

officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rule implementing the DAM program. A copy of the federalism Summary Impact Statement for that final rule is available upon request (ADDRESSES).

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3).

Dated: April 9, 2003.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600 and 679

[Docket No. 020801186-3073-02; I.D. 053102D]

RIN 0648-AQ09

Pacific Halibut Fisheries; Subsistence Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to authorize and manage a subsistence fishery for Pacific halibut in waters in and off Alaska. This action is necessary to allow qualified persons to practice the long-term customary and traditional harvest of Pacific halibut for food in a non-commercial manner. This action is intended to meet the conservation and management requirements of the Northern Pacific Halibut Act of 1982 (Halibut Act).

DATES: Effective on May 15, 2003.

ADDRESSES: Copies of the environmental assessment/regulatory impact review (EA/RIR) prepared for this action are available from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel-Durall, or NMFS, Alaska Region, 709 West 9th Street, Room 453, Juneau, AK 99801, or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907-586-7228. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC. 20503

(Attention: NOAA Desk Officer). Comments may also be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or the internet.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7172 or jay.ginter@noaa.gov.

SUPPLEMENTARY INFORMATION:

Management of the fisheries for Pacific halibut (*Hippoglossus stenolepis*, hereafter halibut) in waters in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the "Convention between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada on March 2, 1953, and amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. This Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Halibut Act (16 U.S.C. 773c(c)). Generally, fishery management regulations governing the halibut fisheries are developed by the IPHC and recommended to the U.S. Secretary of State. When approved, these regulations are published by NMFS in the **Federal Register** as annual management measures. The annual management measures for 2003 were published March 7, 2003 (68 FR 10989).

Section 773(c) of the Halibut Act also provides for the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations, in its geographic area of concern that would apply to nationals or vessels of the U.S. Such action by the Council is limited only to those regulations that are in addition to, and not in conflict with, IPHC regulations, and must be approved and implemented by the U.S. Secretary of Commerce (Secretary). Any allocation of halibut fishing privileges must be fair and equitable and consistent with other applicable Federal law. This is the authority under which the Council acted in October 2000, to adopt a subsistence halibut policy.

The Council does not have a "fishery management plan" (FMP) for the halibut fishery. Hence, halibut fishery management regulations developed by the Council do not follow the FMP amendment procedures set out in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Instead, a regulatory amendment process is followed. This process requires

submission of the Council recommendation to the Secretary as a draft proposed rule for publication in the **Federal Register** along with supporting analyses as required by other applicable law.

The Council's recommended subsistence halibut policy was submitted for Secretarial review on May 30, 2002, and a proposed rule to implement the recommended policy was published in the **Federal Register** on August 26, 2002 (67 FR 54767). Comments on the proposed rule were invited through September 25, 2002. Fourteen letters were received that included 43 separate comments, which are summarized and responded to below.

The historical context of the Council's subsistence recommendation in October 2000, is summarized in the preamble to the proposed rule (on page 54768) and not repeated here. In April 2002, the Council adopted modifications to its original (i.e., October 2000) subsistence recommendation. These modifications will be the subject of a subsequent regulatory action. They were not included in the proposed rule published August 26, 2002 (67 FR 54767) and are not included in this final rule action.

The principal elements of the subsistence halibut rule are fully described and explained in the preamble to the proposed rule and for brevity are not repeated here. In brief, these elements include: (a) definition of "subsistence" and "subsistence halibut," (b) specification of who is eligible to conduct fishing for subsistence halibut, (c) description of non-subsistence areas in which subsistence halibut fishing is not allowed, (d) definition of legal gear for harvesting subsistence halibut, (e) daily harvest limit of subsistence halibut, (f) annual monetary limit on customary trade of subsistence halibut, and (g) provisions for monitoring subsistence halibut harvests.

In addition, this action restructures certain halibut fishery regulations as described in the preamble to the proposed rule to better distinguish rules affecting IPHC regulatory Area 2C from those affecting the other IPHC areas off Alaska. This final rule is substantively the same as the August 26, 2002 proposed rule (67 FR 54767), except that certain technical changes have been made in response to comments received on the proposed rule. These changes are explained below in the response to the comments and in changes from the proposed rule.

Response to Comments

The Alaska Region, NMFS received 14 letters of comment from various