



**UNITED STATES DEPARTMENT OF COMMERCE**

**National Oceanic Atmospheric Administration**

*National Marine Fisheries Service*

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April X, 2023

MEMORANDUM FOR: The Record

FROM: Jonathan M. Kurland  
Regional Administrator

SUBJECT: [DRAFT] Categorical Exclusion (CE) for the Proposed Rule to Modify the Halibut Individual Fishing Quota Vessel Harvest Limitations for the 2023 through 2027 fishing years in IFQ Regulatory Areas 4A, 4B, 4C and 4D (RIN 0648-BM18)

The National Oceanic and Atmospheric Administration's (NOAA) Policy and Procedures for Compliance with the National Environmental Policy Act (NEPA) and Related Authorities (NOAA Administrative Order 216-6A and Companion Manual for NAO 216-6A) establishes NOAA's policy and procedures for compliance with the NEPA, the Council on Environmental Quality regulations, Executive Order (EO) 12114 (Environment Effects Abroad of Major Federal Actions), EO 11988 (Floodplain Management), and EO 11990 (Protection of Wetlands). It was used by NOAA to examine the proposed action to remove halibut vessel harvest limits in portions of the Bering Sea and Aleutian Islands for its potential to impact the quality of the human environment as discussed below.

**Description of the Action:**

Commercial halibut fishing off the coast of Alaska is managed under an Individual Fishing Quota (IFQ) Program implemented by Federal regulations under the authority of the Northern Pacific Halibut Act of 1982. One feature of the IFQ Program is a limit on the maximum amount of halibut that may be harvested by a vessel (herein referred to as vessel caps). The original intention of vessel IFQ caps was to limit IFQ consolidation on vessels which could reduce the number of vessels needed to prosecute the fishery (or the number of trips taken in a season) and subsequently reduce the number (or duration) of available crew jobs as well as opportunities for new entrants. Maintaining vessel use caps may help preserve opportunities for smaller operations that would not otherwise participate in the fishery if exemptions from vessel use caps are granted and additional consolidation occurred. However, due to potential changes in the fishery after three years of exemptions from vessel caps, circumstances that have arisen due to the global pandemic and potential changes in processing capacity due to declining crab stocks; vessel use caps may not ensure additional opportunity for vessels and crew, particularly in remote Area 4 halibut IFQ fisheries. If the supply of vessels available to prosecute Area 4 halibut IFQ fisheries is limited such that the entire allocation cannot be spread out amongst available vessels while meeting vessel cap limitations, it is possible that vessel use caps may increase the likelihood that annual halibut allocation is left unharvested.

This action would temporarily remove IFQ halibut vessel caps for the remainder of the 2023 fishing year through the 2027 fishing year in IFQ regulatory areas 4A (Eastern Aleutian Islands),

4B (Central and Western Aleutian Islands), 4C (Central Bering Sea), and 4D (Eastern Bering Sea). This proposed rule would not modify other elements of the IFQ Program, nor would it increase or otherwise modify the annual halibut catch limits or any other conservation measures. The Council recommended this action to provide continued temporary flexibility to IFQ participants in IPHC Area 4 while the Council analyzes longer term adjustments to vessel use through the Council and public review process.

**CE Category:**

Category A1. Trust Resource Management Actions. An action that is a technical correction or a change to a fishery management action or regulation, which does not result in a substantial change in any of the following: fishing location, timing, effort, authorized gear types, or harvest levels.

**Effects of the Action(s):**

This is a time limited action that would not change halibut catch limits or any other conservation measures currently in place for the fishery. This action would implement the intent of the North Pacific Fishery Management Council (Council). On February 10, 2023, at its regularly scheduled meeting, the Council reviewed an analysis of proposed regulatory changes to remove vessel use caps applicable to the halibut IFQ fisheries in Areas 4A, 4B, 4C, and 4D in the 2023 through 2027 fishing years (Sections 1 and 2.2.3 of the Analysis). The Council requested this proposed rule to provide continued temporary flexibility to IFQ participants in IPHC Area 4 while the Council analyzes longer term adjustments to vessel use through the Council and public review process. The Council's selection of 2027 as the sunset date for this exemption does not signal any shift from the Council's intent to move the longer-term action through the Council process as efficiently as possible, but rather to provide enough time to develop and implement the longer-term solution and to minimize the likelihood that there is a gap between this temporary exemption and a subsequent action. This action is expected to facilitate the harvest of halibut allocated under the IFQ program in Area 4 and provide additional harvest flexibility and stability to vessels operating in Area 4. This additional flexibility may decrease the likelihood that annual halibut allocation is left unharvested. This rule is consistent with the objective of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea to develop the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels that would permit the optimum yield from that fishery and to maintain the stocks at those levels. The Council recommended this proposed action and NMFS considered the best available information for the management measures implemented by this proposed rule.

This regulatory amendment is a technical change to a fishery management regulation that would not result in a substantial change to fishing location, timing, effort, authorized gear types, or harvest levels. This approach would not adversely impact conservation and management in the halibut commercial fishery.

Therefore, this action is not expected to have a significant impact. NMFS intends this rule to be effective by June 2023.

**Extraordinary Circumstances:**

This action can be reviewed independently from other actions. Additionally, I considered the context in which this action could have extraordinary circumstances listed in NOAA's Companion Manual for NAO 216-6A Section 4 and expect no extraordinary circumstances.

Based on the description of this action and its anticipated effects set out above, I have determined that removing the vessel harvest limits for halibut IFQ in Areas 4A, 4B, 4C, and 4D has no potential for significant adverse effects on human health or safety. Because this action would not be changing fishing locations or increasing effort, it would not impact areas with unique environmental characteristics, species or habitats protected by the Endangered Species Act, the Marine Mammal Protection Act, the Magnuson-Stevens Act, the Migratory Bird Treaty Act, or properties listed or eligible for listing on the National Register of Historic Places. Furthermore, this action has no potential to generate, use, store, transport, or dispose of hazardous or toxic substances. There is no potential to cause disproportionately high and adverse effects on the health or the environment of minority or low-income communities, compared to the impacts on other communities. This action would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species. The action does not pose a potential violation of Federal, state, or local law or requirements imposed for protection of the environment; involve environmental effects that are highly controversial, uncertain, unique, or unknown; establish a precedent or decision in principle for future actions; or result in cumulative significant impacts.

**Categorical Exclusion Determination:**

Based upon the above analysis, NOAA has determined that the proposed action falls within the category of actions subject to CE identified in Appendix E of NOAA's Companion Manual for NAO 216-6A, A1 - Trust Resource Management Actions--a category of actions that does not individually or cumulatively have a significant effect on the quality of the human environment; is not connected to a larger action (40 CFR1501.9(e)(1)); and does not involve extraordinary circumstances precluding use of the CE. As such, NOAA has determined that it is categorically excluded from further NEPA review.

The original signed memorandum would be maintained in the record for the proposed action.

AMiller 4/5/2023; 4/12/2023  
BMansfield 4/10/2023; 4/12/2023

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