

**Subpart 232.4—Advance Payments for Non-Commercial Items****232.404 [Amended]**

9. Section 232.404 is amended in paragraph (a)(9) by removing “\$500” and adding in its place “\$2,500.”

10. Section 232.409–1 is revised to read as follows:

**§ 232.409–1 Recommendation for approval.**

Follow the procedures at PGI 232.409–1 for preparation of the documents required by FAR 32.409–1(e) and (f).

11. Section 232.410 is revised to read as follows:

**§ 232.410 Findings, determination, and authorization.**

If an advance payment procedure is used without a special bank account, follow the procedures at PGI 232.410.

12. Section 232.501–2 is revised to read as follows:

**§ 232.501–2 Unusual progress payments.**

Follow the procedures at PGI 232.501–2 for approval of unusual progress payments.

13. Section 232.501–3 is amended by revising paragraph (b) introductory text to read as follows:

**232.501–3 Contract price.**

(b) The contracting officer may approve progress payments when the contract price exceeds the funds obligated under the contract, provided the contract limits the Government’s liability to the lesser of—

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**232.503–15 [Amended]**

14. Section 232.503–15 is amended in paragraph (d) introductory text, in the first sentence, by removing “252.242–7004(f)(7)” and adding in its place “252.242–7004(e)(7)”.

**232.605 [Amended]**

15. Section 232.605 is amended in paragraph (b) by removing the second sentence.

16. Section 232.606 is revised to read as follows:

**232.606 Debt determination and collection.**

When transferring a case to the contract financing office, follow the procedures at PGI 232.606.

17. Section 232.610 is revised to read as follows:

**232.610 Demand for payment of contract debt.**

When issuing a demand for payment of a contract debt, follow the procedures at PGI 232.610.

**232.616 [Amended]**

18. Section 232.616 is amended by removing “(232.108(1))” and adding in its place “(see 232.070(c))”.

19. Section 232.617 is revised to read as follows:

**232.617 Contract clause.**

(a) The Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), may exempt the contracts in FAR 32.617(a)(2) through (5) and other contracts, in exceptional circumstances, from the administrative interest charges required by this subpart.

(7) Other exceptions are—

(A) Contracts for instructions of military or ROTC personnel at civilian schools, colleges, and universities;

(B) Basic agreements with telephone companies for communications services and facilities, and purchases under such agreements; and

(C) Transportation contracts with common carriers for common carrier services.

20. Section 232.670 is revised to read as follows:

**232.670 Transfer of responsibility for debt collection.**

Follow the procedures at PGI 232.670 for transferring responsibility for debt collection.

21. Section 232.671 is revised to read as follows:

**232.671 Bankruptcy reporting.**

Follow the procedures at PGI 232.671 for bankruptcy reporting.

22. Section 232.903 is revised to read as follows:

**232.903 Responsibilities.**

DoD policy is to assist small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before normal payment due dates established in the contract (see 232.906(a)).

23. Section 232.904 is added to read as follows:

**232.904 Determining payment due dates.**

(d) In most cases, Government acceptance or approval can occur within the seven day constructive acceptance period specified in the FAR Prompt Payment clauses. Government payment of construction progress payments can, in most cases, be made within the 14 day period allowed by the Prompt Payment for Construction Contracts clause. While the contracting officer may specify a longer period because the period specified in the contract is not reasonable or practical, such change should be coordinated with the

Government offices responsible for acceptance or approval and for payment. Reasons for specifying a longer period include but are not limited to: the nature of the work or supplies or services, inspection or testing requirements, shipping and acceptance terms, and resources available at the acceptance activity. A constructive acceptance period of less than the cited 7 or 14 days is not authorized.

**232.905 [Removed]**

24. Section 232.905 is removed.

25. Section 232.906 is revised to read as follows:

**232.906 Making payments.**

(a)(i) Generally, the contracting officer shall insert the standard due date of 14 days for interim payments on cost-reimbursement contracts for services in the clause at FAR 52.232–25, Prompt Payment, when using the clause with its Alternate I.

(ii) The restrictions of FAR 32.906 prohibiting early payment do not apply to invoice payments made to small disadvantaged business concerns. Contractors shall not, however, be entitled to interest penalties if invoice payments are not made before the normal payment due dates established in the contract.

**232.1007 and 232.1108 [Removed]**

26. Sections 232.1007 and 232.1108 are removed.

[FR Doc. 05–9004 Filed 5–4–05; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 050421110–5110–01; I.D. 041505F]

RIN 0648–AT03

**Pacific Halibut Fisheries; Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes an amendment to the Pacific halibut regulations for waters in and off Alaska.

This proposed action modifies the Individual Fishing Quota (IFQ) Program and the Western Alaska Community Development Quota (CDQ) Program by allowing quota share holders in International Pacific Halibut Commission (IPHC) Regulatory Area (Area) 4C to fish their Area 4C IFQ in Area 4D. This proposed action is intended to enhance harvesting opportunities for halibut by IFQ and CDQ fishermen and is necessary to promote the objectives of the Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ and CDQ Pacific halibut fisheries, consistent with the regulations and resource management objectives of the IPHC.

**DATES:** Written comments must be received no later than June 6, 2005.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.

- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

- Fax: 907-586-7557.

- E-mail: [4cd-0648-AT03@noaa.gov](mailto:4cd-0648-AT03@noaa.gov).

Include in the subject line of the e-mail the following document identifier: IFQ Halibut 4CD RIN 0648-AT03. E-mail comments, with or without attachments, are limited to 5 megabytes.

- Webform at the Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov) Follow the instructions at that site for submitting comments.

Copies of the environmental assessment (EA), regulatory impact review (RIR), and initial regulatory flexibility analysis (IRFA) prepared for this action are available from NMFS at the above address or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907-586-7228.

**FOR FURTHER INFORMATION CONTACT:** Bubba Cook, 907-586-7425 or [bubba.cook@noaa.gov](mailto:bubba.cook@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background and Need for Action

Management of the Pacific halibut (*Hippoglossus stenolepis*) (halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the "Convention Between the 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 was amended by the

"Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. The Convention is implemented in the United States by the Halibut Act.

Generally, the IPHC develops halibut fishery management regulations pursuant to the Convention and submits those regulations to the U.S. Secretary of State for approval. NMFS publishes approved IPHC regulations in the **Federal Register** as annual management measures. NMFS published the IPHC's current annual management measures on February 25, 2005 (70 FR 9242).

The Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations in and off Alaska that are in addition to, but not in conflict with, the approved IPHC regulations (Halibut Act, section 773(c)). Regulations developed by the Council will be implemented only upon approval of the U.S. Secretary of Commerce (Secretary).

##### The IFQ and CDQ Fisheries

In December 1991, the Council adopted a limited access system for managing the halibut fishery in and off Alaska under authority of the Halibut Act. This limited access system included an IFQ Program for Areas 2C through 4D, and the CDQ program for Areas 4B through 4E. The Council designed the IFQ and CDQ Programs to allocate specific harvesting privileges among U.S. fishermen and eligible western Alaska communities to resolve management and conservation problems associated with "open access" fishery management, and to promote the development of fishery-based economic opportunities in western Alaska. Acting on behalf of the Secretary, NMFS initially implemented the IFQ and CDQ programs through regulations published in the **Federal Register** on November 9, 1993 (58 FR 59375). Fishing for halibut under these two programs began on March 15, 1995.

Each quota share (QS) represents a transferable harvest privilege, within specified limitations, which is converted annually into IFQ. Fishermen granted IFQs are authorized to harvest a specified amount of halibut in the Areas specified on an IFQ permit issued to the fishermen.

NMFS and the State of Alaska jointly manage the CDQ Program based on a program design developed by the Council. Currently, 65 communities are eligible to participate in the CDQ Program, representing about 27,000 western Alaska residents. These communities are located within 50 nautical miles of the Bering Sea coast or on an island in the Bering Sea and are

predominantly populated by Alaska Natives. The eligible communities formed six non-profit corporations known as CDQ groups to manage and administer allocations, investments, and economic development projects.

##### 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, to allow the catch limits for these two areas and a combined Area 4C-E to be set according to the IPHC's revised area specific biomass-based methodology. The IPHC considers Area 4A, Area 4B, and the combined Area 4C-E to have separate halibut populations for purposes of management. A complete description of the proposed revisions to the Area 4 CSP, catch limit apportionments, and geographical description of each subarea was published in the **Federal Register** on January 12, 1998 (63 FR 1812). These modifications were approved March 17, 1998 (63 FR 13000). 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 independently among Areas 4C, 4D, and 4E. The annual management measures addressing the Area 4C-E catch limit in 2005 were published on February 25, 2005 (70 FR 9242).

The IPHC assesses the halibut resource in Areas 4C-E as a single stock unit. The IPHC continues to use survey-based estimates scaled to adjoining areas for the combined Area 4C-E because the information needed for an analytical assessment is not available. In the past, the IPHC scaled the combined area to Area 3A because it represented the nearest area with an analytical estimate. Since the development of an analytical estimate for Area 4A in 2003, the IPHC now estimates the Area 4C-E biomass as 142 percent of the Area 4A biomass. The combined area quota is subsequently broken out by subarea according to the CSP.

Since its implementation in 1998, the CSP has been applied to the annual combined Area 4C-E catch limit established by the IPHC. A direct allocation of 80,000 lb (36.3 mt) is made to Area 4E in the revised CSP when the Area 4C-E catch limit is greater than 1,657,600 lb (751.9 mt). The purpose is

to provide CDQ fishermen in Area 4E with additional harvesting opportunity. The entire Area 4E catch limit is assigned to the CDQ reserve and subsequently allocated to qualifying CDQ groups. The remainder of the combined catch limit is allocated as 46.43 percent to Area 4C, 46.43 percent to Area 4D, and 7.14 percent to Area 4E.

#### *Previous Revision of the CSP*

In 1999, four CDQ groups with CDQ halibut fishing authority in Area 4D requested a regulatory change to allow CDQ halibut allocated to them in Area 4D to be harvested in Area 4E. The Council subsequently recommended a CSP change authorizing halibut CDQ issued in Area 4D to be harvested in Area 4E. In January 2002, the IPHC concurred in the Council's recommendation because it considers the halibut in Areas 4C, 4D, and 4E to be a single stock unit for management purposes. The Council based its recommendation on the fact that most of the communities in CDQ groups with only Area 4D halibut CDQ had to travel extended distances offshore to harvest Area 4D halibut CDQ or the quota had to be harvested by large, non-local vessels. In 2003, the CSP and the regulations were amended by the Secretary to allow only Area 4D QS holders to harvest their CDQ in Area 4E (68 FR 9902, March 3, 2003).

#### *The Proposed Revision of the CSP*

Halibut IFQ and CDQ fishermen in Area 4C have experienced a steady drop in catch rates since 1985. The drop is consistent among gear types and amounts to a decline in catch rates of greater than 70 percent over the past ten years. The reduced catch rates have consequently reduced the total harvest of halibut by IFQ and CDQ fishermen in Area 4C. During the 2003 fishing season, Area 4C fishermen landed just 42 percent of the total Area 4C IFQ halibut allocation compared to a statewide average of 97 percent for all Areas. Only 45 percent of the Area 4C CDQ halibut allocation was landed by 4C fishermen during the 2003 fishing season compared to an average of 94 percent in other CDQ areas. The declines in catch rates and consequent poor harvests have generated considerable concern among Area 4C community residents who depend heavily on the halibut resource to support their local economies.

Recent research conducted by the IPHC indicates localized depletion in Area 4C. Localized depletion results from concentrated fishing effort in a limited area that exceeds the sustainable level for fishing in that area. Although effort and catches of halibut have

increased in Area 4C over the last 10 years, catch per unit effort (CPUE) has declined steadily since commercial fishing began. Catches increased because fishing effort increased, offsetting the decline in CPUE. IPHC research shows that a comparison of CPUE with effort indicates a continuous pattern of increasing effort and decreasing CPUE. The IPHC suggests that increased effort in Area 4C is unlikely to produce increased catch.

The commercial catch taken in Area 4C is highly concentrated around the two Pribilof Islands of St. Paul and St. George. For commercial catches between 1993 and 2004, with known latitude/longitude locations, approximately 73 percent of the Area 4C catch was taken within 18 nautical miles of St. Paul Island and 25 percent within 18 nautical miles of St. George Island. More importantly, much of the directed effort for the halibut fishery during the 1993–2004 time period occurred in relatively small areas south of the Pribilof Islands and were concentrated in the southwest corner of Area 4C. The IPHC notes that 46.43 percent of the entire Area 4C-E catch limit is allotted for only 5.1 percent of the total Area 4C-E fishing grounds located in Area 4C. The available fishing grounds in Area 4C consists of only 561 square nautical miles out of a total of 11,076 square nautical miles comprising Area 4C. The limited fishing grounds in Area 4C results in a concentrated fishing effort in a relatively small fishing area. The IPHC also notes that incidental catch of halibut in other fisheries has reduced recruitment and immigration into Area 4C, further exacerbating the localized depletion. The diminished harvests, limited fishing grounds, and reduced recruitment and immigration suggests a decrease in halibut abundance over time in Area 4C which results in a decreased CPUE. The IPHC recommends a reduction in effort in Area 4C to observe how the halibut biomass responds and further determine the productivity of stock.

Current regulations at 50 CFR 679.42(a)(1) prohibit harvesting halibut IFQ or CDQ in a regulatory area other than the area for which the quota is allocated. Halibut IFQ and CDQ allocated in a particular area may be harvested only in that same area, in accordance with biomass-based quotas, except that halibut CDQ allocated for Area 4D may be harvested in Area 4E. One solution for reducing fishing effort in Area 4C while continuing to allow Area 4C fishermen to fully harvest their IFQ or CDQ is to redistribute fishing effort from Area 4C to Area 4D.

The CSP assigns 46.43 percent of the combined 4C-E catch to Area 4D, which is an amount equal to that allocated to Area 4C. However, for the same percentage, Area 4D has approximately ten times more fishing grounds at 5,605 square nautical miles than Area 4C at 561 square nautical miles. Fishermen in Area 4D have harvested an average of 92 percent of the IFQ allocation for Area 4D over the past ten years, achieving 100 percent during 2003 and 2004. Fishermen also harvested an average of 89 percent of the Area 4D CDQ allocation over the past ten years, achieving 80 and 84 percent during 2003 and 2004, respectively. On average, Area 4D conducted only 32 percent of the IFQ landings that Area 4C conducted over the past ten years inferring that less effort was required to achieve the full harvest of the 4D IFQ halibut allocation. Likewise, CDQ landings of halibut from Area 4D were only 19 percent of those from Area 4C over the past ten years inferring that less effort was required to achieve the full harvest of the 4D CDQ harvest. Therefore, less effort was required to harvest the Area 4D IFQ and CDQ halibut allocation in Area 4D, indicating a higher CPUE in Area 4D.

Allowing Area 4C IFQ and CDQ holders to harvest their IFQ and CDQ in Area 4D would provide several benefits to Area 4C IFQ and CDQ holders including: (1) reducing fishing effort within Area 4C, thereby alleviating localized depletion; (2) increasing human health and safety in the small boat fleet that harvests halibut near St. Paul and St. George Islands by reducing competition with larger vessels that may harvest their IFQ in either Area 4C or 4D; and (3) increasing the geographic area available for harvesting Area 4C quota, thereby spreading out the fishing fleet. Furthermore, despite a potential increase in fishing effort in Area 4D resulting from the proposed action, the IPHC notes that the ratio of halibut harvest to available fishing grounds would remain much lower in Area 4D than in Area 4C. Therefore, the likelihood that the localized depletion problem in Area 4C would simply be transposed to Area 4D would remain low.

In December 2004, the Council recommended a regulatory amendment that would allow an Area 4C QS holder to harvest his or her IFQ and CDQ in Area 4D. The Council made its recommendation based on the diminishing harvests and the resulting decline of economic conditions in the Area 4C communities. In January 2005, the IPHC approved a regulatory change to the halibut annual management

measures that would allow the Council's recommendation to take effect in 2005 if it is approved by the Secretary.

This action proposes to change the Area 4 CSP and the IFQ and CDQ regulations to incorporate the Council's recommendation that Area 4C halibut IFQ or CDQ may be harvested either in Area 4C or in Area 4D. No changes are proposed, however, to the existing Area 4 CSP that apportions the combined Area 4C-E annual catch limit among Areas 4C, 4D, and 4E. The authority to allocate the annual Area 4 catch limit according to the Area 4 CSP is specified at 50 CFR 300.65(b) and will continue to be implemented by the IPHC in its annual management measures pursuant to 50 CFR 300.62. The following paragraph would be added to the Area 4 CSP:

An IFQ or CDQ holder with an allocation of Area 4C halibut IFQ and CDQ may harvest all or part of that allocation in Area 4D. This provision is based on the Council's recommendation in December 2004, to allow IFQ and CDQ fishermen in Area 4C additional halibut IFQ and CDQ harvesting opportunities. The framework that allocates the IPHC catch limits among Areas 4C, 4D, and 4E remains unchanged.

This change in the Area 4 CSP will complement regulatory changes at § 679.7(f)(4) and § 679.42(a)(1). If approved and implemented as proposed, fishermen who possess Area 4C IFQ or CDQ would receive a statement in accordance with § 679.40(c)(3) that would specify the maximum amount of Area 4C halibut that may be harvested in Area 4C or 4D. In the first year of implementation, however, this statement will be issued before the effective date of the proposed regulatory change and, therefore, would not include a reference to Area 4D. Therefore, proposed paragraph 679.42(a)(1)(i) would authorize harvest of Area 4C IFQ and CDQ in Area 4D during the 2005 fishing year. In subsequent years, however, the proposed change to the CSP, the proposed minor regulatory changes, and the permit statement would allow Area 4C QS holders to harvest their IFQ and CDQ in Area 4D.

This proposed rule would make a minor change to § 679.7(f)(4) which prohibits retaining IFQ halibut on a vessel in excess of the total amount of unharvested IFQ applicable to the IFQ regulatory area in which the vessel is deploying gear and that is simultaneously held by all IFQ holders on board. The total amount of IFQ or CDQ available to individual Area 4C IFQ or CDQ holders will not change as a result of this action. The proposed change would substitute the word

“area(s)” for “area” and add “CDQ” to correspond with IFQ, clarifying that the total amount of unharvested IFQ or CDQ assigned to Area 4C may be harvested in either Area 4C or 4D. Therefore, an Area 4C IFQ or CDQ holder may harvest only the total amount of IFQ or CDQ halibut assigned to Area 4C in either Area 4C or 4D, but may not harvest the total amount assigned in both Areas 4C and 4D.

NMFS proposes to monitor each IFQ or CDQ holder's halibut catch in Areas 4C and 4D. If the catch in Area 4D exceeds the group's initial allocation for Area 4D, then NMFS will subtract this additional catch from the group's Area 4C allocation. Halibut IFQ or CDQ catch from Area 4C also will be subtracted from each IFQ or CDQ holder's Area 4C allocation. Any amount of halibut IFQ or CDQ catch in Area 4D that exceeds the 4D allocation and is subtracted from the Area 4C allocation will no longer be available for harvest in Area 4C. This procedure would allow each IFQ or CDQ holder to decide where to catch their Area 4C halibut IFQ or CDQ allocation without requiring transfers. Each IFQ or CDQ holder would have to monitor the harvest of Area 4C and 4D halibut IFQ or CDQ to ensure that: (1) its total catch in Area 4C does not exceed its Area 4C allocation, minus any portion of its Area 4C quota harvested in Area 4D, (2) its total catch in Area 4D does not exceed the sum of its Area 4C and Area 4D allocations, minus any portion of its Area 4C allocation harvested in Area 4C, and (3) its total catch in Areas 4C and 4D does not exceed the sum of its Area 4C and Area 4D allocations.

Although CDQ assigned to Area 4D QS currently may be harvested in Area 4E, this proposed action would not allow CDQ assigned to Area 4C to be harvested in Area 4E. The current prohibition against harvesting halibut IFQ and CDQ in an area different from the area to which it is assigned will remain effective, except that halibut CDQ assigned to Area 4D may be harvested in Area 4E. If the Secretary approves this action, a second exception to the prohibition would allow Area 4C IFQ or CDQ holders to fish their IFQ and CDQ in Area 4C or 4D, but this action would not authorize Area 4C CDQ holders to fish their CDQ in Area 4E.

#### Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council recommended this action to the Secretary for adoption pursuant to its authority under the Halibut Act. An

RIR/IRFA for the proposed revisions to the Area 4 CSP and regulatory amendment describes the management background, the purpose and need for action, the management alternatives, and the socioeconomic impacts of the alternatives (see **ADDRESSES**).

The IRFA prepared for this action assesses potential impacts on small entities for purposes of the Regulatory Flexibility Act (RFA). The Council reviewed two alternatives, a “no action” alternative and a preferred alternative to allow Area 4C QS holders to harvest their IFQ and CDQ in Area 4D subject to review after the third year of implementation. The no action alternative limits the opportunities of Area 4C QS holders to harvest their halibut allocations. The preferred alternative would allow an exception for Area 4C to the rule that requires all QS to be harvested in the area to which it is assigned.

The objective of the proposed action is to increase opportunities of Area 4C QS holders to harvest their halibut allocations. The legal basis for the proposed action is explained in the preamble of this proposed rule. In summary, NMFS manages the North Pacific halibut fisheries of the Bering Sea in Convention waters under the authority of the Northern Pacific Halibut Management Act. Regulations at 50 CFR 300.60 through 300.65 govern the Pacific halibut fishery in the waters of the U.S. The annual Pacific halibut management measures for 2005 were published in the **Federal Register** on February 25, 2005 (70 FR 9242).

The proposed action would partially relieve the restriction limiting harvests of Pacific halibut IFQ and CDQ to the IPHC regulatory area to which it is assigned. The entities regulated by this action are those entities that are authorized to harvest halibut in Areas 4C and 4D. These entities include six CDQ groups, and the owners and operators of longline catcher vessels and catcher/processor vessels in these areas who hold halibut IFQ or CDQ.

The alternatives addressed in the IRFA may directly affect all six CDQ groups, which represent 65 western Alaska communities with a total 2000 population of over 27,000, which receive halibut CDQ in halibut Areas 4C and 63 persons who held more than 4 million QS units in Area 4C in 2004. There are 23 Category D vessels fishing halibut IFQs in Area 4C. Some fishermen have expressed interest in purchasing larger vessels to fish their category D QS. Other fishermen may hire Category C or B vessels to fish their Category D QS because of bad weather and safety reason. The halibut fleet in

Area 4C is larger and more diverse than in Area 4D, which is comprised of mostly larger vessels.

Two CDQ groups hold Area 4C QS/CDQ. People in these communities benefit from the halibut CDQ and IFQ fisheries directly and indirectly. Some residents earn income from participating in the CDQ fishery, either by harvesting or processing halibut, which provides a direct effect on both the economic health of the individuals and their communities. Some residents earn income from participating in the CDQ fishery, which economically benefits the individuals and their communities through jobs harvesting and processing halibut.

As of November 2004, there are 63 persons holding QS in Area 4C. In 2002, 24 unique vessels made IFQ halibut landings in Area 4C. Reported ex-vessel price helps describe the small entities regulated by this action. NMFS publishes annually "standard prices" for halibut and sablefish that estimate the ex-vessel prices received by IFQ fishermen for their harvests. NMFS uses these prices for calculating permit holder cost recovery fee liabilities. In 2003, these price data suggest that the price of halibut might have been about \$2.92 per pound for headed and gutted halibut (December 22, 2003, 68 FR 71036). This harvest limit and price imply maximum vessel revenues of less than \$1,000,000 for halibut. Thus, no vessel subject to these restrictions could have been used to land the maximum gross revenue threshold for a "small" catcher vessel established under RFA rules, which is more than \$3,000,000 worth of halibut in 2003. Therefore all halibut vessels may be assumed to be small entities, for purposes of the IRFA. These estimates are likely to overestimate the numbers of small entities because they do not take account of income that might have been

earned by the vessel in other fisheries or activities, and they do not take account of vessel affiliations. NMFS has defined all halibut vessels as small businesses for the purpose of regulatory flexibility analysis.

Impacts on regulated small entities resulting from the proposed action appear to be positive. Qualitatively, the preferred alternative is likely to increase the amount of halibut harvested from the recent low levels up to the total catch limit specified for Area 4C. Any increase in harvest would have a positive economic impact on participating small entities. However, it is not possible to quantitatively estimate magnitudes of these impacts at this time.

This proposed action does not impose new recordkeeping or reporting requirements on the regulated small entities. Additionally, this proposed action does not duplicate, overlap, or conflict with any other Federal rules. The alternatives described for this proposed action are not expected to result in adverse impacts on directly regulated small entities.

#### List of Subjects in 50 CFR Part 679

Alaska, Determinations and appeals, Fisheries, Recordkeeping and reporting requirements.

Dated: April 29, 2005.

#### John Oliver

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.7, paragraph (f)(4) is revised to read as follows:

#### § 679.7 Prohibitions.

\* \* \* \* \*

(f) \* \* \*

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ card holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the **Federal Register** pursuant to 50 CFR 300.62 and § 679.5.

\* \* \* \* \*

3. In § 679.42, paragraph (a)(1) is revised to read as follows:

#### § 679.42 Limitations on use of QS and IFQ.

(a) \* \* \*

(1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area, except:

(i) Notwithstanding § 679.4(d)(1), §§ 679.7(f)(4) and (f)(11), §§ 679.40(b)(1), (c)(3), and (e), from [EFFECTIVE DATE OF FINAL RULE] to November 15, 2005, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(ii) For the year 2006 and subsequent annual IFQ fishing seasons, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

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