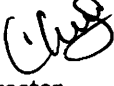


MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver 
Executive Director
DATE: September 20, 2007
SUBJECT: Subsistence Halibut

ESTIMATED TIME 1 HOUR

ACTION REQUIRED

Discuss alternatives to redefine rural eligibility under subsistence halibut regulations

BACKGROUND

The Council asked staff in February 2007 to prepare a discussion paper on how the subsistence halibut rural definition may be inadvertently excluding individuals who otherwise may be deemed eligible for participation in the program. In June the Council reviewed the discussion paper and requested that staff propose alternatives for analysis. Council, NMFS, and ADF&G staff met in August 2007 and developed the following alternatives for Council consideration. The proposed action is intended to broadly define the areas where subsistence halibut fishermen must reside to be deemed eligible (rather than specify the lat/long of innumerable inhabited places and homesteads) without broadly expanding participation. A draft action plan is attached as Item C-2(a). The proposed analysis to revise subsistence halibut regulations could be scheduled for initial review in April 2008, with final action in June 2008. Implementation could occur for the 2009 subsistence fishery, at the earliest.

Alternative 1. No action

Alternative 2. Allow residents of the following areas to be deemed eligible to harvest Pacific halibut under subsistence regulations:

- Haines Borough
- Yakutat City and Borough
- Seldovia Village Census Designated Place
- Kodiak Island Borough
- Aleutians East Borough
- Bristol Bay Borough
- Lake and Peninsula Borough south and west of the Naknek River and Katmai National Park and Preserve
- Excluding nonsubsistence areas, the unorganized borough within 10 miles of coast from Dixon Entrance to Cape Espenberg.

Alternative 3. Allow residents to be deemed eligible to harvest Pacific halibut under subsistence regulations if they reside within all non-rural areas of SE Alaska south and east of 141 deg. long. and all of the Alaska Peninsula, Aleutian Islands, and Kodiak south of Bristol Bay Borough and a line of latitude that approximates the Naknek River.

**SUBSISTENCE HALIBUT "RURAL DEFINITION" REGULATORY AMENDMENT
ACTION PLAN
September 25, 2007**

PROPOSED ACTIONS: Revise regulations, as listed in 68 FR 181451, which define rural eligibility to include individuals who reside outside of an eligible rural place. This action would maintain the prohibition on fishing for subsistence halibut by residents of non-subsistence areas.

PROBLEM STATEMENT/OBJECTIVE: Some subsistence halibut applicants are "too rural" to be eligible, as they do not reside in a municipality or census designated place that is listed as eligible under Federal regulations. Individuals or families in remote locations within eligible 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.

ANALYSIS: EA(?)/RIR/IRFA.

RANGE OF ALTERNATIVES:

Alternative 1. No action

Alternative 2. Allow residents of the following areas to be deemed eligible to harvest Pacific halibut under subsistence regulations:

- Haines Borough
- Yakutat City and Borough
- Seldovia Village Census Designated Place
- Kodiak Island Borough
- Aleutians East Borough
- Bristol Bay Borough
- Lake and Peninsula Borough south and west of the Naknek River and Katmai National Park and Preserve
- Excluding nonsubsistence areas, the unorganized borough within 10 miles of coast from Dixon Entrance to Cape Espenberg.

Alternative 3. Allow residents to be deemed eligible to harvest Pacific halibut under subsistence regulations if they reside within all non-rural areas of SE Alaska south and east of 141 deg. long. and all of the Alaska Peninsula, Aleutian Islands, and Kodiak south of Bristol Bay Borough and a line of latitude that approximates the Naknek River. *(all within 10 nm of coast)*

Revised lang.

ESTIMATE OF STAFF RESOURCES: Jane DiCosimo and Nicole Kimball (NPFMC) will prepare the EA(?)/RIR/IRFA, with assistance from ADF&G Subsistence Division and NMFS Sustainable Fisheries (SF). Peggy Murphy (SF) will develop a regulatory approach for implementing the proposed action prior to preparation of the analysis and prepare the proposed rule, final rule, final RFA certification, CZMA letter, memos, and all other certifications. Jessie Gharrett and staff of NMFS-Restricted Access Management Division (RAM) will develop and administer the Subsistence Halibut Registration Certificates (SHARCs). Ed Hein will conduct the appeals process. John Lepore (GCAK) and Susan Auer (GCHQ) will conduct the legal review. Ron Antaya (OLE) will conduct the enforcement review. Dr. Lew Queirolo (SF) will conduct the economic review. Patsy Beardon (SF) will conduct the PRA review.

ANALYTICAL ISSUE TO BE ADDRESSED: During Summer/Fall 2007, NMFS staff will assist Council staff with developing regulatory language for Council analysis. The regulations could authorize proposed areas for

inclusion in the regulations as either: 1) latitude/longitude coordinates for each unincorporated area; or 2) broader areas (e.g., south and west of 141°; 10 mi swath from the coast from Dixon Entrance (Southeast Alaska) to Cape Espenberg (northernmost point of Seward Peninsula north of the Arctic Circle). The unincorporated areas are exclusive of all non-subsistence use areas, boroughs, census areas, and census designated places. Staff will develop a map of the areas that are proposed for consideration in the subsistence halibut program.

DATA SOURCES:

- Fall, J.A., D. Koster, and B. Davis. Subsistence Harvests of Pacific Halibut in Alaska, 2005. ADF&G Technical Paper No. 320.
- Fall, J.A., D. Koster, and B. Davis. Subsistence Harvests of Pacific Halibut in Alaska, 2006. In prep.
- NMFS RAM SHARC database: <http://www.fakr.noaa.gov/ram/subsistence/halibut.htm#SHARC>
- State Department of Labor and Workplace Development Research & Analysis for population and census estimates: <http://almis.labor.state.ak.us/?PAGEID=67&SUBID=115>

TIMELINE TO IMPLEMENTATION:

- Review of Council staff discussion paper in June 2007
- Selection of alternatives and initiation of analysis by Council in October 2007
- Release of initial review draft of analysis in March 2008
- Initial review of analysis in April 2008
- Release of public review draft of analysis in May 2008
- Selection of preferred alternative (final action) in June 2008
- Submission of analysis to NMFS in July 2008
- Publish proposed rule prior to January 2009 (T)
- Publish final rule prior to April 2009 (T)
- Implementation prior to May 2009 (T)

RECEIVED
SEP 20 2007
N.P.F.M.C.

September 17, 2007

U.S. Dept. of Commerce
National Oceanic & Atmospheric Adm.
No. Pacific Management Council
605 W. 4th Ave., Ste. 306
Anchorage, AK 99501

Dear Council:

I have been informed that my residence at New Tokeen is not eligible for a (SHARC) Certificate.

My residence on El Capital Is. is in area 2C; seven miles from the town of Naukati. Shouldn't it be eligible for Halibut Subsistence, as I reside in the close proximity of Naukati?

I am in a remote area of Sea Otter Sound and feel that I should be eligible as there are many people who live in locations much more remote than Edna Bay and Naukati that you have designated as being eligible. It seems to me that I should also be able to use Naukati as my eligibility location.

I would appreciate your response ASAP.

Sincerely,



Rolland Fitzgerald
c/o Barbara Fitzgerald
1201 S. Pt. Higgins Rd.
Ketchikan, AK 99901

cc: U.S. Dept. of Commerce
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668
Attn: Jessica Gharrett, Acting Program Administrator
Restricted Access Management Program

