

information supplied by persons with the same or similar names. It prevents double counting or not counting some harvest data. NMFS is sensitive to the need for confidentiality of personal identification data and data about the volume and location of subsistence harvests. Existing State and Federal confidentiality laws and regulations effectively prevent revealing harvest data, whether supplied by individual commercial, sport, or subsistence fishers. Published reports of subsistence harvest data will contain only aggregated information which will not indicate the harvests of any particular fisher. Nevertheless, NMFS intends to continue consultation with Alaska Native tribal representatives to resolve any questions of confidentiality.

*Comment 32:* Figure 1 of the proposed rule mistakenly portrays the Sitka Sound LAMP area as a "non-subsistence area." This is not consistent with the Council's action or the description of the four non-rural areas in the proposed regulatory text.

*Response:* This inadvertent error in Figure 1 is corrected in this rule.

*Comment 33:* In the proposed regulatory text at section 300.65(g)(3) (67 FR 54776), the phrase "in any Commission regulatory area" could be interpreted to mean that subsistence halibut fishing would be prohibited from that part of Bristol Bay that is not included within an IPHC area.

*Response:* NMFS agrees that this phrase (used in several places in the proposed rule) unintentionally would have prevented subsistence halibut fishing in the closed area. This error is corrected in this rule (see also response to comment 16).

*Comment 34:* Although most Native subsistence halibut users support fully the collection of harvest information necessary to the health and conservation of halibut stocks, modification to the proposed rules is necessary to lessen the burden on tribal harvesters and result in better information. Cooperative agreements with the affected tribes that maximize their participation in registering and collecting harvest information is essential to the success of this program.

*Response:* NMFS has made every effort to minimize the reporting burden of information collected on the harvest survey forms, as is required by the PRA (see also response to comment 1). Further, NMFS agrees that cooperation with the Alaska Native tribes affected by this rule is essential to assure high quality information from the subsistence halibut harvest survey. Tribal entities could, for example, assist with this effort by cooperating on the registration

process and providing corroborating information that could verify or contest preliminary survey data. NMFS intends to continue consulting with Alaska Native tribal representatives with a view toward enhancing the quality of subsistence harvest data.

*Comment 35:* Thirty hooks per skate and 20 halibut per day is a reasonable limit for subsistence halibut harvest. The latest Council action on subsistence, however, would seriously restrict subsistence halibut harvest in the Sitka LAMP area. This action has caused concern among Sitka Natives.

*Response:* The latest Council action on subsistence was taken in April 2002, which will be addressed in a separate proposed rule and considered by NMFS separately from this rule.

*Comment 36:* No significant difference in harvest numbers will occur when subsistence halibut harvest is legalized in Sitka Sound. The Sitka Tribe proposes to collect data and assist with administering of the subsistence halibut permit system.

*Response:* NMFS notes this forecast of subsistence halibut harvest and welcomes the cooperation of the Sitka Tribe.

*Comment 37:* NMFS has made significant effort to consult with Native tribes in the development of the subsistence halibut proposed rule. Although subsistence halibut fishing will be open to all rural residents, it is important to recognize the unique relationship that tribal governments have with the Federal government. The subsistence rules should include a section on meaningful tribal consultation and reiterate the commitment of NMFS to continue consulting and working cooperatively with Alaska tribes on regulatory and other issues related to the subsistence halibut fishery. Establishing cooperative agreements with the affected tribes for harvest data collection, issuing permits, monitoring and research of subsistence halibut stocks and generally including tribes in the management and decision-making process will strengthen the overall management effort.

*Response:* NMFS agrees that cooperating with the affected Alaska Native tribes will foster trust between the agency and subsistence fishers and generally assure the success of the subsistence halibut program. In developing its subsistence policy, the Council specifically recommended cooperative agreements with tribal, State and Federal governments for harvest monitoring and general oversight of issues affecting subsistence halibut fishing. NMFS intends to follow the Council's guidance. As already

noted, the agency consulted with Alaska Native tribes in the development of the proposed rule. NMFS also has implemented contracts with the Rural Alaska Community Action Program (RurALCAP) for purposes of consulting with Alaska Native representatives and with the Subsistence Division of ADF&G for subsistence harvest survey and estimation. As this program is launched, NMFS likely 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.

*Comment 38:* Although registration of subsistence halibut fishers could be a valuable management tool it should not be mandatory. A tribal identification card issued to each member of a tribe authorized to conduct subsistence fishing should be considered adequate documentation of eligibility. Cooperative agreements with the tribes would allow them to provide harvest data and to identify eligible subsistence fishers who are not members of the tribe.

*Response:* NMFS discussed this question at length among its divisions that would be involved in implementing the subsistence rules and with other agencies. Ultimately, the agency decided that a mandatory registration system was preferred primarily so that information on participation and harvest could be collected in a uniform and comparable manner. As discussed in the preamble to the proposed rule, the primary objective of the mandatory registration system is to provide a basis for surveying the harvest of subsistence halibut. NMFS has no intention of using the registration system as a means to prevent otherwise eligible persons from fishing for subsistence halibut. A secondary purpose of the registration system is to distinguish between persons who are eligible to fish for subsistence halibut and those who are not eligible to do so.

*Comment 39:* Requiring a subsistence fisher's identity, date of birth, etc., as part of the harvest survey is not necessary and could be counter productive. Based on tribal experience in conducting subsistence harvest surveys, collecting accurate data is enhanced by not requesting personal information. Alternatively, the affected tribes could provide NMFS and the IPHC with full and accurate harvest information without identifying a tribal member that harvested fish or linking him or her to a particular amount of fish harvested. The research design and