits</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 bottomfish under unlimited State personal use regulations (no gear or harvest limits). If the fisher does not have a sport fish license, then the bycatch 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 of the bycatch must be returned to the water unless the fisher uses the gear specified for the bycatch. If the proper gear is used, then the bycatch can 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>

Action 1, Alternative 2. Federal subsistence regulations for halibut and State subsistence regulations for bottomfish are inconsistent, and neither technically allow retention of State bottomfish 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 it is a potential waste/conservation problem in some State waters. In October 2003, the Enforcement Committee and State of Alaska Council representative recommended that the Council develop a new analysis to consider changing the Federal regulations to achieve consistency with State regulations, as subsistence halibut harvesters need to know whether and under what conditions such bycatch may be retained.

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 10 hooks; (2) decrease the vessel gear from 3 to 1 or 2 times the number of hooks on a single unit of gear provided that the subsistence user(s) are on Board the vessel; and (3) create a 20 fish 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 had a population of 12,973 people in 2000, including 1,697 Alaska Natives. This is the largest rural community eligible to participate in the Alaska subsistence halibut fishery in 2003.

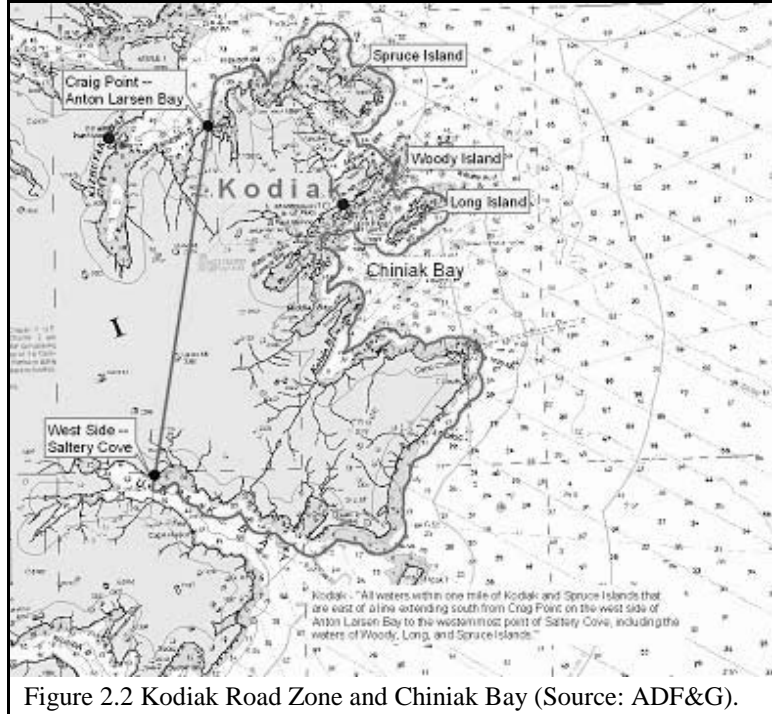


Figure 2.2 Kodiak Road Zone and Chiniak Bay (Source: ADF&G).

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 2.6). Excluding fish removed from commercial catches for home use, halibut harvests by Kodiak residents ranged from 247,283 pounds usable weight (+/-30%) in 1991 to 511,254 pounds (+/-33%) in 1993. The average for the four available study years was 366,682 pounds; of this, 92 percent was taken with rod and reel, most likely consistent with sport fishing regulations. On average for the four study years, 1,306 Kodiak road system households had at least one member who fished for halibut for home use.

Table 2.6 Estimated harvests of halibut for home use, Kodiak road system

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	Total		
1982	1,404	NA	NA	NA	451,223	360,113	45	
1991	1,178	48,245	206,692	40,591	295,528	247,283	30	
1992	1,178	89,625	329,345	18,732	437,702	348,077	33	
1993	1,336	142,108	479,391	31,863	653,362	511,254	33	
Annual average	1,306	93,326	338,476	30,395	462,197	366,682		

¹ Harvest data are available based on random samples drawn from the entire road system population for 1982 and 1991. Just Kodiak City was sampled in 1992 and 1993. Estimates for the entire road system population were developed for this table based on the known portion of the total road system harvest harvested by city residents in 1982 and 1991.

Source: Scott et al. 2001

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 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 harvest of halibut in 2003 for the two Kodiak tribes and other residents of the Kodiak road system area was 156,902 pounds 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 pounds usable weight of halibut they classified as sport-caught. This gives a total estimated halibut harvest by Kodiak road system SHARC holders of 228,205 pounds usable 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 and harvested halibut under sport fishing rules. Overall, the 2003 subsistence harvest estimate for Kodiak appears reasonable, although it needs to be further evaluated when findings from the 2003 sport fishing survey become available and with additional years of subsistence harvest survey data.

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 (longline or skate) reported how many hooks they “usually set” (Table 2.7). In seven of the eight IPHC regulatory areas, most longline fishers (43 percent) used 30 hooks, the maximum number allowed by regulation (Figure 14). The next most frequently reported number was 20 hooks, usually used by 20 percent of the fishers who used set hook gear. Ten hooks (8 percent) ranked third, followed by 15 hooks (7 percent) and 25 hooks (7 percent). *Less than 1 percent of fishers used 5 hooks* (Figure 2.3).

There were 28 Alaska communities whose residents had combined estimated subsistence halibut harvests of more than 10,000 pounds (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 (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 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 2.8⁶. Waters bordering the Kodiak Island road system ranked third, with a subsistence halibut harvest of 145,213 pounds (10 percent), followed by the remainder of the Kodiak Island area (105,155 pounds; 10 percent).

⁶Minor differences between area totals in Tables 1.1 and 2.8 occur because not all SHARC holders fished within the regulatory area in which their tribal headquarters or residence is located.

Table 2.7 Number of hooks usually fished, set hook gear, Alaska halibut subsistence fishery, 2003

Regulatory Area	SHARC holders	Number of Hooks																														Grand Total ¹
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	20	21	22	23	24	25	26	27	28	29	30	Missing	
2C	7,227	15	38	23	16	18	33	4	8	5	188	1	37	5	2	184	3	3	13	538	2	5	2	9	170	3	7	19	20	1,208	18	
		0.6%	1.5%	0.9%	0.6%	0.7%	1.3%	0.2%	0.3%	0.2%	7.2%	0.0%	1.4%	0.2%	0.1%	7.1%	0.1%	0.1%	0.5%	20.7%	0.1%	0.2%	0.1%	0.3%	6.5%	0.1%	0.3%	0.7%	0.8%	46.5%	0.7%	
3A	2,610	8	7	1	4	16	6	0	5	0	100	0	8	1	0	59	0	1	5	159	0	0	0	2	70	0	0	9	3	250	17	
		1.1%	1.0%	0.1%	0.5%	2.2%	0.8%	0.0%	0.7%	0.0%	13.7%	0.0%	1.1%	0.1%	0.0%	8.1%	0.0%	0.1%	0.7%	21.8%	0.0%	0.0%	0.0%	0.3%	9.6%	0.0%	0.0%	1.2%	0.4%	34.2%	2.3%	
3B	263	16	0	1	0	0	0	0	0	0	6	0	0	0	0	3	0	0	8	0	1	1	0	1	0	0	0	0	1	26	1	
		24.6%	0.0%	1.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	9.2%	0.0%	0.0%	0.0%	0.0%	4.6%	0.0%	0.0%	12.3%	0.0%	1.5%	1.5%	0.0%	1.5%	0.0%	0.0%	0.0%	0.0%	1.5%	40.0%	1.5%	
4A	154	6	0	0	1	0	0	0	0	0	1	0	4	0	0	4	0	0	1	5	0	0	0	4	0	0	0	0	0	15	0	
		14.6%	0.0%	0.0%	2.4%	0.0%	0.0%	0.0%	0.0%	0.0%	2.4%	0.0%	9.8%	0.0%	0.0%	9.8%	0.0%	0.0%	2.4%	12.2%	0.0%	0.0%	0.0%	9.8%	0.0%	0.0%	0.0%	0.0%	0.0%	36.6%	0.0%	
4B	24	4	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2	0	0	0	0	0	0	0	0	0	1	10	1	
		40.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	0.0%	20.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	10.0%	10.0%	10.0%	
4C	289	12	0	0	0	0	0	0	0	0	0	0	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	21	6	45	
		26.7%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	13.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	46.7%	13.3%	13.3%	
4D	50	0	0	0	0	0	0	0	0	0	3	0	0	0	0	3	0	0	0	5	0	0	0	0	0	0	0	0	7	0	18	
		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	16.7%	0.0%	0.0%	0.0%	0.0%	16.7%	0.0%	0.0%	0.0%	27.8%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	38.9%	0.0%	0.0%	
4E	1,018	26	3	2	2	0	3	0	0	0	4	0	0	0	2	0	0	0	7	0	0	0	0	0	0	0	0	0	30	2	81	
		32.1%	3.7%	2.5%	2.5%	0.0%	3.7%	0.0%	0.0%	0.0%	4.9%	0.0%	0.0%	0.0%	2.5%	0.0%	0.0%	0.0%	8.6%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	37.0%	2.5%	2.5%		
Alaska	11,635	87	48	27	23	34	42	4	13	5	302	1	49	12	4	255	3	4	19	724	2	6	3	11	245	3	7	28	24	1,568	45	
		2.4%	1.3%	0.8%	0.6%	0.9%	1.2%	0.1%	0.4%	0.1%	8.4%	0.0%	1.4%	0.3%	0.1%	7.1%	0.1%	0.1%	0.5%	20.2%	0.1%	0.2%	0.1%	0.3%	6.8%	0.1%	0.2%	0.8%	0.7%	43.4%	1.3%	

¹ Number of fishers using set hook gear.

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

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

Subarea	Regulatory Area	Number of SHARCs Issued	Set Hook Gear						Hook & Line or Handline						All Gear		
			Estimated Number Harvested		Estimated Pounds Harvested		Estimated Number Fished		Estimated Number Harvested		Estimated Pounds Harvested		Estimated Number Fished		Estimated Number Harvested	Estimated Pounds Harvested	Estimated Number Harvested
			Number Harvested	Estimated Pounds Harvested	Number Fished	Estimated Pounds Harvested	Number Harvested	Estimated Pounds Harvested	Number Fished	Estimated Pounds Harvested	Number Harvested	Estimated Pounds Harvested	Number Fished	Estimated Pounds Harvested	Number Harvested	Estimated Pounds Harvested	Number 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	359	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						

¹ Due to rounding, the column totals differ slightly from those reported in Table 4.

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

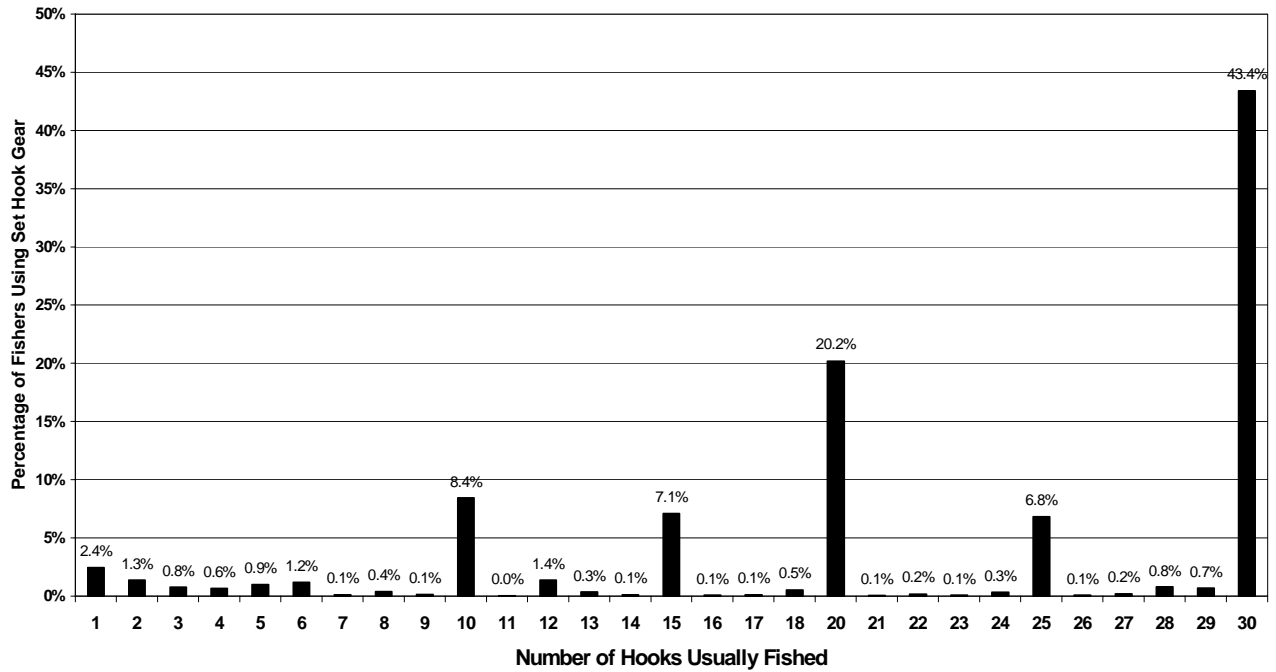


Figure 2.3 Number of hooks usually fished, percentage of fishers using set hook gear, Alaska subsistence halibut fishery, 2003

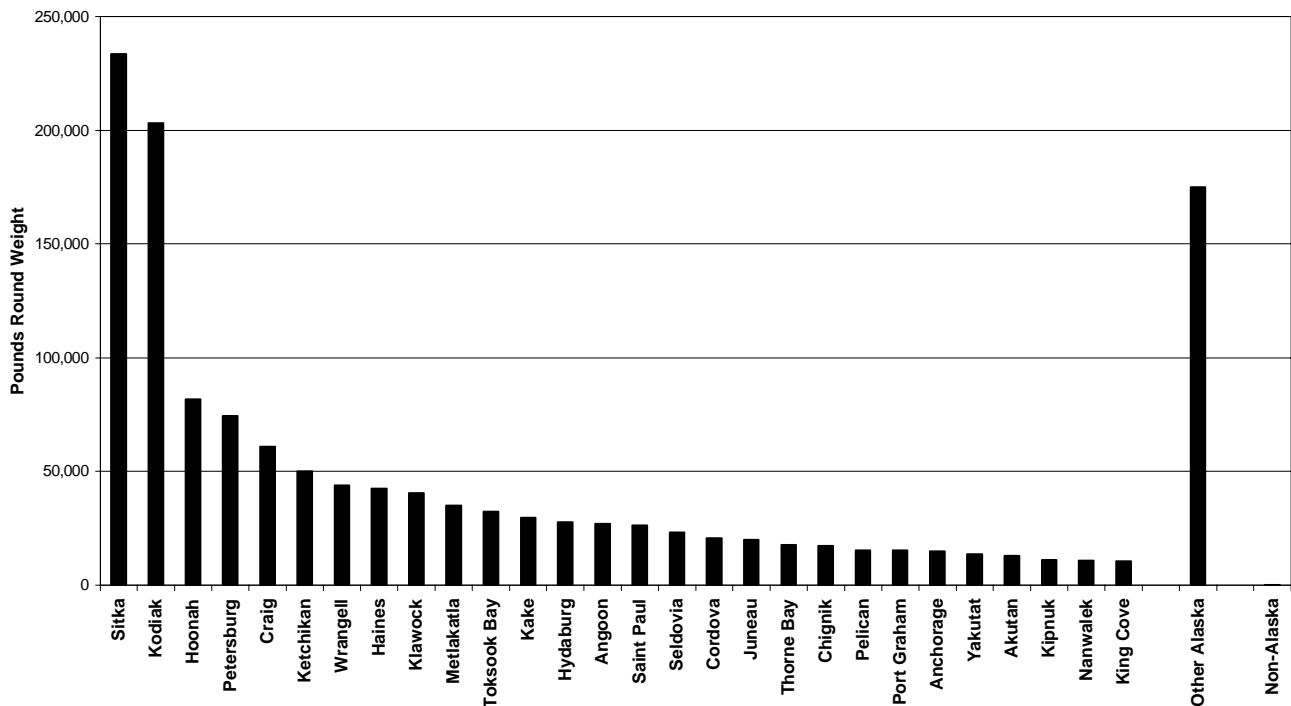


Figure 2.4 Alaska subsistence halibut harvests by place or residence, 2003

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 fishers might have harvested rockfish while not fishing for halibut, and other fishers 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 harvests for communities in which comprehensive household surveys have been administered. Also, the label "by-catch" for these harvests might be misleading. 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 by 1,237 fishers (Table 2.9). This is an average of about 12 rockfish per fisher. Twenty percent of the subsistence halibut fishers who caught rockfish lived in Area 3A (243 fishers). 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 2.10 reports 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 856 rockfish in Kodiak road system waters and 875 rockfish in other Kodiak waters.

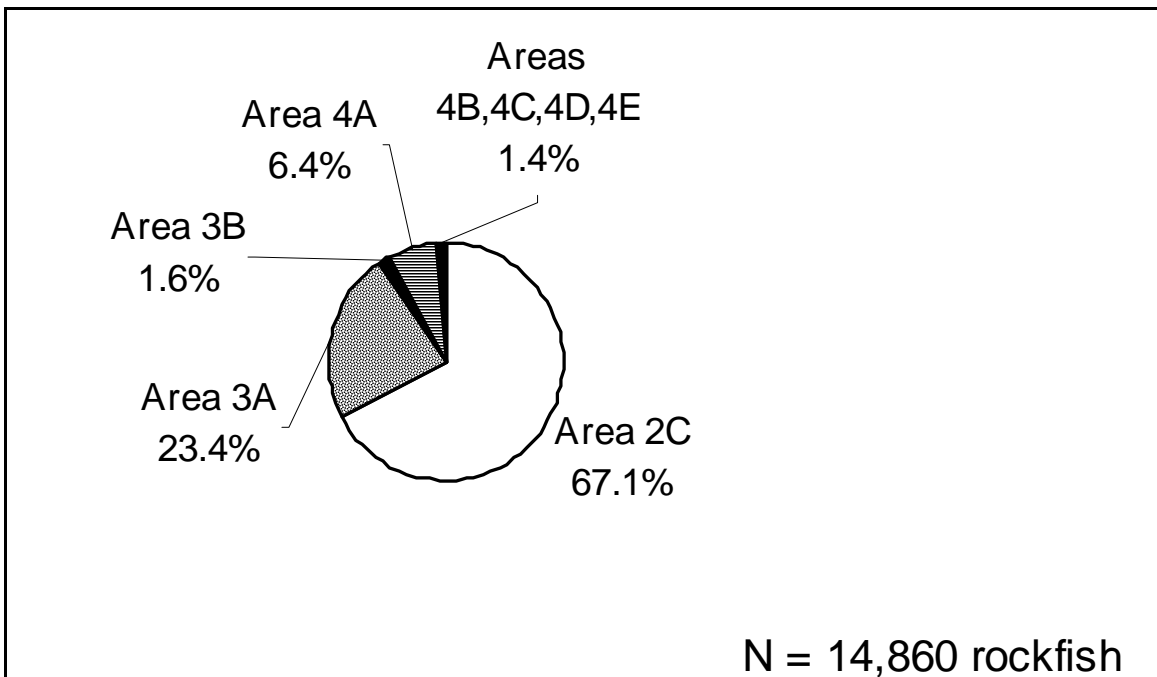


Figure 2.5 Percentage of incidental harvest of rockfish by regulatory area, 2003

Alternative 2, Part (b) and Part (c) would amend the regulations in Prince William Sound and Cook Inlet (Figure 2.6) to parts (1) and (2) above. The proposals are 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 pounds) and those within Prince William Sound added 37,600 pounds (3 percent of the statewide total) (Table 2.8, Figure 2.4, Figure 2.7). As noted above, 34 percent of Area 3A longline fishers 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 fishers 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.

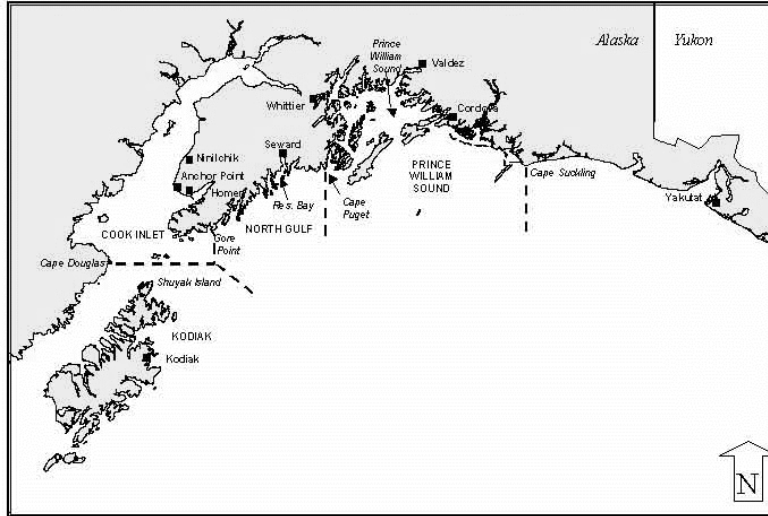


Figure 2.6 State subarea boundaries for groundfish management (Source: ADF&G).

As described above, 20 percent of the subsistence halibut fishers who caught rockfish lived in Area 3A (243 fishers) (Table 2.9). Twenty-five percent of all fishers 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).

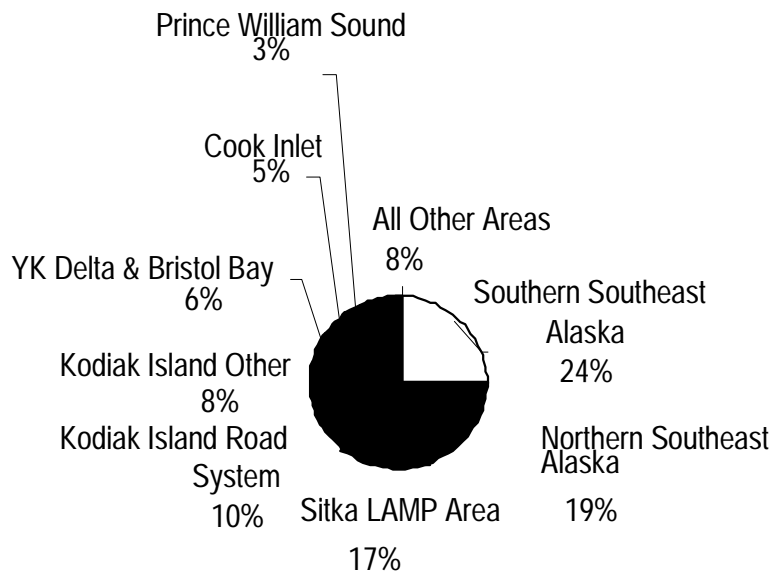


Figure 2.7 Alaska subsistence halibut harvest by geographic area, 2003

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 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

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

¹ Due to rounding, the column totals differ slightly from those reported in Table 10.

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

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).

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 pounds (+/-29%) net weight in 1985 to 120,221 pounds (+/- 62%) in 1988, with an average over the six study years of 57,285 pounds. 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.

Table 2.11 Estimated harvests of halibut for home use, Cordova

Year	Number of Fishing Households	Pounds Usable (Net) Weight					95% confidence range (+/-%)
		Removed from Commercial Harvests	Rod and Reel	Other Methods	Total	Total w/o Commercial Removal	
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

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 pounds net weight (20,674 pounds round weight), with an additional 11,078 pounds taken by SHARC holders while sport fishing. The total of 25,963 pounds 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 subsistence-fished, and 144 reported that they sport fished for halibut. This is a lower number of fishers than might be expected from the earlier household survey results.

Based on these comparisons, it is possible that the SHARC survey underestimated the amount of halibut harvested by Cordova residents for home use in 2003. One explanation for this possible underestimate is that not all subsistence fishers in Cordova obtained SHARCs in 2003. Another possible factor is that many Cordova residents might prefer to harvest halibut under sport fishing regulations and did not obtain SHARCs to subsistence fish. A third factor is that until 2003, noncommercial halibut fishers were limited to fishing with no more than two hooks; it may take some time for Cordova residents to adapt to the new subsistence fishing opportunities.

Port Graham is included here as a case example to represent the other small, predominantly Alaska Native communities in Areas 3A that depend heavily on subsistence harvests of fish and wildlife resources. Located in lower Cook Inlet, Port Graham had a population of 171 in 2000, including 151 Alaska Natives. There are estimates of subsistence halibut harvests by Port Graham residents for seven previous study years (Table 2.12). Excluding 1989, the year of the Exxon Valdez Oil Spill, Port Graham's halibut harvests ranged from 4,451 pounds (+/-14%) usable weight in 1993 to 11,232 pounds (+/-14%) in 1992, with a six-year average of 7,591 pounds (net weight) (Figure 2.8). Excluding 1989, an average of 38 Port Graham households had members who subsistence fished for halibut in the study years in the late 1980s and 1990s.

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

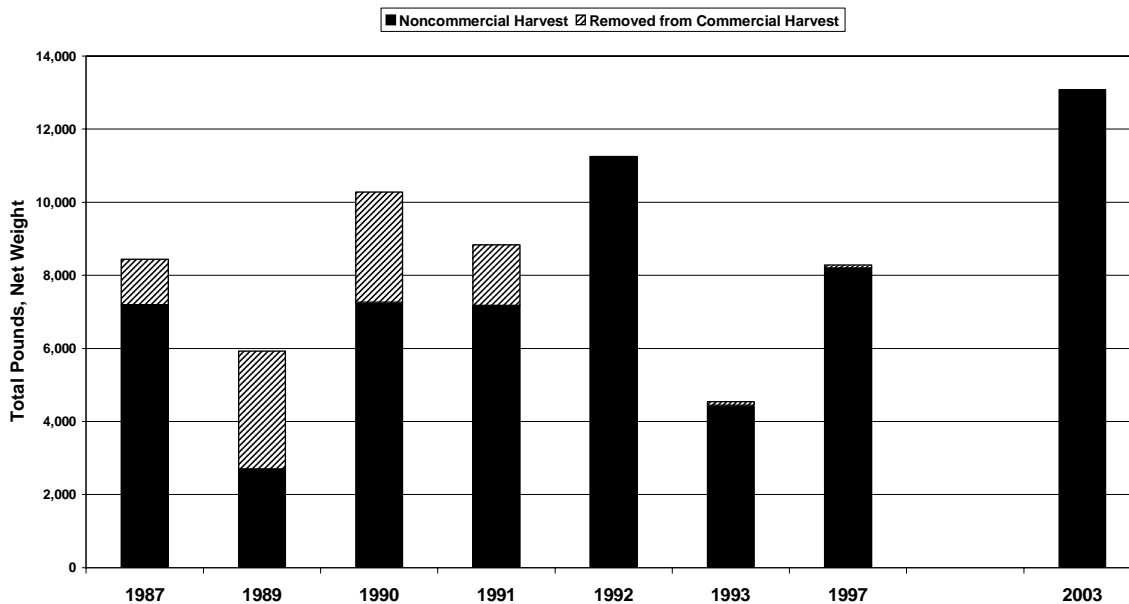


Figure 2.8 Harvests of halibut for home use, Port Graham

In 2003, a total of 57 Port Graham residents obtained SHARCs (42 tribal members and 15 other residents). 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 pounds net weight (17,954 pounds round weight). Adding 150 pounds of halibut taken while sport fishing gives a community total of 13,077 pounds of halibut harvested for home use by Port Graham residents in 2003. While this total is similar to the previous highest estimate (11,232 pounds in 1992), it exceeds the average of previous study years of 7,591 pounds. 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.

Alternative 2, Part (d) would change the Sitka Sound LAMP (Figure 2.9) to reduce the gear limit seasonally in the Sitka Sound LAMP area as listed below.

June 1 to August 31:	September 1 to May 31:
15 hooks per vessel	(30 hooks per vessel)
no power hauling	(power hauling allowed)
5 halibut per day/vessel	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 pounds (usable weight); or 180,982 pounds 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 pounds usable weight, 149,244 pounds with commercial removals deleted. In 1996, an estimated 943 Sitka households had at least one member who fished for halibut.

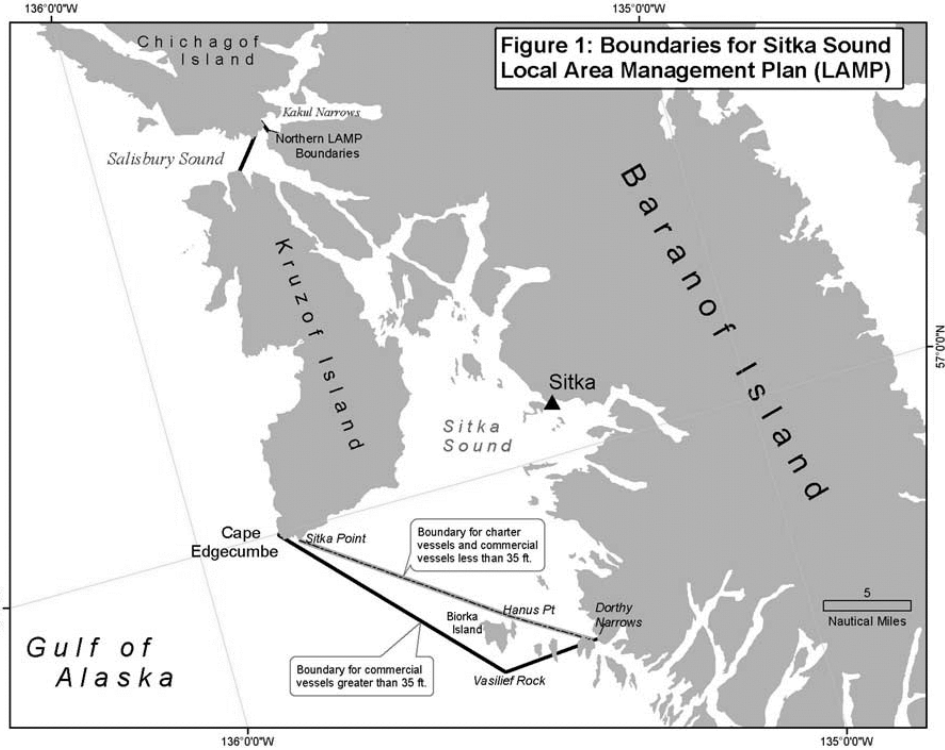


Figure 2.9 Sitka Sound Local Area Management Plan

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

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 fishers 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 pounds (round weight) in 2003, 8,835 Sitka residents 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 pounds; 24 percent of the State total); northern Southeast Alaska (267,980 pounds; 19 percent); and the Sitka LAMP area (228,899 pounds; 17 percent) (Table 2.8, Figure 2.4, Figure 2.7). As noted above, 47 percent of Area 2C longline fishers used 30 hooks (Figure 2.3).

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

Effects. It is not known whether the proposed reduction in number of hooks per unit of gear to either 10 hooks or 5 hooks in Kodiak, Cook Inlet, and Prince William Sound under Alternative 2 (a, b, and c) will 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 annual limit for Kodiak under Part (a) may have limited effect as the current 20 fish daily harvest limit was intended to account for an individual's annual halibut needs. Proposed changes under Action 3 to create a subsistence halibut possession limit equal to two daily bag limits and/or Action 5 to eliminate cash exchanges for subsistence halibut may accomplish the intent of limiting harvests beyond a families' needs without the administrative and enforcement burden of implementing an annual permit or punch card for one community. A rationale has not been identified that explains why such a permit system may be needed in Kodiak but not for other local areas.

Similarly, It is not known whether the proposed seasonal requirements to limit the number of subsistence halibut per vessel to 10 during September through May and 5 during June through August, along with a reduction in the number of hooks per vessel to 15 and prohibiting the use of power hauling of longline gear under Alternative 2 (d) will reduce the harvests of halibut, or will require additional fishing trips to harvest the same amount of halibut as under the status quo (30 hooks and allow the use of hydraulic longline gear). 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 is 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. Sitka Tribal representatives and some Sitka residents opposed the proposed changes during testimony to the Board in 2001.

A definition of power hauling is needed to understand potential impacts of its seasonal prohibition in the Sitka LAMP. The Council is requested to provide a rationale for this gear ban, as it appears to regulate inefficiency and increase fishing costs. Lingcod and thornyhead rockfishes have higher survival rates compared with rockfishes on longlines and are less apt to be affected by the speed of power hauling.

Option. State commercial fishery regulations require the retention of all rockfish species in Southeast Alaska, except thornyhead rockfishes (because they do not have a swim bladder and are less likely to die due to pressure changes when brought to the surface), in internal State waters. Demersal shelf rockfishes (DSR) and black rockfish must be retained in State waters in Southeast Outside (SEO) commercial groundfish fisheries. Harvesters may sell only up to the legal commercial limit of those rockfish species. The overages may be donated to charities or the proceeds may be relinquished to the State. A program for mandatory retention of DSR in Federal waters of Southeast Alaska (Reporting Area 650) is under review by the Secretary. The proposed rule (69 FR 2875) was published on January 21, 2004. It would require full retention of DSR by the operator of a federally permitted catcher vessel using hook-and-line or jig gear in the SEO while fishing for groundfish or for Pacific halibut under the Individual Fishing Quota program (IFQ) in the SEO. Under existing Federal and State of Alaska regulations, all landed fish must be weighed and reported on State of Alaska fish tickets or, in the case of fish landed in a port outside of Alaska, on equivalent Federal or State documents. Current maximum retainable amounts (MRAs) for DSR in the SEO would be eliminated for catcher vessels but would remain in place for catcher/processors (CPs) in the SEO.

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 bag limit is reached). Adopting this option in the three Area 3A local areas may improve the collection of rockfish mortality data. This option is not meaningful for the Sitka LAMP area because there are no bag limits for subsistence groundfish fisheries in Southeast Alaska. Also, limiting harvesters to only one or two yelloweye rockfish in Southeast State waters would stop subsistence activities for the day once these were caught. This could encourage wasteful high grading of rockfish.

LAMPs. The proposed action to mirror State subsistence gear limits may lead to further restrictions to subsistence users in the future, as State regulations respond to changing conditions in commercial, sport, and subsistence fisheries in the LAMP development process with the Board. The Board has notified the Council that it plans to reschedule further development of LAMPs after a Secretarial decision on implementing regulations to incorporate the guided sport sector into the commercial halibut quota share program is made.

In response to implementation of the program, ADF&G Westward Division submitted a proposal to the Board. Proposal 65 would revise State regulations to allow rockfish and ling cod to be retained on gear consistent with the Federal halibut gear limits for the Kodiak area only, should the Council select the no action alternative as its preferred alternative in December 2004 (Appendix 5). The Board is scheduled to consider this proposal during its Kodiak meeting in January 2005. The Board could consider similar regulatory changes for Cook Inlet at the same meeting, and in 2005/2006 for Prince William Sound. The issue of stacking gear is not addressed by the State proposal.

2.3 Qualitative Benefit Cost Analysis

NPFMC (2002) concluded that its original action for 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 are not sold. However, the method used in that analysis to estimate the economic value of subsistence halibut was to estimate the replacement costs if rural residents were to purchase and import substitutes. If one assumes \$3–\$5 per pound as replacement expenses, the simple “replacement costs” of all subsistence halibut harvests in rural Alaska is \$852,000–\$1,140,000 based on Wolfe and Bosworth (1994). The replacement cost of the subsistence halibut fishery using revised estimates of removals by Fall et al. (2004) is \$3.9–6.5 million. Using either estimate, economic activity associated with this fishery does not approach \$100 million.

Economic activity associated with rockfish and lingcod “bycatch” in the subsistence halibut fishery cannot be quantified because: (1) only numbers of unidentified rockfishes and lingcod are reported from the subsistence halibut fishery; (2) an unknown amount of rockfishes and lingcod are taken for subsistence outside the halibut fishery; (3) it is unknown whether the proposed action would reduce their harvests. Despite these unknowns, the economic activity associated with groundfish harvests may be assumed to be less 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 proposed action compared with the status quo. Further, a generic “rockfish” was identified in the survey. Neither species nor weight of rockfishes or weight for lingcod were identified in the survey. A rough approximation of replacement costs is made in the absence of reported weights for rockfishes and lingcod reported in the subsistence halibut survey (Fall et al 2004). Using rockfish and lingcod harvests as reported in Table 2.10, a generic estimate for replacement costs of \$3-\$5 per pound for rockfishes and \$4 per pound for lingcod and a generic average weight for a “rockfish” of 3 pounds (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 between \$134,000 - \$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 are not assessed at the local level. Also, it is unknown how the use of CHPs may mitigate the effects of reduced 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 rockfishes 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 or 5 hooks. It is expected that subsistence users will harvest sufficient halibut to feed their families, although they substitute other subsistence foods if their nutritional needs are not being met and the operational (e.g., fuel) and opportunity costs associated with additional trips increase. The use of CHPs as an exemption to proposed measures under Alternative 2 may mitigate much of the associated costs.

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]. It is more restrictive than limits in the sport fishery, which has a 2-fish per day limit but no annual limit. Costs associated with the number of trips needed to harvest the same number of halibut may increase if additional trips are needed.

The Council's selection of a preferred alternative for each of these areas will address a social or policy issue to redefine regulations 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. 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. 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. Such an amendment should balance the interests and needs of these families against a public interest in protecting rockfish stocks in certain local areas.

Along with the consumptive use value of the halibut (and rockfishes and lingcod) resource to commercial users, the non-consumptive (or use) value of the resources to sport and subsistence users (both harvesters and recipients) should also be incorporated into an estimate of market value. However, the non-market value of subsistence halibut, which includes the intrinsic and bequest values of both the halibut (and rockfish) resource and the existence of a subsistence fishery are not able to be quantified.

As described in Vermeij (2002), there are three main types of measures by which resource values can be approximated: direct market prices; indirect market prices or values; and non-market estimates (hypothetical) of value. The first two measures are based on an estimate of exchange values where buyers and sellers exchange goods or services for money or for other goods or services. In the case of indirect market prices, assumptions have to be made regarding proxy market conditions and how buyers and sellers will behave under different circumstances. Non-market values typically estimate the willingness of "buyers" to purchase or pay for specific goods or services under defined hypothetical conditions, but do not attempt to establish the exchange value that might be established between buyers and "sellers." Thus, non-market value estimates (values to users) are not directly comparable with market-based (exchange) values.

Administrative, Enforcement and Information Costs. As described in NPFMC (2002), the subsistence halibut recordkeeping and reporting system, along with the current system of opportunistic enforcement, may provide a sufficient level of compliance. The Coast Guard principally may check at-sea compliance with the commercial IFQ fleet, to determine that illegal commingling of halibut is not occurring. The small-boat CDQ halibut fleet in Area 4 occurs in near shore waters adjacent to rural communities. NMFS staff estimate that permitting, recordkeeping, and reporting requirements for the subsistence halibut program may cost as much as \$200,000 annually above routine agency expenditures.

Additional enforcement costs for the proposed action (reduced gear and harvest limits in Areas 2C and 3A and seasonal prohibitions (including a small area with a seasonal prohibition of hydraulic longline gear) in the Sitka LAMP area) 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 harvest a few halibut at a time in most fishing situations.

In October 2003, the Enforcement Committee raised concerns with enforceability of annual limits proposed under Alternative 2(a) for Kodiak and different restrictions by season under Alternative 2(d) for the Sitka Sound LAMP. The committee identified the potential complexity and enforceability of proposed regulations.

Fall et al. (2004) recommended that consideration should be given to dropping from the mailed survey the questions about incidental harvests of lingcod and rockfish if, after evaluation, it is determined that these harvests are not of regulatory or conservation concern. The harvest estimates for lingcod and rockfish developed through the SHARC survey represent only a portion of the total subsistence harvest of these resources in the study communities and are not useful other than for the specific purpose of assessing

incidental harvests in the subsistence halibut fishery. If an assessment of these incidental harvests is not useful, there is no value in collecting rockfish and lingcod harvest data through the SHARC survey.

If rockfish (or lingcod) incidental harvests in the halibut subsistence fishery continue to be of interest to managers in some areas, more specific data collection tools need to be developed to collect harvest data at the species level for rockfish in particular communities. This should only be done in selected areas of concern given the additional costs to data collection and analysis that this will entail (see Wolfe 2002 for more discussion of collection of rockfish harvest data through the SHARC survey).

Alternative 2 would expand the application of the use of community harvest permits. The CHP permits must be on board the vessel while fishing is being conducted. Persons fishing under a specialized permit 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 specialized permits would require additional reporting for halibut harvest. The applications for the proposed specialized permits and additional reporting requirements would be designed to minimize the information collection burden on subsistence halibut fishermen while retrieving essential information. The tribe or community, permit coordinator, and harvester would be held jointly and severally liable for any violations of the regulations governing special permits.

The Restricted Access Management (RAM) Program Office of the Alaska Region, NMFS, 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 in § 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 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).

2.4 Conclusions

Table 2.14 summarizes the effects of the alternatives. It is unclear from this analysis whether there is a documented conservation issue for rockfishes and lingcod under Action 1. Alternative 2 is expected to alleviate enforcement difficulties regarding incompatible State and Federal regulations. It is unclear whether the proposed actions would result in reduced groundfish harvests, or would result in increased fishing costs associated with harvesting the same amount of target halibut and incidental rockfishes and lingcod. The CHP program would mitigate the negative effects of proposed measures on certain users. It is likely that trips would increase, but only to where marginal benefits outweigh marginal costs of harvesting those fish on the margin. Revisions to the Subsistence Halibut Survey and population assessments at the local level may be required to answer this question more definitively.

Action 1 would not be expected to have the potential 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, the environment, public health or safety, or State, local, or tribal governments or communities.

Table 2.14. Summary of the cost and benefit analysis of Action 1.

	Alternative 1	Alternative 2
Impacts to the resource	None	Expected to not affect the halibut stock, but to offer additional protection to rockfishes and lingcod.
Benefits	No change in benefits.	Expected to alleviate enforcement difficulties regarding incompatible State and Federal regulations. Aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs to protect availability of halibut and rockfish in local areas than the status quo. Non-market values can not be quantified, but are believed to be high for both subsistence halibut participants and non-participants.
Costs	No change in costs.	Depending on the change in harvest patterns, costs of subsistence fishing may increase for local users in areas with lower gear and retention limits. The CHP program would mitigate the negative effects of proposed measures on certain users. There is no impact on revenue.
Net benefits	No change in net benefits.	Impossible to quantify with available information.
Action objectives	Does not address issue of public perception of rockfish depletion in local areas.	May meet the objectives of the proposed action better than the status quo.
E.O. 12866 significance	Does not meet the requirements for significance	Does not meet the requirements for significance

3.0 Action 2 - Eligible 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 bottomfish made by the Board prior to the McDowell decision in December 1989. After that decision, State regulations 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 conduct the use, but on the pattern of uses of that stock or population. 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 subsistence halibut. It is reasonable to find that individuals or families in remote locations within the subsistence use areas of the State practice the same patterns of use as nearby communities that have customary and traditional uses, and as such should qualify for subsistence halibut fishing eligibility.

The Council alone is authorized to recommend changes to the list of rural places to the Secretary. It 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 rural place 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 bodies. The Council clarified its intent to rely on the BOF for recommendations for revisions to the list of eligible communities in October 2003.

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 the current list of rural places that are eligible for the subsistence halibut fishery unchanged.

Alternative 2. Add to list of eligible communities:

Option 1. Naukati

Option 2. Port Tongass Village

Adopting either or both options under Alternative 2 would revise the list of eligible rural places for subsistence halibut in the regulations.

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 BOF that indicates these two communities were inadvertently left off the original list. Residents of Naukati and Old 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. It 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 BOF forwarded its recommendations to add Naukati and Old 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 boards shall jointly consider the relative importance of subsistence in the context of the totality of the following socio-economic characteristics of the area or community as identified in the box at right.

The following is summarized from a Board report (ADF&G 2004) in support of its recommendation to add the two communities. Previous Board decisions have found that there are customary and traditional uses of bottomfish, including halibut in

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.

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.

Option 1. As part of the Council's appeals process for eligibility, nearly 60 Residents of Naukati Bay submitted an appeal requesting 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 appears in the U.S. Census of Population for the first time in 1990, with a population of 93. Its population reached a high of 170 in 1998, followed by a decline 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 Naukati Bay 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 council 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 that halibut with the highest production by weight at 70.9 lb, followed by rockfish at 60 lb, sablefish at 0.2 lb, and lingcod at 8.3 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).

Bottomfish continue to be part of a wide range of resources used in Naukati, including salmon, deer, and shellfish. The top ten resources used by the most households in Naukati included halibut, the third-most important resource which 70 percent of the households reporting use. Rockfish was the 10th most used resource with 52 percent of the households reporting use (Table 3.2). This use is comparable to the communities of Craig (Table 3.4), Klawock (Table 3.5), and Petersburg (Table 3.6), which all have positive customary and traditional uses of halibut in State and Council regulations. The 2003 subsistence halibut survey confirms these levels of removals (Figure 1.4, Appendix 2).

Option 2. A resident of Southeast Alaska living on a float house in Nakat Inlet near the abandoned village of Old Port Tongass submitted an appeal to the Council requesting a customary and traditional use finding for halibut and rockfish. The appeal was forwarded to the Board for consideration during its February 2004 meeting. Alaska Department of Fish and Game, Division of Subsistence staff reported that it has no harvest

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

Resource Name	Percentage of Households					Pounds 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 Bottomfish, 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 Bottomfish 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
Bottomfish	pounds	0.00	0.00	0.00	0.00	9,229.97	139.85	9,229.97	139.85
Pacific Cod (gray)	pounds	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Pacific Tom Cod	pounds	0.00	0.00	0.00	0.00	9.90	0.15	9.90	0.15
Unknown Cod	pounds	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Unknown Flounder	pounds	0.00	0.00	0.00	0.00	3.96	0.06	3.96	0.06
Lingcod	pounds	0.00	0.00	0.00	0.00	548.86	8.32	548.86	8.32
Rock Greenling	pounds	0.00	0.00	0.00	0.00	19.80	0.30	19.80	0.30
Halibut	pounds	0.00	0.00	0.00	0.00	4,678.08	70.88	4,678.08	70.88
Black Rockfish	pounds	0.00	0.00	0.00	0.00	158.40	2.40	158.40	2.40
Red Rockfish	pounds	0.00	0.00	0.00	0.00	3,796.32	57.52	3,796.32	57.52
Unknown Rockfish	pounds	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Sablefish (black cod)	pounds	0.00	0.00	0.00	0.00	14.65	0.22	14.65	0.22
Buffalo Sculpin	pounds	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Red Irish Lord	pounds	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

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

Resource Name	Percentage of Households					Pounds 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 Bottomfish, Klawock, 1997

Resource Name	Percentage of Households						Pounds 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 Bottomfish, Petersburg, 2000

Resource Name	Percentage of Households				Pounds 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	281.85
Cod	14.4	7.2	7.2	8.0	1.6	5,204.48	4.86	1.77	1,626.40	1.52
Pacific Cod	12.8	7.2	7.2	6.4	1.6	5,204.48	4.86	1.77	1,626.40	1.52
Pacific Tom Cod	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Walleye Pollock	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Unknown Cod	1.6	0.0	0.0	1.6	0.0	0.00	0.00	0.00	0.00	0.00
Flounder	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	0.00
Greenling	6.4	4.8	4.8	1.6	1.6	4,422.10	4.13	1.50	701.92	0.66
Lingcod	6.4	4.8	4.8	1.6	1.6	4,422.10	4.13	1.50	701.92	0.66
Rock Greenling	0.0	0.0	0.0	0.0	0.0	0.00	0.00	0.00	0.00	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	0.00
Sea Perch	0.8	0.0	0.0	0.8	0.8	0.00	0.00	0.00	0.00	0.00
Rockfish	26.4	16.0	15.2	12.8	2.4	8,423.04	7.87	2.86	2,105.76	1.97
Black Rockfish	3.2	3.2	3.2	0.0	0.0	1,369.60	1.28	0.47	342.40	0.32
Red Rockfish	23.2	12.8	12.0	12.0	2.4	5,855.04	5.47	1.99	1,463.76	1.37
Unknown Rockfish	2.4	1.6	1.6	0.8	0.0	1,198.40	1.12	0.41	299.60	0.28
Sablefish (black cod)	17.6	4.0	4.0	13.6	4.0	2,533.76	2.37	0.86	633.44	0.59

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

or pattern of use data for Old Port Tongass, which is 52 miles south of Ketchikan outside of the non-subsistence use area. 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.

3.3 Qualitative Benefit Cost Analysis

The proposed action to add eligible communities to the subsistence halibut program is a policy decision. Under Alternative 2, Option 1, approximately 109 Naukati residents (59 of 109 residents signed a petition in 2003 which requested eligibility) 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 impacted by Alternative 2, Option 1, either directly (as a harvester) or indirectly (as a recipient). The sole resident (and his family) of Port Tongass Village is the only beneficiary under Option 2.

The costs of Action 2 are uncertain, but are expected to be exceeded by the social and economic benefits to Naukati and Port Tongass Village residents of the proposed action. It is expected that Alternative 2 would benefit residents of both Old Port Tongass and Naukati by allowing them to subsistence fish for halibut, rather than be subject to the more restrictive limits in the sport fishery (2 hooks, 2 halibut per day) or have to replace subsistence caught halibut through retail purchases. The use of more efficient gear would reduce the costs associated with the harvest of subsistence halibut.

As described in Section 2.4, the original subsistence program was found to not result in a significant regulatory action. Adding these two communities with small populations and resource needs would incrementally increase the value of this fishery by a minor amount. A general estimate of rents under Action 2, Alternative 2 is between \$10,000 and \$17,000⁷ under Option 1 and \$100 and \$165⁸ under Option 2. The costs of subsistence fishing are unreported, but are expected to be less than the ex-vessel value of halibut. The existence value of the subsistence halibut fishery to non-participants was not able to be quantified. However, non-market value to catching one's own and one's family's food likely may outweigh the costs associated with subsistence fishing in many instances. For instance, the cost of a guided sport halibut charter often exceeds the retail costs of buying the same poundage of halibut.

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

3.4 Conclusions

Table 3.7 summarizes the costs and benefits of Action 2. The amount of removals under Action 2, Alternative 2, Options 1 and 2 are not expected to impact the halibut or groundfish resources in either the local or IPHC regulatory area. Residents of Naukati and Old Port Tongass are expected to benefit from allowing subsistence harvests of halibut, and associated groundfish. Alternative 2 aims to better recognize the social, cultural, educational, and "communal" net benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs to protect halibut and rockfish stocks in local areas than the status quo.

⁷32 lb per capita as reported in Table 3.1 and \$3-\$5 per pound as reported in Section 2.4

⁸Using the per capita halibut harvest reported for Naukati Bay and \$3-\$5 lb

Action 2 would not be expected to have the potential 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, the environment, public health or safety, or State, local, or tribal governments or communities.

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

	Alternative 1	Alternative 2
Impacts to the resource	None	Expected to not affect the halibut or groundfish stocks.
Benefits	No change in benefits.	Expected to benefit the residents of Naukati and Port Tongass Village by adding them as eligible subsistence halibut users, subject to more liberal gear and harvest limits than in the sport sector. Aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs to protect halibut and rockfish stocks in local areas than the status quo. Non-market values can not be quantified, but are expected to be high for both subsistence halibut participants and non-participants.
Costs	No change in costs.	May have costs associated with purchase of longline gear (but this should be minimal for those for whom longline gear is traditional gear), but other traditional gears are allowed.
Net benefits	No change in net benefits.	Expected to be positive.
Action objectives	Does not completely address issue of eligibility for the program.	Meets the objectives of the proposed action of accommodating customary and traditional users of the halibut resource better than the status quo.
E.O. 12866 significance	Does not meet the requirements for significance	Does not meet the requirements for significance.

4.0 Action 3 - Possession Limit

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 will be harvesting halibut under subsistence regulations in areas where previous removals were permitted under recreational harvest regulations. Staff noted that the regulations allow significant permissions for subsistence harvest over those that had been allowed previously, both for harvest limits and gears. Further, subsistence harvest was not conducted historically using longline gear, but with rod and reel in most central and eastern areas of the State. Staff believes that this increased fishing power allowed for all eligible users (including those for whom longline gear was not a customary and traditional practice) will lead to increased participation. Permit (SHARC) registration supports this concern.

The IPHC staff reports 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 of 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 would 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 settled 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. The Council should clarify whether it intends for Action 3 to apply to Area 4A and 4B, where daily harvest limits are in effect, but where human population and resource removals are low.

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.

Alternative 1. No action.

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

Alternative 2. Possession limit equal to two daily bag limits.

Currently the daily bag limit is 20 halibut per day per fisherman, therefore Action 3, Alternative 2 would result in a possession limit of 40 halibut. The action would be implemented in IPHC Areas 2C, 3A, and 3B only. "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."

Under a proposed rule for revising subsistence halibut regulations, the Secretary is reviewing a change to implement a limit of 30 hooks per vessel in the Sitka LAMP. Under Action 1, Alternative 2, the Council is considering a seasonal reduction from 30 to 15 hooks per vessel during June through August, and implementing a seasonal daily bag limit per vessel of 10 halibut from September through May and 5 halibut from June through August. The Council should clarify whether it wishes to include a possession limit associated with vessel limits in the Sitka LAMP to enhance enforcement. If so, the Council should specify the vessel possession limit (i.e., equal to one, two, three, etc. daily vessel limits).

4.2 Expected effects of the Alternatives

Action 3, Alternative 1. Current subsistence halibut regulations do not define a possession limit. Generally, a 20-fish per day harvest (bag) limit is in effect for subsistence halibut fisheries in Areas 2C, 3A, 3B, 4A, and

4B. Harvest limits are not in effect for Areas 4C, 4D, and 4E. A possession limit (2 daily harvest limits or 4 fish) is in effect only for the sport (charter and non-charter) halibut fisheries. There is no limit on the number of daily bag limits that may be in the possession of the subsistence user.

IPHC staff suggested that the increased fishing power of longline gear with up to 30 hooks could result in increased fishing effort by individuals who were made eligible to subsistence halibut fish under current regulations whose customary and traditional practice to feed their families prior to implementation of the program in 2003 was 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 prohibited, and barter for cash is limited to \$400⁹.

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 for 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 in ranking from 12 percent in 2000 to 2 percent in 2003. Areas 3B and 4B harvests were less than 3 percent and 1 percent, respectively, in both years.

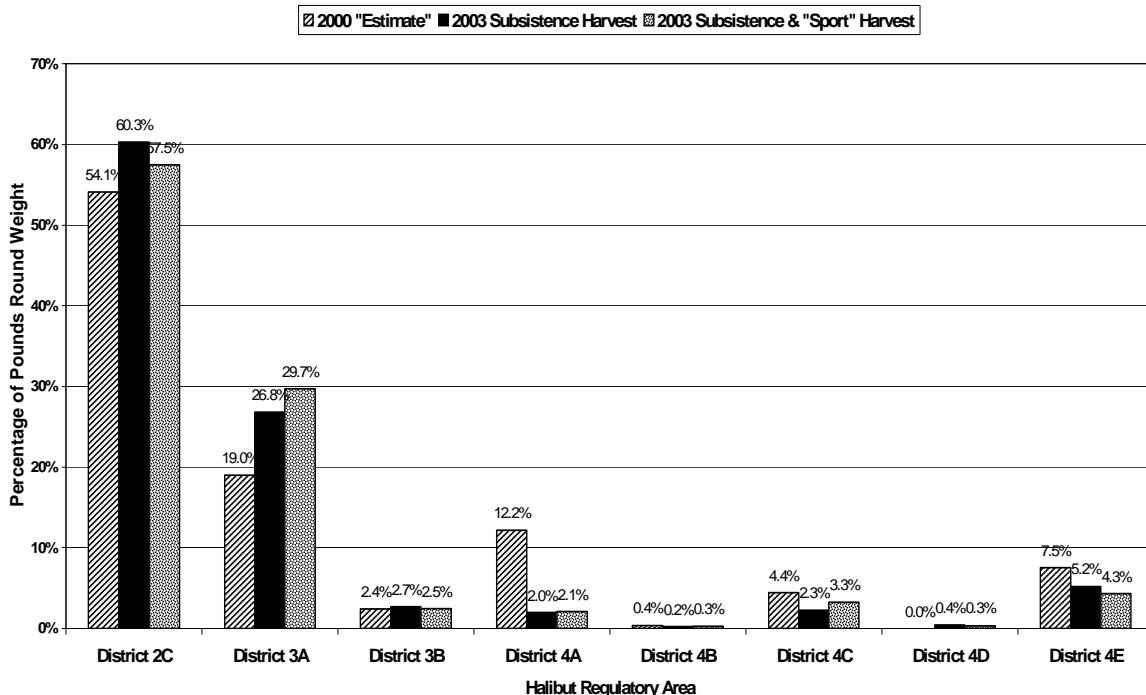


Figure 4.1 Percentage of subsistence halibut harvest by regulatory area, 2000 and 2003

⁹The Council is considering dropping the dollar limit to \$100 or eliminating it under Action 5.

One evident cause of the higher total in 2003 (subsistence plus sport) is the estimated harvest of about 1,000,000 pounds of halibut with set hook gear, compared to just 247,021 pounds for 2001 (and an estimate of zero for southeast Alaska.) Some additional potential reasons for the differences between the two years 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 fishers 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.

Table 4.1 Comparison of "Subsistence" halibut harvest estimates by regulatory area, pounds net weight

Regulatory Area	Estimated Pounds, 2000 ¹					Estimated Pounds, 2003 ²				
	Removed from Commercial Gear	Other Non-Commercial Gear ³	Rod and Reel	Total	w/o Commercial retention	Set Hook Gear	Rod and Reel or Handline	All Subsistence Methods	"Sport" ⁵	Total
District 2C	110,176		666,793	776,969	666,793	717,243	119,393	836,635	148,794	985,429
District 3A	34,366	39,145	195,094	268,605	234,239	222,925	148,735	371,660	138,106	509,766
District 3B	22,677	24,232	5,369	52,279	29,602	16,924	20,381	37,305	5,131	42,436
District 4A	17,031	32,499	117,773	167,303	150,271	8,603	19,020	27,623	8,083	35,706
District 4B	427	3,948	551	4,926	4,499	1,972	1,323	3,294	1,643	4,937
District 4C	19,876	54,610	125	74,611	54,735	15,607	16,085	31,691	24,528	56,219
District 4D ⁴						5,253	593	5,846	0	5,846
District 4E	345	92,587	356	93,288	92,943	13,685	58,674	72,356	1,480	73,836
Totals	204,899	247,021	986,061	1,437,982	1,233,083	1,002,212	384,204	1,386,410	327,765	1,714,175

¹ As estimated by R. Wolfe in a report to the Alaska Board of Fisheries, May 2001. Based on data in the Community Profile Database (Scott et al. 2001)

This estimate is based on household surveys for varying harvest years. Per capita harvests from those studies are applied to the 2000 population of communities to develop a harvest estimate.

² ADF&G Division of Subsistence SHARC survey, 2004

³ In 2C and Yakutat in 3A, surveys did not ask about "other non-commercial gear."

⁴ No harvest data available prior to 2003

⁵ By holders of SHARCs only.

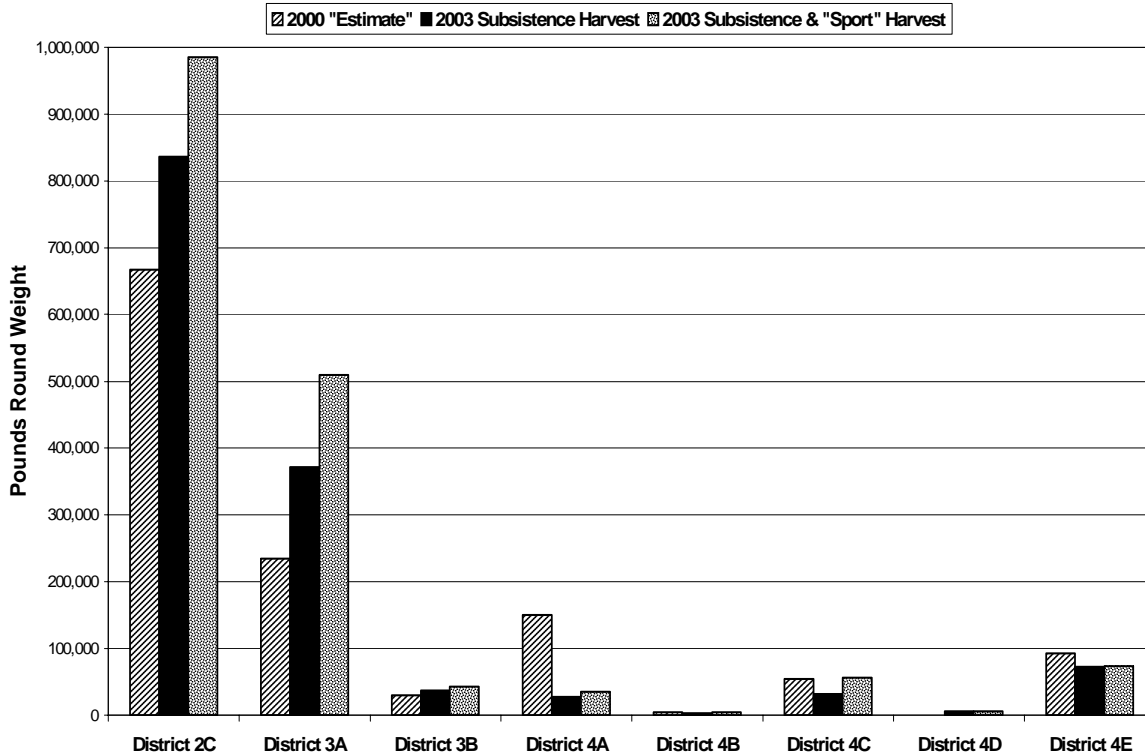


Figure 4.2 Comparison of subsistence halibut harvests by regulatory area, 2001 and 2003

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 bag limits (or 40 halibut) in Area 2C, 3A, Area 3B, 4A, and 4B. The Alaska Native Tribe and rural communities that would be affected are listed in Appendix 2. The IPHC staff recommendation for a possession limit was intended to be implemented only for the Gulf of Alaska, with communities with higher populations. Staff seeks clarification of the areas to which the Council intends Alternative 2 to apply.

Exceptions include the Sitka LAMP area where no possession limit would be implemented if the Secretary approves a regulatory change that would replace the current 20 fish per day bag limit with a 20 halibut *vessel* limit. However, staff is requesting clarification of whether a possession limit associated with the vessel limit should be included in this analysis. Additional potential exceptions include three local areas where the Council is considering revising the regulations to lower the daily bag limit from 20 halibut to 5 or 10 under Action 1.

It is not expected that halibut removals by subsistence users would be limited by Alternative 2. Subsistence users are currently subject to a daily bag limit, and may need to fish on multiple days to harvest the fish necessary to feed their families. Alternative 2 is proposed as an tool to enhance enforcement of the daily limit. Since documentation of daily limits, such as a catch record card, is not required at the time of fishing, IPHC staff reports 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 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 and to extend the use of CHPs to all areas for which possession limits are implemented. 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 of 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 Qualitative Benefit Cost Analysis

Approximately 10,278 subsistence users (using 2003 records) would be affected by proposed Action 3, Alternative 2 to implement 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).

As described in Section 2.4, the original subsistence program was found to not result in a significant regulatory action. The economic costs of Action 3 are minimal. Since it is not expected to affect legal halibut harvests (only illegal harvests) by eligible participants in the affected areas, there are no expected economic impacts on the user. That is, possession limits offer an additional method for enforcing daily harvest and vessel limits by placing a limit on the number that may be held in possession.

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
<u>4B</u>	<u>6</u>	<u>18</u>	<u>24</u>
Total	4,348	5,930	10,278

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 would enhance enforcement of daily harvest and vessel limits and decrease associated costs. Subsistence halibut possession limits are intended to be applied at-sea and on land. Possession limits are intended to be in effect until all affected halibut are processed at the angler’s place of permanent residence.

4.4 Conclusions

Table 4.3 summarizes the costs and benefits of Action 3. Possession limits are not expected to affect the halibut or groundfish resources. Alternative 2 is expected to enhance enforcement of daily harvest limits. It aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs to protect halibut and rockfish stocks in local areas than the status quo. Net benefits mainly accrue due to enhanced enforcement of subsistence halibut regulations.

This action would, therefore, not be expected to have the potential 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, the environment, public health or safety, or State, local, or tribal governments or communities.

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

	Alternative 1	Alternative 2
Impacts to the resource	None	Expected to not affect the halibut or groundfish stocks.
Benefits	No change in benefits.	Expected to enhance enforcement of daily harvest limits. Aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs to protect halibut and rockfish stocks in local areas than the status quo. Non-market values can not be quantified, but are believed to be high for both subsistence halibut participants and non-participants.
Costs	No change in costs.	No additional costs have been estimated for enforcement. There is no impact on revenue.
Net benefits	No change in net benefits.	Expected to be positive due to enhanced enforcement.
Action objectives	Does not address issue of inadequate enforcement of current regulations.	Better addresses enforcement requirements than the status quo.
E.O. 12866 significance	Does not meet the requirements for significance	Does not meet the requirements for significance

5.0 Action 4 - Definition of a Charter Vessel

Regulations prohibit vessel for hire arrangements in the subsistence halibut fishery, but creative (off the record) agreements have the potential to circumvent this intent. Adjusting the regulations to prohibit the use of a licensed charter vessel by an eligible non-owner/operator would clarify this enforcement problem, as charter vessel owners/operators are allowed to use the vessel for their own subsistence halibut fishing.

Since current Federal subsistence halibut fishery regulations are not enforceable, 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 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 charterboats for hire in the subsistence halibut fishery.

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

Alternative 3. Adopt the State of Alaska definition of charter vessels to redefine a charterboat vessel as State-licensed and restrict their use in the subsistence fishery to the owner and identified immediate family members (father, mother, brother, sister, children, legally adopted children).

Alternative 3 would identify those family members who may fish on a State-licensed charter vessel while an eligible owner/operator is also subsistence halibut fishing or on-board.

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 vessel if it is not being used during the same trip in a commercial fishery. Taking no action continues to hamper enforcement of Council intent.

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 regulatory language is unenforceable. 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. It could be in the range of a sport halibut charter, but may be more or less.

Action 4, Alternative 3. Alternative 3 proposes to revise the current regulatory language prohibiting the use of a charter vessel for hire by eligible subsistence halibut users since the current regulatory language is unenforceable. The definition found in Chapter 39 and Chapter 75 of the Alaska Administrative Code that is the basis for part of the language under Alternative 3 is "A charter vessel means a vessel licensed under AS 16.05.490, used for hire in the sport, personal use, or subsistence taking of fish or shellfish, and not used on the same day for any other commercial fishing purpose; a charter vessel does not include a vessel or skiff without a charter vessel operator."

Alternative 3 would also include new language to restrict the subsistence use of the charter vessel to the owner/operator and immediate family members (which would be specified as father, mother, brother, sister,

children, legally adopted children). Staff notes that the language in the alternative is not inclusive. It does not include spouse, or many other blood relatives or non-blood relatives who may have a customary and traditional practice of subsistence fishing with the charter vessel owner/operator. It may not be possible to list all these cases in the regulations. These relationships may be difficult to prove when boarded by an enforcement officer.

5.3 Qualitative Benefit Cost Analysis

As of July 2004, 106 individuals held both subsistence and charter vessel permits in Area 2C, of approximately 7,800 total SHARC holders (using 2004 registrations) and 800 charter vessel permits. Approximately 3,000 SHARC (2004) and 600 charter vessel permit holders in Area 3A, 45 held both. No one held both 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 is not known. There are no estimates on the number of charter owner/operators who may have been hired traditionally by subsistence halibut harvesters because this 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 Alaskan 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 charter boats will impact more than just the charter owner (Mike Turek, pers. commun.). Some subsistence users who traditionally fished on these larger, safer boats would be prohibited from continuing that practice under Alternative 3. However, it is expected that Alternative 2 may benefit an unknown number of charter owner/operators (including those not eligible to harvest subsistence halibut) and an unknown number of eligible subsistence users who may choose to use a charter vessel to harvest their subsistence halibut.

Sport charter prices vary by trip duration (½-day, full day, or multi-day), number of clients per boat, services provided (boat type, lodging and meal provisions), port and other variables (Tom Brook over, pers. commun.). In most Southeast ports, a rough estimate of the cost of a charter might be \$225/full day/person for the day, with minimal amenities. Depending on the port, similar ½-day charters may run \$125-175. Some operations have a minimum charge per trip. In Juneau for example, a number of operators charge \$860-\$920 per full day trip for 1 to 4 people - the same fee applies regardless of whether 1 or 4 people actually take the trip. Some operations may charge more for the trip if 5-6 people are included, but it may be at a lower per-person rate than the 1-4 person fee. Half-day boat trips in Juneau seem to run around \$540.

Southcentral Alaska charter fees range between \$150-\$250 (Scott Meyer, pers. commun.). Charters cost \$180 in Lower Cook Inlet and in Seward for most of the summer. Some Cook Inlet charters drop their rates to \$150-160 during the shoulder season. Halibut/coho combos in Seward cost \$225. Charters in Valdez are \$200-\$225 all year. A separate study (Todd Lee, pers. commun.) confirms these prices, with a median price for all Alaska ports of \$185.

Administrative, Enforcement and Information Costs. No administration and enforcement costs would occur as a result of the proposed alternatives. However, staff have identified shortcomings of Alternative 3. The current list of 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.

5.6 Conclusions

Table 5.1 summarizes the costs and benefits of Action 4. Alternative 2 is expected to benefit up to 1,400 licensed charter operators who may be hired by 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. It may dramatically increase fishing power for all eligible users, with the potential for increasing fishing effort and resource utilization by the subsistence sector. Such an increase has been of concern to the public and management agencies. An unknown number of eligible users who are not an immediate family member would be negatively affected by the proposed restriction because of lack of access to the halibut resource. Minimal costs to the commercial sector (and potentially to the guided sport sector under proposed individual fishing quotas) could accrue, as the commercial (and potentially guided sport) quota(s) are reduced to account for subsistence and non-guided sport halibut removals. It is expected to have positive economic benefits, but may not meet Council policy. It eliminates an unenforceable restriction, but may not meet Council intent to maintain the customary and traditional nature of this fishery.

Alternative 3 is expected to negatively affect an unknown number of eligible users not identified in the list under Alternative 3 who would be prohibited from subsistence fishing with 151 holders of both SHARC and charter vessel permits. While Alternative 3 aims to recognize the social, cultural, educational, and “communal” net benefits that derive from customary and traditional fishing practices, it may limit access to the resource by non-vessel owners or by skiff owners whose boats are too small for safe fishing. Alternative 3 may better meet the objectives of the proposed action of accommodating customary and traditional users of the halibut resource than the status quo or Alternative 2, while meeting Council intent to maintain but not increase resource utilization by this sector but documentation of familial relationship will be difficult to provide on board the vessel and is expected to be difficult to enforce.

Given the number of known charter operators and active eligible users, this action would not be expected to have the potential 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, the environment, public health or safety, or State, local, or tribal governments or communities.

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

	Alternative 1	Alternative 2	Alternative 3
Impacts to the resource	None	Expected to not affect the halibut or groundfish stocks.	Expected to not affect the halibut or groundfish stocks.
Benefits	No change in benefits.	May benefit a maximum of 1,400 licensed charter operators who may be hired by a maximum 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. May increase fishing power for eligible users, with the potential for increasing fishing effort and resource utilization by the subsistence sector.	Expected to negatively affect an unknown number of eligible users not identified in the list who would be prohibited from subsistence fishing with 151 holders of both SHARC and charter vessel permits. Aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of subsistence fishermen and perceived conservation needs to protect halibut and rockfish stocks in local areas, compared with the status quo. Non-market values can not be quantified, but are believed to be high for both subsistence halibut participants and non-participants.
Costs	Hampers enforcement of Council intent.	Minimal costs to the commercial sector (and potentially to the guided sport sector under proposed individual fishing quotas) could accrue, as the commercial (and potentially guided sport) quota(s) are reduced to account for subsistence removals.	No expected impact on revenue. May limit access to the resource by non-vessel owners or by skiff owners whose boats are too small for safe fishing. Documentation of familial relationship will be difficult to provide on board the vessel.
Net benefits	No change in net benefits.	Expected to have positive economic benefits, but may not meet Council policy.	Impossible to quantify with available information.
Action objectives	Does not address issue of inadequate enforcement of the regulations.	Eliminating an unenforceable restriction would enhance enforcement, but may not meet Council intent to maintain the customary and traditional nature of this fishery.	Meets the objectives of the proposed action of accommodating customary and traditional users of the halibut resource than the status quo or Alternative 2, while meeting Council intent to maintain but not increase resource utilization by this sector but documentation is expected to be difficult to enforce.
E.O. 12866 significance	Does not meet the requirements for	Does not meet the requirements for significance	Does not meet the requirements for significance

6.0 Action 5 - Customary Trade Limit

It is illegal to sell subsistence-caught halibut or to otherwise allow it to enter into commerce through any outlet. 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 person who qualified to conduct subsistence fishing for halibut and who holds a subsistence halibut registration certificate may engage in the customary trade of subsistence halibut through monetary exchange of no more than \$400 per year.

The Council's intent for the \$400 annual limit is to allow someone receiving subsistence-caught halibut from a SHARC holder to help pay for some of the costs of harvesting. For example, if a SHARC holder provides halibut to several families who are not able to fish for themselves, the expense, up to \$400 per year from all other persons for each SHARC holder, of catching the halibut may be defrayed by those receiving the halibut.

In October 2003, NOAA Enforcement and the Enforcement Committee proposed that the regulations be revised to eliminate customary trade for cash because the limit is not enforceable.

In June 2004, 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.

Taking no action would leave the \$400 cash trade limit in regulations.

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

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

Alternative 3. Eliminate the customary trade limit (\$0).

Alternative 3 would eliminate the allowance for exchanging cash (of any amount) for subsistence halibut.

Other alternatives. To comply with Executive Order 13175, NMFS must consult with Alaska Native Tribes on actions that may affect them. During consultation with the ANSHWG in May 2004, tribal representatives recommended that the Council include an alternative to allow traditional exchange of money between members of a tribe as reimbursement for expenses associated with subsistence fishing.

Additional staff discussions have identified another alternative that may also enhance enforcement, meet Council policy, and minimize negative impacts on subsistence users. This has been described as the "FAA model" (see box below). The Federal Aviation Authority regulates private pilot privileges and limitations. Council intent would be clarified and enforcement would be aided by revising the regulations to specify that the cash exchange would be limited to those expenses associated with the direct harvesting of subsistence

halibut, i.e., fuel, oil, and ice. These and other expenses identified by the Council could be specified in the regulations. Enforcement officers could examine receipts for those purchases to verify the expenses. Such a system does not adequately address that the cash limit is an annual limit, and enforcement occurs during a trip. Recognizing that, the actual dollar amount in the limit is not an enforcement issue.

6.2 Expected effects of the Alternatives

Action 5, Alternative 1. Alternative 1 would continue the allowance for a cash exchange up to \$400 per year for halibut. It is illegal to sell subsistence-caught halibut or to otherwise allow it

to enter into commerce (through a fish buying operation, into a grocery store, through the internet, etc.). The purpose of the \$400 annual limit is to allow someone receiving subsistence-caught halibut from a SHARC holder to help pay for some of the costs of harvesting. 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 \$400 per year from all other persons for each SHARC holder.

As reported in the 2000 EA/RIR for the original subsistence halibut program, including a provision for any “exchange of cash” for subsistence harvested food stuffs in regulations may have established an undesirable precedent, and/or induced “sales” which might otherwise not have occurred, in the absence of such “authority.” That is, establishing a trade limit (\$400) may have created a new incentive for some subsistence fishers to harvest halibut for “sale.” 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 having created new harvests is greater. However, there have been anecdotal reports of subsistence halibut fishermen “charging” community members for subsistence halibut, rather than the customary and traditional practice of defraying the cost of fishing.

Taking no action and continuing the \$400 customary trade limit may result in a circumvention of Council intent through a de facto allowance of trading halibut for cash or “sale” of subsistence halibut outside of customary and traditional exchanges. In June 2003, the Enforcement Committee reviewed a case in the Kodiak area of the sale of subsistence-caught halibut, and heard from NMFS Enforcement staff that such sales are essentially allowed, up to the \$400 customary limit approved by the Council (it was not the Council intent to create a new commercial fishery). The committee deemed the public sale of halibut problematic, and the \$400 limit not enforceable because it is not possible for Enforcement to distinguish between a sale and cash exchange for defraying fishing expenses. It is debatable whether the current regulations clearly prohibit advertising and solicitation for commercial sale. The committee identified that the Council has to either accept that such ‘sale’ of halibut will occur or amend the program, possibly prohibiting cash transactions. The committee reported that a change in the dollar amount would not offer any resolution on its enforceability.

Federal Aviation Regulations

Sec. 61.113 Private pilot privileges and limitations: Pilot in command.

(a) Except as provided in paragraphs (b) through (g) of this section, no person who holds a private pilot certificate may act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may that person, for compensation or hire, act as pilot in command of an aircraft.

(c) A private pilot may not pay less than the pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.

(e) A private pilot may be reimbursed for aircraft operating expenses that are directly related to search and location operations, provided the expenses involve only fuel, oil, airport expenditures, or rental fees, and the operation is sanctioned and under the direction and control of: (1) A local, State, or Federal agency; or (2) An organization that conducts search and location operations.

The committee noted that elimination of the sale/barter allowance for larger communities, particularly those on the road system, might alleviate the concern over commercial trade, recognizing that would be a significant policy decision by the Council.

In October 2003, the Committee discussed this issue at length, and reviewed staff recommendations for possible regulatory adjustments which are intended to prohibit the commercial sale of halibut. It was reiterated that the current regulations are enforceable in terms of sale to commercial businesses, or in cases of blatant solicitation, or where the \$400 limit is exceeded, if persons are caught engaged in such activities.

Action 5, Alternative 2. Alternative 2 would lower the annual dollar limit for cash exchange for halibut from \$400 to \$100. Alternative 2 is no more enforceable than the status quo.

Action 5, Alternative 3. Alternative 3 would not allow the exchange of cash for subsistence halibut. It was identified as the most enforceable alternative under consideration, although it does not meet the customary and traditional practices of Alaskans. This issue has an extensive record with the Council and NMFS (see NPFMC 2002), and the Council went to great lengths to recognize this practice. However, much public concern continues regarding the “sale” of subsistence fish. While the Council recognizes the distinction between a cash trade and sale, the enforcement community does not.

6.4 Qualitative Benefit Cost Analysis

Directly impacted participants include all SHARC holders and community members with whom subsistence harvesters share halibut and receive compensation. Appendix 2 identifies SHARC holders as of 2003. The subset of eligible harvesters and community members who exchange cash for halibut is not known, but expected to be small.

Administrative, Enforcement and Information Costs. No administration and enforcement costs would occur as a result of the proposed alternatives. In October 2003, the Enforcement Committee noted that elimination of the sale/barter allowance for larger communities, particularly those on the road system, might alleviate the concern over commercial trade, recognizing that would be a significant policy decision for the Council. Enforcement staff also identified that a regulatory change that identified the specific purchases (gas, fuel, ice) for which a cash exchange would be permitted would enhance public understanding of permissible compensation and provide an enforcement tool for the \$400 limit.

6.5 Conclusions

The economic costs of Action 5 are uncertain (Table 6.1). Alternative 2 aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from participating in customary and traditional practices for sharing halibut than the status quo, but to a lesser degree than the status quo but more than Alternative 3. Harvesters may be more limited in their ability to recoup fishing costs from beneficiaries of subsistence-caught halibut. Alternative 2 does not appear to address the issue of inadequate enforcement and lowers the benefits to the harvester compared with the status quo. While it does not meet the enforcement objective, it does meet customary and traditional practices better than Alternative 3.

Alternative 3 does not recognize the social, cultural, educational, and “communal” net benefits that derive from participating in customary and traditional practices for sharing halibut, compared with the status quo. Harvesters may not be able to recoup fishing costs from beneficiaries of subsistence-caught halibut, compared with Alternative 2 or the status quo. It does meet the enforcement objectives, but does not accommodate customary and traditional users of the halibut resource, better than the other alternatives.

The total revenue generated if all 11,635 SHARC holders received the \$400 limit for subsistence halibut would be approximately \$5 million. This action would, therefore, not be expected to have the potential 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, the environment, public health or safety, or State, local, or tribal governments or communities

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

	Alternative 1	Alternative 2	Alternative 3
Impacts to the resource	None	Expected to not affect the halibut or groundfish stock.	Expected to not affect the halibut or groundfish stock.
Benefits	No change in benefits.	Aims to recognize the social, cultural, educational, and “communal” net benefits that derive from participating in customary and traditional practices for sharing halibut, but to a lesser degree than the status quo but more than Alternative 3. Non-market values can not be quantified, but are believed to be high for both subsistence halibut participants and non-participants.	Does not recognize the social, cultural, educational, and “communal” net benefits that derive from participating in customary and traditional practices for sharing halibut, compared with the status quo. Non-market values can not be quantified, but are believed to be high for both subsistence halibut participants and non-participants.
Costs	No change in costs.	Harvesters may be more limited in their ability to recoup fishing costs from beneficiaries of subsistence-caught halibut. Not enforceable.	Harvesters may not be able to recoup fishing costs from beneficiaries of subsistence-caught halibut. Not enforceable.
Net benefits	No change in net benefits.	Impossible to quantify with available information.	Impossible to quantify with available information.
Action objectives	Does not address issue of inadequate enforcement, but does address customary and traditional practice to a limited amount.	Does not meet enforcement objectives. Recognizes customary and traditional practices better than Alternative 3, but lowers the benefits to the harvester.	Meets enforcement objectives but does not accommodate customary and traditional users of the halibut resource.
E.O. 12866 significance	Does not meet the requirements for significance	Does not meet the requirements for significance.	Does not meet the requirements for significance

7.0 Action 6 - Non-Subsistence Use Area

Current regulations specify closed areas for the subsistence halibut fishery. Generally, eligible persons could harvest subsistence halibut in all Convention waters in and off Alaska except for areas designated as non-subsistence areas. Action 6 proposes an exception to that general rule for an eligible person who is an Alaska Native tribal member, who resides in an urban area, and whose tribal headquarters is located in a rural area with a customary and traditional use designation. Such a person may only harvest subsistence halibut in the IPHC regulatory area where his or her tribal headquarters is located. 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 by the Council as non-subsistence use areas (using State criteria).

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 fisher 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 it 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 a 20-fish per day bag limit applicable under all three kinds of permits.

Alternative 2 would allow an exception to the non-subsistence fishing areas through the use of special permits. The Council could select any or all of the special permits for the exception.

7.2 Expected effects of the Alternatives

Action 6, Alternative 1. In its identification of non-subsistence use areas adjacent to urban areas, the Council modeled its preferred alternative after the State of Alaska's non-subsistence use areas. It adopted the State's list of non-rural areas as closed for subsistence purposes. These are identified in Appendix 6. 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. The Council has proposed changing the Cook Inlet non-subsistence use area southern boundary to 59°30.40'N, based on a recommendation by the BOF. A proposed rule to implement that change was published on July 9, 2004 (69 FR 41447).

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.

Action 6, Alternative 2. Regulations at 50 CFR 300.65(g)(3) describe where subsistence fishing may be conducted, i.e., in any waters in and off Alaska, except for the following four non-rural areas, Ketchikan, Juneau, Valdez, and Anchorage/Matanuska-Susitna/Kenai. Maps for these areas are provided in Appendix 6. A proposed regulatory change under review by the Secretary would modify the southern boundary of the Anchorage-Matsu-Kenai non-subsistence marine waters area in Area 3A [69 FR 41447, July 9, 2004].

Alternative 2 would allow twelve Tribes whose traditional fishing grounds are located within these four areas to subsistence halibut fish in areas currently designated as non-subsistence fishing areas through the use of special permits, limited to 20 fish per day (per permit). Staff seeks clarification on the identification of the Alaska Native Tribes listed in Table 7.1. The operation of the permits is summarized in Section 2.3 and described in detail in 69 FR 41447, July 9, 2004. The Council could select any or all of the special permits for the exception.

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

In Section 3, which describes a proposed action to add two Southeast communities to the list of eligible rural places for subsistence halibut, it was noted that the BOF reauthorized subsistence regulations for Southeast Alaska in 1993. That action reestablished 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 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. It would create an inconsistency in State and Federal regulations, similar to those that are being addressed under Action 1.

7.4 Qualitative Benefit Cost Analysis

Twelve 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 anywhere in Alaska to mitigate the impacts of that prohibition. Benefits would include more flexibility for subsistence users and lower operating costs from allowance to fish in waters closer to their place of residence for three Tribes in Area 2C and seven Tribes in Area 3A. There are 320 SHARC holders in Area 2C Tribes who fished in 2003 and 116 SHARC holders in Area 3A. These Tribal SHARC holders caught 913 rockfishes in Area 2C and 397 rockfishes in Area 3A (Appendix 2), outside of the non-subsistence areas. Rockfish harvests by Tribal members 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 fishing were allowed in the non-subsistence areas.

The Council must balance the needs to meet customary and traditional practices and public perception issues related to opening what are now closed 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 administration and enforcement costs would occur as a result of the proposed alternatives.

7.5 Conclusions

The economic costs of Action 6 are believed to be marginally lower under Alternative 2 (Table 7.1), as it aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of subsistence fishermen by allowing them to fish in waters adjacent to their place of residence. However, it would result in inconsistent State and Federal subsistence regulations in Southeast Alaska.

Approximately 350 Tribal members associated with urban areas that are now closed to subsistence halibut fishing who fished in 2003 may fish in any open area. Fishing costs would be reduced marginally by allowing Tribal members to fish closer to their place of residence, primarily fuel and perhaps, ice expenses. State regulations in Southeast prohibit subsistence fishing for groundfish in the non-subsistence fishing areas. If Alternative 2 is adopted, all groundfish caught while subsistence halibut fishing in Southeast State waters would have to be released. High rates of rockfish mortality are associated with subsistence halibut fishing gear. No estimates of fishing costs are available for this fishery. Alternative 2 meets the objectives of the proposed action of accommodating customary and traditional users of the halibut resource better than the status quo, but has unintended negative potential consequences on groundfish stocks and enforcement in Southeast Alaska.

This action would, therefore, not be expected to have the potential 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, the environment, public health or safety, or State, local, or tribal governments or communities.

Table 7.1. Summary of the cost and benefit analysis of Action 6.

	Alternative 1	Alternative 2
Impacts to the resource	None	Expected to not affect the halibut stock, may negatively affect Southeast groundfish stocks to an unknown but likely small degree.
Benefits	No change in benefits.	Aims to better recognize the social, cultural, educational, and “communal” net benefits that derive from balancing the food needs of 350 subsistence fishermen in Areas 2C and 3A. Non-market values can not be quantified, but are believed to be high for both subsistence halibut participants and non-participants.
Costs	No change in costs.	Would result in inconsistent State and Federal subsistence regulations in Southeast Alaska. Would not affect costs in Southcentral Alaska.

	Alternative 1	Alternative 2
Net benefits	No change in net benefits.	Expected to have positive benefits to Southcentral tribal members who are closed out of traditional fishing grounds, but may have negative effects due to public perception of exception to closed areas. Expected to have negative net benefits in Southeast Alaska due to potential groundfish wastage (although relatively small) and enforcement difficulties.
Action objectives	Does not address issue of recognizing customary and traditional subsistence halibut practices.	Meets the objectives of the proposed action of accommodating customary and traditional users of the halibut resource better than the status quo, but has unintended negative consequences on groundfish stocks and enforcement in Southeast Alaska.
E.O. 12866 significance	Does not meet the requirements for significance	Does not meet the requirements for significance.

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Scientific and Statistical Committee

Advisory Panel

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 “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; 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 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.

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 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 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 fishers 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 fishers 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 Harvests of Halibut by Gear Type, 2003.

Community/Tribe	Regulatory Area	Number of SHARCS Issued	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
ANGOOK COMMUNITY ASSOCIATION	2C	118	56	749	17955	17	195	4,119	62	944	22,074
AUKUAN 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	0	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		3,132	791	8,032	318,459	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	0	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 FATTLEK	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		936	208	2,101	68,107	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	0	0	0	0	0	0	0	0	0	0
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		204	43	502	12,399	15	381	12,041	90	884	24,440
NATIVE VILLAGE OF AKUTAN	4A	44	6	25	308	2	281	12,298	33	305	12,606
NATIVE VILLAGE OF NIKOLSKI	4A	12	0	0	0	0	28	2,250	6	28	2,250
GAWALINGIN TRIBE OF UNALASKA	4A	14	3	6	193	0	14	476	6	20	669
Subtotal		70	9	31	501	5	323	15,024	45	353	15,525

Appendix 2, Cont.

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

Appendix 2, Cont.

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

Appendix 2, Cont.

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	Estimated Number Fished	Estimated Number Harvested	Estimated Pounds Harvested
Tribal Subtotals	5,578	12,254	433,827	295	6,633	182,445	1,834	18,886	616,271				
Rural Community Subtotals	6,057	17,412	568,385	898	7,546	201,759	3,101	24,955	770,139				
Grand Totals	11,635	29,666	1,002,212	1,193	14,179	384,204	4,935	43,841	1,386,410				
2C	7,227	20,054	717,243	697	4,378	119,393	3,080	24,432	836,635				
3A	2,610	6,935	222,925	423	5,344	148,735	1,180	12,276	371,660				
3B	263	664	16,924	27	670	20,381	134	1,334	37,305				
4A	154	355	8,603	20	476	19,020	93	828	27,623				
4B	24	48	1,972	8	25	1,323	13	74	3,294				
4C	289	707	15,607	6	527	16,085	105	1,235	31,691				
4D	50	67	5,253	0	8	593	26	75	5,846				
4E	1,018	80	13,685	12	2,751	58,674	304	3,587	72,356				
	11,635	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) bottomfish 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) bottomfish and halibut in waters of Section 3-B;
- (17) bottomfish and halibut in waters of Section 3-A;

05 AAC 77.674. Personal Use Bottomfish Fishery

In the personal use taking of bottomfish

- (1) bottomfish may be taken at any time;
- (2) bottomfish 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 bottomfish;
 - (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 bottomfish 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) bottomfish 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. 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.

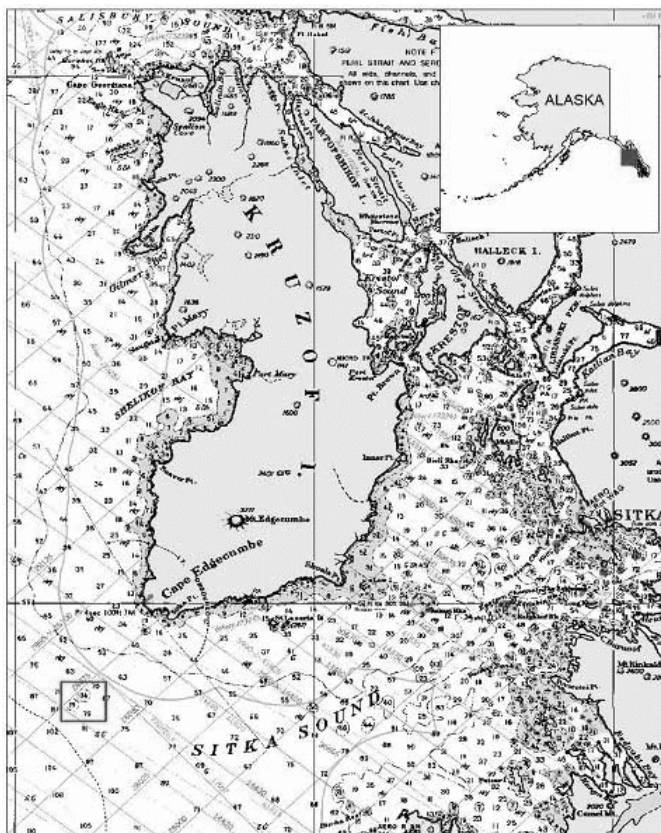


Figure 1. -The Sitka Pinnacles Marine Fishery Reserve.

Rockfish savings areas In 1987, the Board

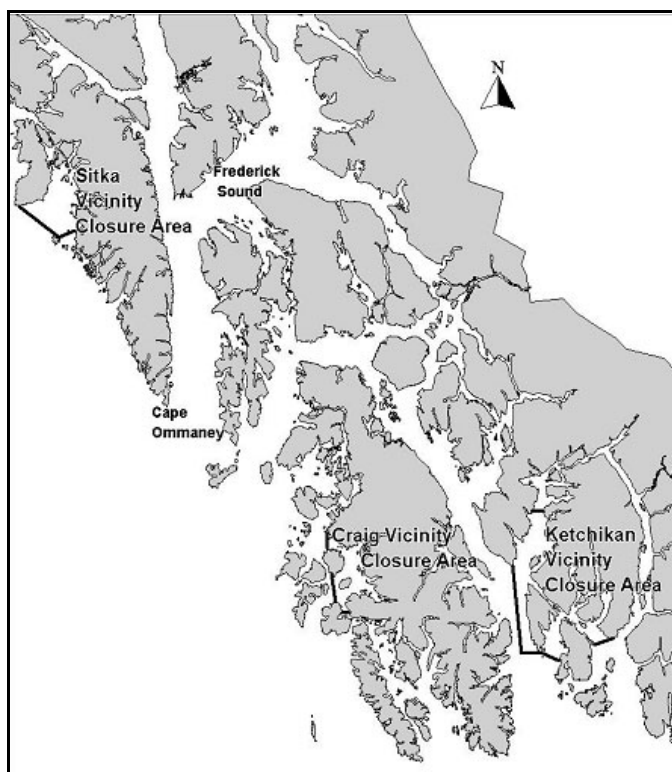


Figure 2. -Map showing areas where commercial harvests of demersal shelf rockfish are restricted by regulation.

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

In 1989, the Board restricted sport and personal use harvest limits for rockfish in two areas, one near Sitka and the other near Ketchikan (Figures 2 and 3). In these areas, the personal use bag and possession limit for rockfish and the sport bag and possession limit for non-pelagic rockfish is 3 fish, only one of which may be a yelloweye. The Board established these harvest limits to reduce harvests and to maintain the opportunity to harvest rockfish near Sitka and Ketchikan under sport or personal use regulations.

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

In Sitka Sound, commercial fishermen, with the exception of halibut longline

fishermen, are not allowed to retain lingcod and reduced harvest limits apply in the sport fishery. The Board took this action in response to public concern over local lingcod abundance. The areas in which these restrictions applied were modified in January 2000 to provide one set of boundaries for multiple species that matched the Sitka LAMP boundaries (Figure 2.5).

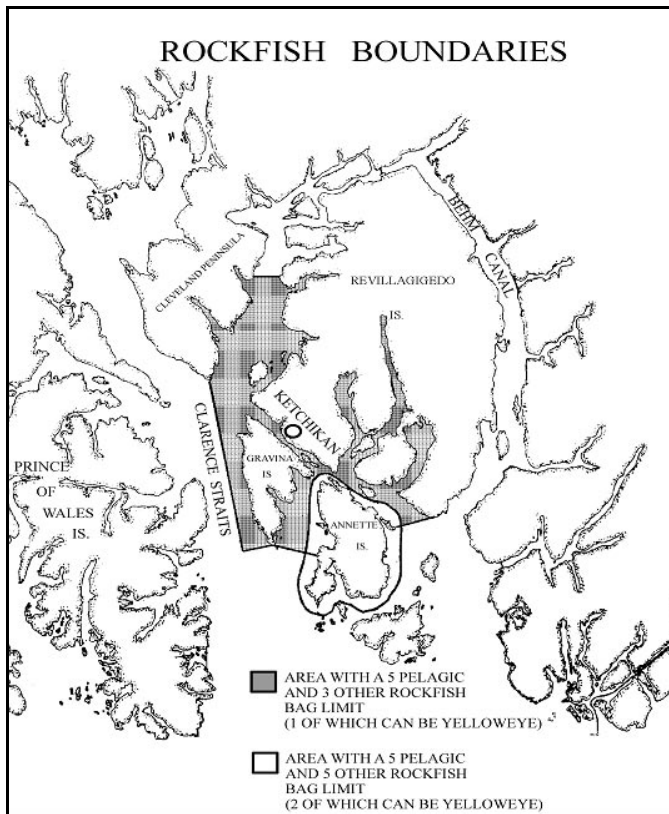


Figure 4. -Ketchikan area. Sport and personal use bag and possession limits are restricted by regulation for rockfish.

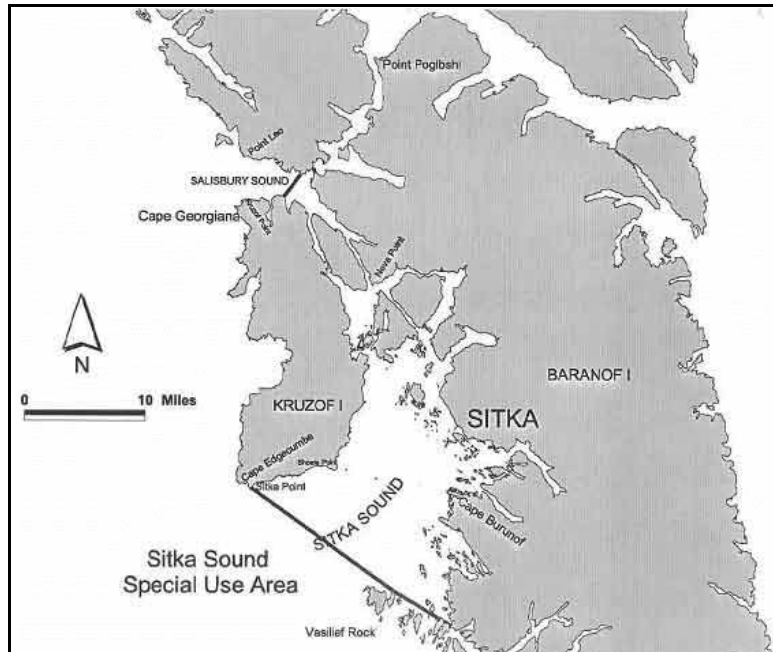


Figure 3. -Sitka Sound Special Use Area. By regulations, sport and personal use bag and possession limits are restricted for rockfish, and sport bag and possession limits are restricted for lingcod (nonresident anglers only).

In February 2000, the Board reduced allowable harvests of lingcod in Southeast Alaska in response to concern expressed by department staff. The Board implemented a guideline harvest level for commercial and sport fisheries in Southeast Alaska and allocated the guideline harvest among commercial dinglebar and jig, longline, salmon troll and sport fisheries in Southeast Alaska. In 2000, the department restricted sport fishing methods and means and size limits for lingcod in northern Southeast Alaska (Figure 2.7) 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 bottomfish or groundfish have been identified in some areas of State waters. The gear limit for personal use fisheries for bottomfish (which includes rockfish and ling cod) 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 bottomfish, all bycatch must be returned to the water (i.e., discarded) unless the fisherman uses legal gear (as defined by the State). The bycatch only may be retained up to the legal limit if harvested with legal gear. Therefore, a subsistence halibut harvester retain rockfish and ling cod 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.

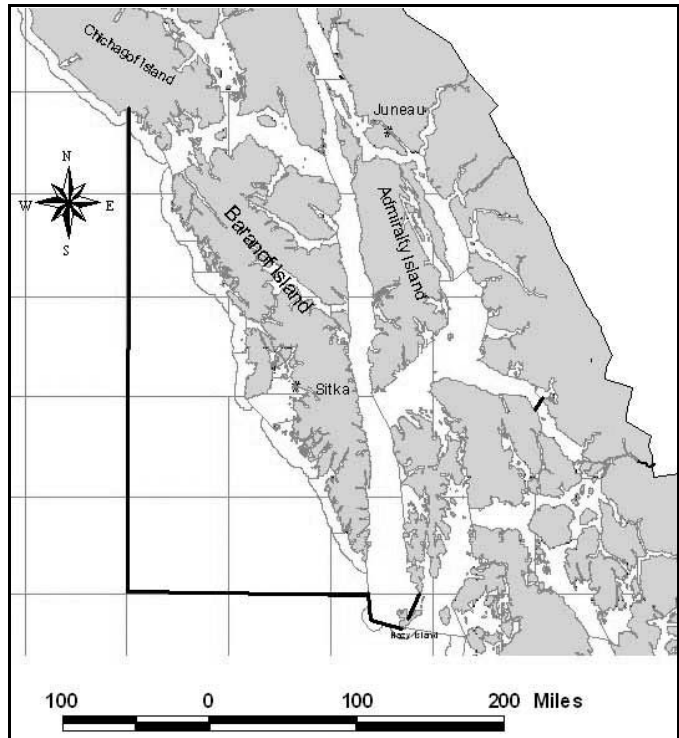


Figure 5. -Northern Southeast Alaska area encompassing Central Southeast Outside (CSEO), Northern Southeast Outside (NSEO) and Northern Southeast Inside (NSEI) groundfish management areas. In 2000, the department reduced harvest limits in the sport fishery to 1 lingcod per day, 2 in possession for all 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.

<p>7. List any other solutions you considered and why you rejected them. None.</p>	<p>DO NOT WRITE HERE</p>
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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

Appendix 6. Non-Subsistence use area maps from Federal regulations

