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**SUPPLEMENTARY INFORMATION:**

**Background**

The Secretary of Commerce (Secretary) is responsible for implementing the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), at 16 U.S.C. 773. Section 773(c) of the Halibut Act authorizes the Regional Fishery Management Council having authority for the geographical area concerned to develop regulations governing the allocation and catch of Pacific halibut (*Hippoglossus stenolepis*) in U.S. Convention waters. Such regulations must be approved by the Secretary before being implemented and may be in addition to, but not in conflict with, regulations developed by the IPHC.

The commercial halibut fishery in and off Alaska is managed under the Individual Fishing Quota (IFQ) program and the CDQ program. Under the regulations established for these programs, the annual halibut catch limits for Areas 4B, 4C, and 4D are divided between the IFQ and CDQ programs. Twenty percent of the Area 4B annual catch limit is allocated to the CDQ program and the rest is allocated to the IFQ program. For Area 4C, the allocation to the CDQ program is 50 percent, and for Area 4D it is 30 percent. One hundred percent of the Area 4E annual catch limit is allocated to the CDQ program. The halibut CDQ catch limits, or reserves, are divided among eligible CDQ communities in accordance with Community Development Plans (CDP) submitted by CDQ managing organizations (CDQ groups) and approved by NMFS. This current action affects only halibut CDQ harvested in Areas 4D and 4E.

Since 1995, four different CDQ groups have received annual allocations of Area 4D halibut and two CDQ groups have received annual allocations of Area 4E halibut. Between 1995 and 2001, the annual halibut CDQ reserve ranged from 231,000 to 609,000 lb (104.78 to 276.24 mt) in Area 4D and from 120,000 to 390,000 lb (54.43 to 176.9 mt) in Area 4E. Amounts specified for halibut catch limits, reserves, and allocations are all in net (headed and gutted) weight. Halibut CDQ in Areas 4D and 4E must be allocated to the CDQ groups that represent eligible communities located

in, or proximate to, Areas 4D and 4E, respectively.

*Catch Sharing Plan (CSP) for Area 4*

The CSP for Area 4 originally was developed by the Council to apportion the IPHC's halibut catch limit for Area 4 among Areas 4A, 4B, 4C, 4D, and 4E as necessary to carry out the socioeconomic objectives of the IFQ and CDQ programs. The Area 4 CSP was published in the **Federal Register** on March 20, 1996 (61 FR 11337), and implemented that same year.

NMFS subsequently modified the Area 4 CSP to remove Areas 4A and 4B from the CSP in 1998 (63 FR 13000, March 17, 1998). This change was to allow the catch limits for these two areas and a combined Area 4C-4E to be set according to the IPHC's revised biomass-based methodology, under which the IPHC considers that Areas 4A, 4B, and 4C-E each have a separate halibut stock. Beginning in 1998, the IPHC has annually implemented the measures specified in the Area 4 CSP to apportion the combined Area 4C-E catch limit among Areas 4C, 4D, and 4E. The annual management measures for halibut fisheries in 2002 were published on March 20, 2002 (67 FR 12885).

Four out of six CDQ groups have received halibut CDQ allocations in Area 4D since 1995, including Bristol Bay Economic Development Corporation (BBEDC), Coastal Villages Region Fund (CVRF), Norton Sound Economic Development Corporation (NSEDC), and Yukon Delta Fisheries Development Association (YDFDA). Past and current allocations recommended by the State of Alaska and approved by the Secretary have allocated both Area 4D and Area 4E halibut CDQ to just two groups, BBEDC and CVRF, based on their historical participation in the Area 4 halibut fishery and the contents of their CDP applications. NSEDC and YDFDA have received only Area 4D halibut CDQ. Residents of communities represented by these latter two groups (with the exception of two of NSEDC's communities) must travel extended distances offshore to harvest Area 4D halibut CDQ or the quota must be harvested by large, non-local vessels.

In 1999, CDQ groups that received Area 4D quota expressed a desire to increase the amount of halibut CDQ that could be harvested in their locally based inshore halibut fishery by being allowed to harvest Area 4D halibut CDQ in Area 4E. All four of these groups represent communities along the western Alaska coast, ranging from Bristol Bay (south) to the Bering Strait (north). Almost all of the 56 communities represented by

these groups are adjacent to Area 4E; only two are in Area 4D. In January 1999, these groups approached the IPHC at its annual meeting and requested a determination as to whether it would be acceptable to harvest halibut CDQ allocated to Area 4D in Area 4E. The IPHC had no objection to the request because it considers the halibut in Areas 4C, 4D, and 4E to be a single stock. This issue was also raised at the February 1999 Council meeting. The Council requested that NMFS prepare an analysis of the proposal to allow Area 4D halibut CDQ to be harvested in Area 4E. The Council also recommended modifying the Area 4E halibut catch limit (see Area 4E Trip Limit, below).

NMFS prepared an EA, RIR, and Initial Regulatory Flexibility Analysis (IRFA) that examined the proposal to allow Area 4D halibut CDQ to be harvested in Area 4E. In December 2001, the Council recommended allowing halibut CDQ that was allocated in Area 4D to be harvested in Area 4E. In January 2002, the IPHC noted that allowing Area 4D halibut CDQ to be harvested in Area 4E would constitute a change to the Area 4 CSP that would need to be addressed by NMFS in rulemaking.

This final rule will modify the Area 4 CSP to incorporate the Council's specific recommendation that Area 4D halibut CDQ may be harvested either in Area 4D or in Area 4E. However, the existing Area 4 CSP framework that apportions the combined Area 4C-E annual catch limit among Areas 4C, 4D, and 4E will remain unchanged. The authority to allocate the annual Area 4 catch limit according to the Area 4 CSP is specified at 50 CFR 300.63(b) and will continue to be implemented by the IPHC in its annual management measures pursuant to 50 CFR 300.62. The following paragraph will be added to the Area 4 CSP:

A CDQ group with an allocation of Area 4D halibut CDQ may harvest all or part of that allocation in Area 4E. This provision is based on the Council's recommendation in December 2001 to allow CDQ fishermen in Area 4E additional halibut CDQ harvesting opportunities. The framework that allocates the IPHC catch limits among Areas 4C, 4D, and 4E remains unchanged.

The Council recommended allowing the harvest of Area 4D halibut in Area 4E and allowing amounts of Area 4D halibut CDQ that had been transferred to Area 4E to be transferred back to Area 4D. NMFS will implement the Council's intent without requiring the CDQ groups to submit documents requesting transfers of halibut CDQ between Areas 4D and 4E. The Council intended that the maximum amount of halibut CDQ that could be caught in Area 4D would