

who are members of Federally recognized Alaska Native tribes that have customary and traditional uses of halibut. NMFS has agreed with this Council policy. Other persons, Native and non-Native, will not be granted this subsistence fishing privilege.

The conditions and constraints on subsistence halibut fishing imposed by this rule are relatively modest compared to the total population of persons eligible for a subsistence halibut fishing privilege. They are designed to be unintrusive and reasonably balanced with other uses of fishery resources while providing recognition of a fishery and use of halibut that historically extends back in time long before the present.

Comment 27: The limit of \$400 per year on customary trade is too limiting. Non-Natives do not live on \$400 per year.

Response: The purpose of the monetary limit on customary trade is to allow subsistence fishers to be nominally reimbursed for their expenses in supplying subsistence halibut to their community without that reimbursement being considered a commercial transaction. The Council recommended and NMFS approved the \$400 limit on cash exchanges in customary trade of subsistence halibut as a reasonable balance between no cash exchanges being allowed and higher limits that suggest significant economic value to, and possibly commercial enterprise in, subsistence halibut. Neither Alaska Natives nor non-Natives are expected to be able to make a living in an economic sense by harvesting subsistence halibut. Anyone intending to make a living by fishing for halibut may do so by entering the commercial IFQ fishery (or the CDQ fishery in the Bering Sea) for halibut.

Comment 28: The commercial IFQ fishers are not constrained by hook and daily bag limits so why should subsistence fishers have 30-hook and 20-fish per day limits. Commercial halibut fishers are allowed a percentage of sablefish bycatch. Subsistence halibut fishers also should be allowed to retain a percentage of sablefish as this species has been a part of the Native diet and customary trade throughout history.

Response: Commercial IFQ fishers are constrained by fishing gear and harvest restrictions. A basic tenant of the IFQ rules is that an IFQ fisher must not harvest more halibut than is specified on his or her IFQ permit. Although IFQ fishers may not be constrained by a daily harvest limit, they are constrained by the total amount of halibut they may harvest in a year. Likewise, commercial halibut fishers must not retain other species of fish that are taken incidental

to halibut unless they have a permit and authority to do so. For sablefish, this would be sablefish IFQ. Similarly, subsistence halibut fishers may retain species caught incidental to halibut to the extent they are authorized to do so by State of Alaska and other Federal agencies that manage the subsistence harvests of other species.

Comment 29: In response to the NMFS request for comment on how best to prevent movement of subsistence halibut into the commercial sector (67 FR 54770), NMFS should consult with affected tribal governments and users. NMFS is commended for engaging in meaningful tribal consultation on development of the proposed rule and this consultation should be continued.

Response: NMFS notes this support and reiterates its intent to continue consultation with Alaska Native tribal representatives on subsistence halibut management issues pursuant to guidance and requirements under Executive Order (E.O.) 13175 and other applicable law.

Comment 30: Mandatory registration is not necessary, particularly in remote areas (i.e., IPHC Areas 3B, 4A, 4B, 4C, 4D, and 4E), either to identify eligible tribal subsistence users or for gathering harvest information. A tribal identification card would suffice to prove eligibility. Cooperative agreements between NMFS and tribes for harvest information is the best way to collect harvest data. If registration is necessary in some areas, the regulations appear to provide an avenue to minimize this burden on tribal subsistence users through cooperative agreements with tribes. NMFS should extend the time for re-registration to well beyond 4 years.

Response: The principal purpose of the registration system is to provide a basis for collecting information on participation and harvest in the subsistence halibut fishery. A secondary purpose is to distinguish between persons who are eligible and persons who are not eligible to harvest subsistence halibut. Although most persons in remote areas likely will be eligible, for data collection purposes, these subsistence fishers should be in the registration system along with those from less remote areas.

NMFS considered the option of relying on tribal identification cards to demonstrate the eligibility of subsistence halibut fishers who are members of Federally recognized Alaska Native tribes with customary and traditional use of halibut. Other non-Native residents of the specified rural communities who also would be eligible to harvest subsistence halibut would not

necessarily have tribal identification cards. Therefore, a single SHARC that would be used by all eligible fishers would be more efficient for distinguishing eligible from non-eligible persons. NMFS intends to cooperate with tribal and other entities to distribute information and forms that will facilitate registration. As explained in the preamble to the proposed rule, NMFS will determine the eligibility of each applicant for a SHARC. The reason for limiting the duration of a registration is to keep the list of registered individuals limited to those who actually intend to harvest subsistence halibut and to maintain current contact and address information. Although an Alaska Native tribal member may be eligible to fish for subsistence halibut throughout his or her life, he or she may choose not to participate in the fishery during various periods of his or her life. For example, the very young and the very old may not be personally involved in harvesting subsistence halibut. In that event, a lapsed registration would indicate no participation in the fishery and therefore no need to participate in the subsistence halibut harvest survey. An eligible individual's lapsed registration could be renewed at any time thereby indicating that the individual should be included in the survey. Longer periods of registration validity would produce a larger universe of registered persons who are no longer actual participants in the fishery.

Comment 31: Although a voluntary reporting system and authority to enter into cooperative agreements with affected tribes is good, it is not clear why the harvest survey would require information about the subsistence fisher's identity. Due to a long history of government suppression of tribal subsistence practices, some tribal subsistence fishers may resist complying with surveys that require such personal identification. For example, a community harvester may be reluctant to disclose his full harvest if he expects that doing so will, by comparison with sport harvesters, bring negative attention to his practice of supplying subsistence food for his community. Tribes could provide NMFS and the IPHC with complete and accurate harvest information without identifying the particular tribal members who did the harvesting. NMFS should modify the regulations to allow for, but not require, identification of individual harvesters in the harvest survey.

Response: Personal identification information is needed on the survey form to prevent confusion of harvest