

SECRETARIAL REVIEW DRAFT

Regulatory Impact Review for a proposed regulatory amendment to remove vessel cap limitations for IFQ halibut harvested in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the 2023-2027 IFQ fishing seasons

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Abstract: This Regulatory Impact Review (RIR) evaluates the costs and benefits of a regulatory action to modify the halibut Individual Fishing Quota (IFQ) Program to remove vessel cap limitations for IFQ halibut harvested in International Pacific Halibut Commission regulatory Areas 4A, 4B, 4C, and 4D for the 2023-2027 IFQ fishing seasons. This action would not modify any other aspects of the IFQ Program. It is within the authority of the Secretary of Commerce to establish additional regulations governing the taking of halibut under the provisions of the Halibut Act

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List of Acronyms and Abbreviations

Acronym or Abbreviation	Meaning	Acronym or Abbreviation	Meaning
AAC	Alaska Administrative Code	Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
ABC	acceptable biological catch	MMPA	Marine Mammal Protection Act
ADF&G	Alaska Department of Fish and Game	MSST	minimum stock size threshold
AFA	American Fisheries Act	t	tonne, or metric ton
AFSC	Alaska Fisheries Science Center	NAICS	North American Industry Classification System
AKFIN	Alaska Fisheries Information Network	NAO	NOAA Administrative Order
BSAI	Bering Sea and Aleutian Islands	NEPA	National Environmental Policy Act
CAS	Catch Accounting System	NMFS	National Marine Fishery Service
CEQ	Council on Environmental Quality	NOAA	National Oceanic and Atmospheric Administration
CFR	Code of Federal Regulations	NPFMC	North Pacific Fishery Management Council
COAR	Commercial Operators Annual Report	NPPSD	North Pacific Pelagic Seabird Database
Council	North Pacific Fishery Management Council	Observer Program	North Pacific Groundfish and Halibut Observer Program
CP	catcher/processor	OMB	Office of Management and Budget
CQE	community quota entity	PBR	potential biological removal
CV	catcher vessel	PSC	prohibited species catch
DPS	distinct population segment	PPA	Preliminary preferred alternative
E.O.	Executive Order	PRA	Paperwork Reduction Act
EA	Environmental Assessment	PSEIS	Programmatic Supplemental Environmental Impact Statement
EEZ	Exclusive Economic Zone	QS	quota share
EFH	essential fish habitat	RFA	Regulatory Flexibility Act
EIS	Environmental Impact Statement	RFFA	reasonably foreseeable future action
ESA	Endangered Species Act	RIR	Regulatory Impact Review
ESU	endangered species unit	RPA	reasonable and prudent alternative
FMA	Fisheries Monitoring and Analysis	SAFE	Stock Assessment and Fishery Evaluation
FMP	fishery management plan	SAR	stock assessment report
FONSI	Finding of No Significant Impact	SBA	Small Business Act
FR	<i>Federal Register</i>	Secretary	Secretary of Commerce
FRFA	Final Regulatory Flexibility Analysis	SPLASH	Structure of Populations, Levels of Abundance, and Status of Humpbacks
ft	foot or feet	SRKW	Southern Resident killer whales
GOA	Gulf of Alaska	TAC	total allowable catch
IFQ	Individual Fishing Quota	U.S.	United States
IPHC	International Pacific Halibut Commission	USCG	United States Coast Guard
IRFA	Initial Regulatory Flexibility Analysis	USFWS	United States Fish and Wildlife Service
IPA	Incentive Plan Agreement	VMS	vessel monitoring system
JAM	jeopardy or adverse modification		
lb(s)	pound(s)		
LEI	long-term effect index		
LLP	license limitation program		
LOA	length overall		
m	meter or meters		

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Executive Summary

This Regulatory Impact Review analyzes management measures under consideration by the Council to modify the halibut Individual Fishing Quota (IFQ) Program to remove vessel cap limitations for IFQ halibut harvested in International Pacific Halibut Commission regulatory Areas 4A, 4B, 4C, and 4D for the 2023-2027 IFQ fishing seasons. This action would not modify any other aspects of the IFQ Program.

Purpose and Need

The Council adopted the following purpose and need statement to originate this action in October 2022.

Action is needed to provide continued flexibility to IFQ participants in IPHC Area 4 while the Council analyzes options for a long-term adjustment to the vessel use caps initiated in June 2022. In recent years, utilization of halibut quota in Area 4 has declined and conditions including limited local markets, increases in operating costs, and reductions from historical TACs have all contributed to fewer vessels participating in the Area 4 fisheries.

The preferred alternative would take effect through the 2027 fishing season unless the Council decides to take subsequent action prior to 2027 to permanently modify vessel cap limits in area 4. The Council selected 2027 as a sunset date, to indicate that this is intended to be an interim measure, not a long-term solution. This action would provide consistency for stakeholders over the next five years, while the Council develops an analytical package that includes a more balanced range of alternatives to provide a long-term solution that is more reflective of stakeholder concerns regarding potential impacts to the IFQ program. The Council made a motion to originate the longer term action in June 2022¹ but it has not yet been scheduled for review.

Alternatives

Alternative 1- No Action: Under the no action alternative, the vessel use caps as defined under 50 CFR § 679.42(h) (1) will remain in place.

Alternative 2 (Preferred Alternative): Remove vessel cap limitations specified at 50 CFR Section 679.42(h)(1) for IFQ halibut harvested in Areas 4A, 4B, 4C and 4D through the 2027 fishing season. If the Council decides to take subsequent action to modify vessel cap limits in area 4, such action will supersede if implemented before 2027.

The applicable vessel use caps are those specified in 50 CFR § 679.42(h)(1): “No vessel may be used, during any fishing year, to harvest more IFQ halibut than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E” and the vessel cap for CQEs as specified in 50 CFR § 679.42(h)(1)(ii) “No vessel may be used, during any fishing year, to harvest more than 50,000 lb. (22.7 mt) of IFQ halibut derived from QS held by a CQE.”

The proposed action would not modify other aspects of the IFQ program; nor would the action apply to the sablefish IFQ fishery. The proposed action does not include halibut harvesting in Area 4E. Halibut in Area 4E is entirely allocated to harvest under the Western Alaska Community Development Quota (CDQ) Program and therefore IFQ Program vessel use caps do not apply. This action does not modify any other aspects of the IFQ Program. Halibut QS use cap limitations specified at § 679.41(f) and other restrictions on use and transfer of QS remain in place.

¹ <https://meetings.npfmc.org/CommentReview/DownloadFile?p=2b8ebb4c-cea6-48a0-aed0-0c8ec2ff1354.pdf&fileName=D2%20Council%20Motion%20-%20Area%204%20vessel%20cap.pdf>

Economic and Social Impacts

The intention of vessel IFQ caps is 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.

The likelihood that the supply of vessels is constrained enough to strand unharvested quota each year over the next five years (through 2027) depends on many factors. 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.

The number of active halibut IFQ processors in Area 4 has declined over recent years. Vessels harvesting halibut IFQ in Area 4B and 4CD have traveled farther from fishing grounds to processing locations in recent years. Whether these trends are due to limited vessel and processor capacity or the increased flexibility from the temporary removal of regulatory restrictions in recent years is unknown. If these trends continue and vessels need to travel further to reach active processing locations, smaller vessels may be less likely to operate, reducing the overall supply of vessels and changing the demographics of participation in Area 4.

While it is difficult to determine if vessel participation levels in 2023-2027 would be diminished enough to strand unharvested quota, or whether other factors like processing capacity would increase the likelihood of stranded quota, waiving vessel use caps would make it easier for vessels that choose to participate in the fishery to operate more efficiently and profitably. If participants are able to consolidate IFQ onto fewer vessels this increases the likelihood of achieving economies of scale and harvesting IFQ more profitably. This may be particularly helpful for these areas in the BSAI where the costs and risks associated with reaching the fishing grounds and prosecuting the fishery are often higher and the availability of processing facilities are limited. The remoteness of these fishing grounds and distance from available halibut markets may be a barrier to vessels operating in the region. Trends in trip duration and distance to port as well as increases in distribution of vessel length can be seen in Areas 4B and 4CD since 2019. Whether these trends are an effect of the reduced regulatory restrictions in recent years or are caused by other external factors is unknown.

Possible negative impacts of waiving IFQ vessel use caps in Area 4 include a potential reduction in crew jobs and opportunities for new entrants in Area 4. While halibut QS holders would still earn revenue from IFQ they consolidate and lease, under the proposed flexibility, crew members who do not hold QS may not have as many opportunities available. Given recent trends toward longer trips on larger vessels it is possible that smaller vessels will be unable to compete with efficiencies of larger vessels unconstrained by vessel caps and therefore less likely to participate.

If fewer vessels participate in the fishery, it is possible that landings would also consolidate to fewer processors and communities based on geographic location of vessels and historic relationships or landing patterns. In 2019-2022, the processing plant in St. Paul did not open for the halibut season. As a result, deliveries shifted to Dutch Harbor and other processing hubs. One processor is dependent on halibut for over 90% of their revenue (Table 19) and if landings shift away from this processor that could have a detrimental affect on this community. However, if the proposed action results in a higher percentage of the TAC getting harvested, the overall revenue generated from these landings would increase.

Removing vessel caps through 2027 may provide increased stability for planning purposes for stakeholders and participants, especially compared to the annual actions taken by the Council over the past three years. A multi-year action also reduces the analytical time and meeting time consumed by individual, annual actions, allowing the Council to provide relief to vessel cap constraints in the short-term, while working on a more substantial, longer term solution. However, removing vessel caps through 2027 reduces the Council's ability to adapt to changes in the dynamics of the fishery on an annual basis as has occurred for the past three years.

Environmental Impacts

This regulatory amendment is a technical change to a fishery management regulation that does not result in a substantial change to fishing location, timing, effort, authorized gear types, or harvest levels. This approach does not adversely impact conservation and management in the halibut commercial fishery. Therefore, this action is not expected to have a significant impact. This determination is subject to further review and public comment. If this determination is confirmed when a rule is prepared, the proposed action will be categorically excluded from the need to prepare an Environmental Assessment.

Management Considerations

NMFS Restricted Access Management (RAM) division issues annual IFQ permits. Part of this process includes determining vessel use caps based on the TAC published by NMFS. Alternative 2 separates out distinct IFQ regulatory areas and requests the removal of vessel use caps particular to a subset of regulatory areas (Areas 4A, 4B, 4C and 4D). However, existing vessel use caps are based on percentages of the total halibut IFQ TAC and Area 2C halibut IFQ TAC. Vessel use caps are enforced at the point of landing and Alternative 2 would be implemented by NMFS Enforcement not counting Area 4 landings by vessels making qualifying landings above the established cap. This is how the vessel use cap waiver was implemented in 2020-2022. Only landings of Area 4 halibut IFQ would be excluded from the vessel use cap so this exclusion would not apply to a vessel that only made landings from Areas 2 or 3. However, if a vessel fished in Area 4, then moved into Areas 2 or 3, the Area 4 landings would not be counted when determining whether a vessel exceeded the cumulative total cap in those other areas.

1 Introduction

This Regulatory Impact Review (RIR) evaluates the costs and benefits of a regulatory action to modify the halibut Individual Fishing Quota (IFQ) Program to remove vessel cap limitations for IFQ halibut harvested in International Pacific Halibut Commission (IPHC) regulatory Areas 4A, 4B, 4C, and 4D for the 2023-2027 IFQ fishing seasons. This action would not modify any other aspects of the IFQ Program. It is within the authority of the Secretary of Commerce to establish additional regulations governing the taking of halibut under the provisions of the Halibut Act.

The Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, provides the North Pacific Fishery Management Council with authority to develop regulations, that are in addition to, and not in conflict with, approved IPHC regulations. The IPHC has not adopted regulations that limit or otherwise restrict harvest levels by vessel.

The Halibut and Sablefish IFQ Program is implemented under the authority of the Halibut Act for the management of Halibut fisheries and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) for the management of sablefish fisheries. The proposed action alternative is limited in scope to only the management of halibut in the Bering Sea, thus under the authority of the Halibut Act, rather than the Magnuson-Stevens Act.

This document is a Regulatory Impact Review (RIR). An RIR provides assessments of the benefits and costs of the alternatives, the distribution of impacts, and identification of the small entities that may be affected by the alternatives. This RIR addresses the statutory requirements of the Presidential Executive Order 12866, and some of the requirements of the Regulatory Flexibility Act. An RIR is a standard document produced by the North Pacific Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) Alaska Region to provide the analytical background for decision-making.

1.1 Purpose and Need

The Council adopted the following purpose and need statement to originate this action in October 2022.

Action is needed to provide continued flexibility to IFQ participants in IPHC Area 4 while the Council analyzes options for a long-term adjustment to the vessel use caps initiated in June 2022. In recent years, utilization of halibut quota in Area 4 has declined and conditions including limited local markets, increases in operating costs, and reductions from historical TACs have all contributed to fewer vessels participating in the Area 4 fisheries.

The action alternative would take effect through the 2027 fishing season unless the Council decides to take subsequent action prior to 2027 to permanently modify vessel cap limits in area 4. The Council selected 2027 as a sunset date, to indicate that this is intended to be an interim measure, not a long-term solution. This action would provide consistency for stakeholders over the next five years, while the Council develops an analytical package that includes a more balanced range of alternatives to provide a long term solution that is more reflective of stakeholder concerns regarding potential impacts to the IFQ program. The Council made a motion to originate the longer term action in June 2022² but it has not yet been scheduled for review.

² <https://meetings.npfmc.org/CommentReview/DownloadFile?p=2b8ebb4c-cea6-48a0-aed0-0c8ec2ff1354.pdf&fileName=D2%20Council%20Motion%20-%20Area%204%20vessel%20cap.pdf>

1.2 History of this Action at the Council

History of recent actions regarding IFQ vessel caps

The Council has received numerous requests from stakeholders for exemptions from vessel use caps in the IFQ fishery since 2020 (Table 1). The following sections provide a more detailed history of these requests and subsequent Council actions, ending in the October 2022 motion, analyzed in this document.

Table 1 History of recent Council actions related to IFQ vessel caps

Council meeting	Rationale/Purpose and Need	Council Action	Included IPHC Areas	Affected Fishing Years
May 2020 special meeting	Due to health concerns and logistical challenges associated with the global pandemic, vessel capacity was uncertain in IPHC regulatory Areas 4B, 4C and 4D and this action would reduce the risk that a portion of the harvest was foregone due to limited vessel capacity	Request emergency regulations to remove vessel use caps for IFQ halibut	4B, 4C, 4D	2020
February 2021	Unforeseen and adverse impacts on harvesters, processors, and communities as a result of travel restrictions, health mandates, and operational challenges directly attributable to the global pandemic.	Request expedited regulations to remove vessel use cap regulations for IFQ halibut	4A, 4B, 4C, 4D	2021
February 2022	Impacts on harvesters, processors, and communities as a result of travel restrictions, health mandates, and operational challenges directly attributable to the global pandemic.	Request expedited regulations to remove vessel use cap regulations for IFQ halibut	4A, 4B, 4C, 4D	2022
June 2022	In recent years, utilization of halibut quota in Area 4 has declined and conditions including lack of processing capacity, COVID-19 concerns in communities with limited medical infrastructure, increased killer whale predation, increases in operating costs, and reductions from historical TACs have all contributed to fewer vessels participating in the Area 4 fisheries. The council is considering adjusting the vessel cap for Area 4 halibut to recognize these conditions and increase utilization of quota in the region.	Adopted purpose and need statement and alternatives for analysis to consider adjusting the vessel cap for Area 4 halibut. Requested NMFS evaluate options for extending the temporary rule to waive vessel use caps in Area 4 while the Council considers permanent changes to this provision.	4A, 4B, 4C, 4D	Long-term solution Not yet scheduled
October 2022	To provide continued flexibility to IFQ participants in IPHC Area 4 while the Council analyzes options for a long-term adjustment to the vessel use caps initiated in June 2022. In recent years, utilization of halibut quota in Area 4 has declined and conditions including limited local markets, increases in operating costs, and reductions from historical TACs have all contributed to fewer vessels participating in the Area 4 fisheries.	Adopted purpose and need statement and alternatives for analysis to consider removing vessel cap limitations for IFQ halibut harvested in Areas 4A, 4B, 4C and 4D through the 2027 fishing season	4A, 4B, 4C, 4D	Interim solution 2023-2027 (current proposed action alternative)

Special Council meeting May 2020

The Council held a special meeting in May 2020 to review emergency rule requests that were submitted for Council consideration. The Council received two separate letters requesting exemptions from vessel limitations (vessel caps) in the IFQ fishery for the remainder of the 2020 season. The first letter was

received April 24, 2020 from the Central Bering Sea Fishermen’s Association (CBSFA) requesting a temporary exemption from halibut vessel caps in IPHC regulatory Areas 4B, 4C, 4D and 4E. A second letter was received April 27, 2020 from the Fishing Vessel Owner’s Association (FVOA) and the Deep Sea Fishermen’s Union (DSFU) requesting to waive vessel caps for halibut in IPHC Regulatory Areas 3 and 4 and Sablefish in the Bering Sea Area and Gulf of Alaska Sub-areas of the Western Gulf, Central Gulf and West Yakutat.

The Council requested the Secretary promulgate emergency regulations under the authority of the Halibut Act and the Administrative Procedure Act, (5 U.S.C. Sec. 553) to remove vessel use cap regulations under 50 CFR Section 679.42(h)(1) for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ fishing season. This action did not modify other aspects of the IFQ Program.

The Council determined that due to health concerns and logistical challenges associated with the global pandemic, vessel capacity was uncertain in IPHC regulatory Areas 4B, 4C and 4D and this action would reduce the risk that a portion of the harvest was foregone due to limited vessel capacity. The request for emergency regulations did not extend to vessel caps in other IPHC Areas or the sablefish fishery as requested in one of the stakeholder letters received by the Council. The Council determined that current circumstances do not meet emergency criteria in sablefish or halibut outside of Areas 4B, 4C and 4D because fewer vessels have operated at or near vessel caps in these areas in previous years. Additionally, substantial public comment against waiving vessel caps in sablefish and other halibut Areas, suggested that any action in these areas would benefit from the advance notice, public comment and deliberative consideration of impacts to participants, as afforded under the normal rule making process. The Council was clear that it strongly supports vessel caps in the IFQ Program and this emergency request represents a rare circumstance that does not indicate support to consider changing vessel caps in the future.

Effective July 8, 2020 through December 31, 2020, NOAA Fisheries issued a final rule to revise regulations for the commercial individual fishing quota (IFQ) Pacific halibut (halibut) fisheries for the 2020 IFQ fishing year. This final rule removed limits on the maximum amount of halibut IFQ that may be harvested by a vessel, commonly known as vessel use caps, in IFQ regulatory areas 4B (Aleutian Islands), 4C (Central Bering Sea), and 4D (Eastern Bering Sea) ([85 FR 41197, July 9, 2020](#)).

Council meeting February 2021 and 2022

Similar to May 2020, in February 2021 and February 2022, the Council received written and oral testimony from IFQ stakeholders of Area 4 describing the challenges presented by the vessel cap limitations given the ongoing health and public safety concerns from the pandemic. Stakeholders commented that the obstacles persisted and continued to make fully harvesting Area 4’s halibut IFQ a challenge. In particular, local ordinances to reduce viral transmissions were still in place across communities in Alaska, such as the City of Saint Paul³. Moreover, stakeholders highlighted that remote communities bordering Area 4, such as St. Paul and Adak were particularly vulnerable to health risks of the virus. In Public testimony, stakeholders highlighted that many residents have pre-existing conditions and there are limited medical facilities and personnel to provide necessary medical attention. Thus, in addition to an exemption from IFQ owner-on board requirements (a second emergency action recommended by the Council to the Secretary in February 2022), Area 4 stakeholders requested an exemption from halibut IFQ vessel use caps in Area 4A, 4B, 4C, 4D. This exemption would allow the flexibility for utilizing available vessels and crew that have the capacity and capability to harvest halibut in Area 4.

³ https://covid19.stpaulak.com/wp-content/uploads/2022/01/CSP_EmergencyOrdinance22-93_SIGNED_17Feb22.pdf

In response to this public testimony, the Council passed motions in February 2021⁴ and February 2022⁵ requesting the Secretary promulgate expedited regulations to remove vessel use cap regulations under 50 CFR Section 679.42(h)(1) for IFQ halibut harvested in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the remainder of the IFQ fishing season. NOAA Fisheries issued a final rule to remove limits on the maximum amount of halibut Individual Fishing Quota (IFQ) that may be harvested by a vessel, commonly known as vessel use caps, in IFQ regulatory areas 4A (Eastern Aleutian Islands), 4B (Central and Western Aleutian Islands), 4C (Central Bering Sea), and 4D (Eastern Bering Sea) for the 2021 IFQ fishing year effective May 26, 2021 through December 31, 2021 (86 FR 28294, May 26, 2021) and again for the 2022 IFQ fishing year Effective June 6, 2022 through December 31, 2022 ([87 FR 34215, June 6, 2022](#)). Both rules were initially published as a proposed rule in the *Federal Register* with a 15-day open public comment period.

Council meeting June 2022

Individuals and organizations petitioned the Council in April 2022 to consider a range of possible changes to the halibut vessel use caps for IPHC Area 4. The desired effect would be similar to the expedited rules but rather than simply removing caps, may adjust the limits, would be longer-lasting and would proceed through the regular Council/NMFS rulemaking process, thus likely would not be implemented for numerous IFQ seasons. In short, the petitioners noted that a combination of the COVID years and the inherent logistics and economic landscape of Area 4 have led to a reduction in harvesting and processing capacity, and that vessel use caps may cause IFQ and CDQ halibut to go unharvested. Given the consistent requests for vessel cap exemptions, the IFQ Committee discussed Area 4 vessel use caps at their May 2022 meeting.⁶ The IFQ Committee recommended that the Council initiate an analysis of modified vessel use caps for Area 4 halibut IFQ and suggested several options.

At the June 2022 meeting, the Council adopted a purpose and need statement and alternatives for analysis that would adjust the vessel cap for area 4 halibut.⁷ The status quo alternative would maintain the vessel use cap definition that no vessel may harvest IFQ in an amount greater than 0.5% of the “coastwide” catch limit (sum of Areas 2C, 3AB, and 4ABCD) over the course of a year, regardless of where fishing occurs. The action alternative would either create (Option 1) an Area 4 vessel use cap equal to 4%, 5%, or 6% of the sum of the Area 4ABCD combined catch limit, or (Option 2) an Area 4 vessel use cap equal to 150% of the vessel use cap as determined by the “coastwide” catch limit. This motion is often referred to as the “long term solution” and has not yet been scheduled for Council consideration. In this motion, the Council included a request that NMFS evaluate options for extending the temporary rule to waive vessel use caps in Area 4 while the Council considers permanent changes to this provision.

Council meeting October 2022

At the October 2022 meeting, NMFS sustainable fisheries Alaska region provided an update on options to extend the halibut vessel use caps temporary rule.⁸ This update suggested that there was sufficient time to propose interim measures to remove vessel use caps applicable to the harvest of halibut IFQ in IPHC regulatory Areas 4A, 4B, 4C, and 4D and proceed through the standard notice and comment rulemaking before vessels in Area 4 may be constrained by halibut vessel use caps in 2023. The Councils and Secretary must, whenever possible, afford the full scope of public participation in rulemaking. In

⁴ <https://meetings.npfmc.org/CommentReview/DownloadFile?p=23b13dd3-11c6-4598-bc2f-8e4f053e1b50.pdf&fileName=E%20Motion%20ER%20IFQ%20Vessel%20Use%20Caps.pdf>

⁵ <https://meetings.npfmc.org/CommentReview/DownloadFile?p=9f0eb469-807f-46f5-9a46-096cdb0cabb6.pdf&fileName=E%20Motion%20-%20IFQ%20vessel%20cap.pdf>

⁶ <https://meetings.npfmc.org/CommentReview/DownloadFile?p=9740c230-313e-4c3b-8f1d-1bc58b475009.pdf&fileName=PPT%20D2%20IFQ%20Committee%20Report.pdf>

⁷ <https://meetings.npfmc.org/CommentReview/DownloadFile?p=2b8ebb4c-cea6-48a0-aed0-0c8ec2ff1354.pdf&fileName=D2%20Council%20Motion%20-%20Area%204%20vessel%20cap.pdf>

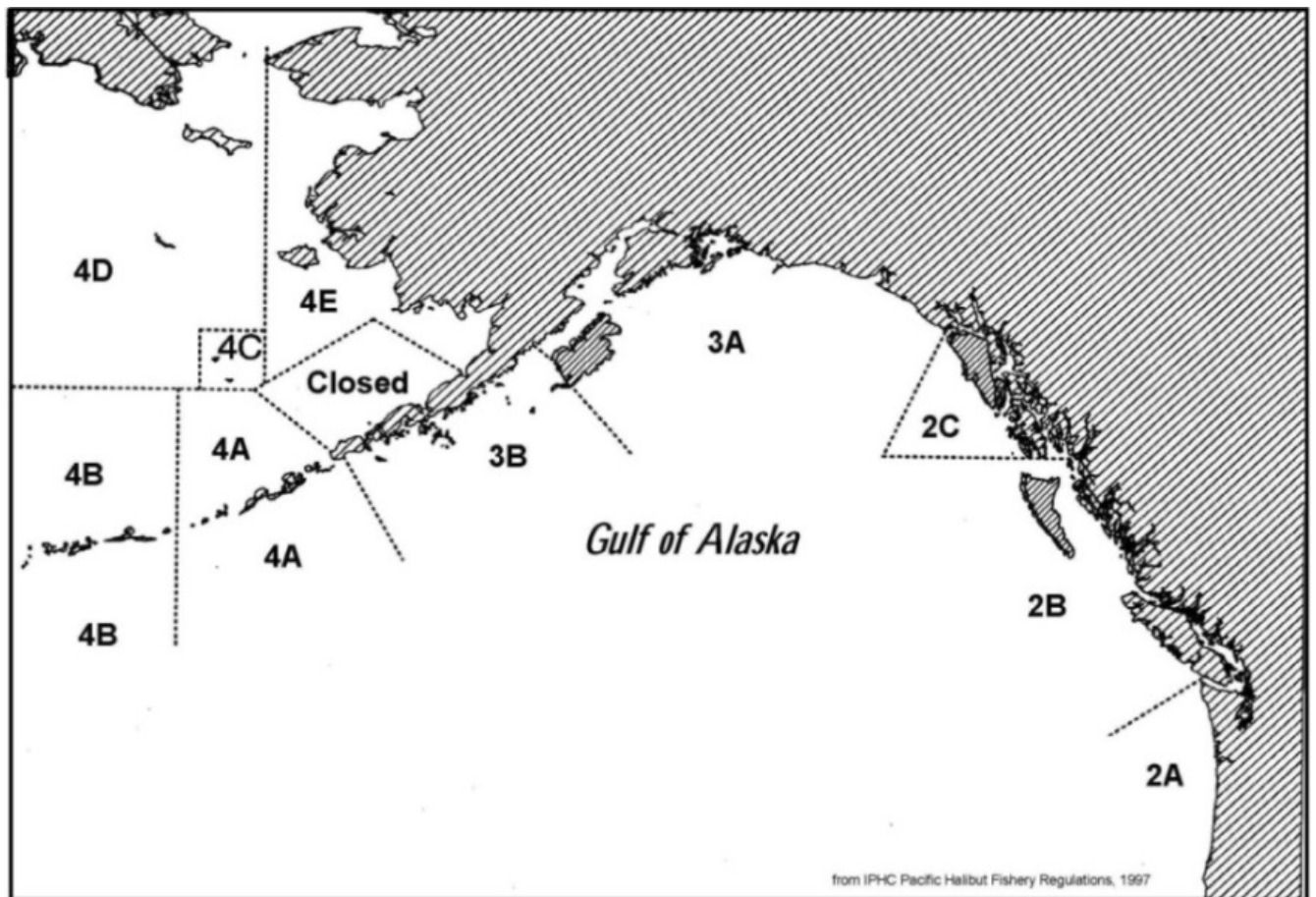
⁸ <https://meetings.npfmc.org/CommentReview/DownloadFile?p=3cf56557-cc9c-4f0a-a69c-be9aa53f2fb3.pdf&fileName=B2%20Halibut%20Vessel%20Use%20Caps%20Temporary%20Rule%20Update.pdf>

response, the Council initiated the action analyzed in this document, often referred to as the “interim solution.” Public testimony supporting this interim solution focused on changing conditions in the area given recent closures of the Bristol Bay Red King Crab and Bering Sea Snow Crab fisheries.

1.3 Description of Management Area

This action would affect IPHC Areas 4A, 4B, 4C, 4D (Figure 1). The proposed action does not include halibut harvesting in Area 4E. Halibut in Area 4E is entirely allocated to harvest under the Western Alaska Community Development Quota (CDQ) Program and therefore IFQ Program vessel use caps do not apply. Vessel caps in other IPHC areas or the sablefish IFQ fishery would not be impacted.

Figure 1 IPHC Regulatory Areas



2 Regulatory Impact Review

This Regulatory Impact Review (RIR)⁹ examines the benefits and costs of a regulatory amendment to modify the Halibut and Sablefish Individual Fishing Quota (IFQ) Program to remove vessel limitations

⁹ This regulatory amendment is a technical change to a fishery management regulation that does not result in a substantial change to fishing location, timing, effort, authorized gear types, or harvest levels. This approach does not adversely impact conservation and management in the halibut commercial fishery. Therefore, this action is not expected to have a significant impact. This determination is subject to further review and public comment. If this determination is confirmed when a rule is prepared, the proposed action will be categorically excluded from the need to prepare an Environmental Assessment.

for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the 2023-2027 IFQ fishing seasons.

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the E.O.:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in E.O. 12866.

2.1 Statutory Authority

Halibut is managed pursuant to the Convention between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), Mar. 2, 1953, 5 U.S.T. 5, and the Protocol Amending the Convention Between Canada and the United States of America for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Protocol), Mar. 29, 1979, 32 U.S.T. 2483. The IPHC has been established to assess the status of the halibut resource, and regulate halibut consistent with the Convention, Protocol, and applicable U.S. and Canadian law. As provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. § 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention (Halibut Act, Sections 773-773k). The Halibut Act provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Convention and the Halibut Act. The Secretary of Commerce may implement regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations, under the authority of Article 1 of the Protocol and sections 773b and 773c of the Halibut Act.

¹⁰ <https://www.regulations.gov/docket/NOAA-NMFS-2022-0037>

The halibut fishery in the EEZ off Alaska is managed under the IFQ Program developed by the Council and implemented by NMFS consistent with the provisions of the Convention, accompanying Protocol, and the Halibut Act. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of section 773c of the Northern Pacific Halibut Act of 1982 (Halibut Act). The proposed action under consideration would temporarily amend Federal regulations implementing the IFQ program at 50 CFR 679.42(h).

2.2 Alternatives

In October 2022, the Council passed a motion with the following Alternatives for analysis.

2.2.1 Alternative 1- No Action

Under the no action alternative, the vessel use caps as defined under 50 CFR § 679.42(h) (1) will remain in place.

2.2.2 Alternative 2- Preferred Alternative

Alternative 2: Remove vessel cap limitations specified at 50 CFR Section 679.42(h)(1) for IFQ halibut harvested in Areas 4A, 4B, 4C and 4D through the 2027 fishing season. If the Council decides to take subsequent action to permanently modify vessel cap limits in area 4, such action will supersede if implemented before 2027.

The applicable vessel use caps are those specified in 50 CFR § 679.42(h)(1): “No vessel may be used, during any fishing year, to harvest more IFQ halibut than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E” and the vessel cap for CQEs as specified in 50 CFR § 679.42(h)(1)(ii) “No vessel may be used, during any fishing year, to harvest more than 50,000 lb. (22.7 mt) of IFQ halibut derived from QS held by a CQE.”

The proposed action would not modify other aspects of the IFQ program; nor would the action apply to the sablefish IFQ fishery. The proposed action does not include halibut harvesting in Area 4E. Halibut in Area 4E is entirely allocated to harvest under the Western Alaska Community Development Quota (CDQ) Program and therefore IFQ Program vessel use caps do not apply. This action does not modify any other aspects of the IFQ Program. Halibut QS use cap limitations specified at § 679.41(f) and other restrictions on use and transfer of QS remain in place.

2.2.3 Rationale for the Council’s Preferred Alternative

The Council selected Alternative 2 as the preferred alternative to provide continued temporary flexibility to IFQ participants in IPHC Area 4 while the Council analyzes longer term adjustments to vessel use caps. The longer term action was initiated in June 2022, but the Council recognized it will take time to go through the Council and public review process and that flexibility is needed to provide additional stability to halibut IFQ participants in the interim.

IFQ halibut harvest in area 4 has declined in recent years, particularly in Area 4B (Table 2). Compounding circumstances including a decline in active processors (Table 16-Table 18), longer runs to processors (Figure 6) and high operating costs have likely contributed to fewer vessels participating in Area 4 fisheries (Table 5). Public testimony and letters from stakeholders have also emphasized that the decline in crab stocks have impacted the viability of local markets in Area 4 and that this temporary measure will help to improve and incentivize local access to the fishery and stability for fishermen in the near term.

The extent to which the circumstances in Area 4 can be attributed to operational circumstances or whether recent regulatory flexibility and vessel cap exemptions have also influenced fleet demographics is uncertain. This uncertainty underscores the importance that this action is implemented on a temporary

basis and that a more prescriptive action that looks at the unique challenges of each regulatory area individually (as initiated in June 2022) is needed.

Vessel cap limitations are a core component of the IFQ program designed to prevent consolidation and help protect entry level opportunities. The Council is committed to the intent of the vessel caps and is wary of this exemption becoming cemented into the business plans of IFQ operators. However, this exemption is intended to provide flexibility in the near term, while the Council develops a more tailored, longer-term solution that will balance the original intent of the vessel cap provision with the evolving circumstances and needs of communities in the Bering Sea and Aleutian Islands.

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 exemption and a subsequent action.

2.3 Description of Fisheries

The following section provides information on the IFQ halibut fishery with a focus on IPHC Area 4. Note that the usual Council policy is to include data up to the latest complete fishing year in analytical documents. The RIR¹⁰ that was prepared for the temporary final rule removing vessel use caps for the 2022 fishing year included data through 2021. Given document posting deadlines, it was not possible to include data for the complete 2022 fishing year in the current analysis. Therefore, to provide additional information about the fishery that has occurred since the temporary rule was published, this analysis includes partial 2022 data. Unless otherwise noted, 2022 data is complete through December 11, 2022. This is a unique circumstance associated with this specific analysis and does not signal any shift in the usual Council policy to include only data for complete fishing years in analytical documents.

Vessel cap limitation amounts, in IFQ pounds, for 2023 are not included in this document as they cannot be calculated until catch limits are set at the IPHC Annual Meeting scheduled for January 23-27, 2023. An updated version of Table 4 will be posted to the Council eAgenda when 2023 vessel caps are available. No information that includes revenue data has been updated to include 2022 as revenue data take longer to finalize because final annual prices are adjusted by Commercial Fisheries Entry Commission (CFEC) to include contracts and Commercial Operator's Annual Reports (COAR) information at the end of the year.

This section of the analysis provides background information on the halibut IFQ fishery, which is necessary for the subsequent discussion of impacts resulting from the proposed action alternative. This section includes Areas 4-specific data on IFQ allocations, harvest, and a description of participating vessels. For Area 4E, all of the catch limit is allocated to CDQ, thus no Area 4E IFQ is harvested. Some background information on IPHC Areas outside of Area 4 is presented for comparison purposes. Further information on the IFQ Program is incorporated into the analysis of impacts in relation to the proposed action.

There are also many sources that can provide more comprehensive and extensive background data on the IFQ Program. The IFQ Program Review presented at the October 2016 Council meeting provides a comprehensive assessment of the procession of the program, framed around the 10 objectives identified by the Council when it developed the program (NPFMC/NMFS 2016). Additionally, QS transfer data, disaggregated in many ways, can also be found in the NOAA Fisheries Alaska Region Restricted Access

¹⁰ <https://www.regulations.gov/docket/NOAA-NMFS-2022-0037>

Management (RAM) Transfer Report (NMFS 2015). Selected statistics about the fishery were provided in the RAM Report to the Fleet (NMFS 2014), which was produced annually until 2012 and was reprised and updated to a new format in 2022 (NPFMC 2022).

2.3.1 Background on the Area 4 Halibut IFQ Fishery

In 1991, the Council recommended the IFQ program for the management of the fixed gear halibut and sablefish fisheries off of Alaska (NPFMC & NMFS 1992). The Secretary of Commerce approved the Council's IFQ program as a regulatory amendment in 1993, and the program was implemented by NMFS for the fishing season in 1995. The fundamental component of the IFQ program is QS, issued to participants as a percentage of the QS pool for a species-specific IFQ regulatory area, which is translated into annual IFQ allocations in the form of fishable pounds.

The purpose of the IFQ program is to provide for improved long-term productivity of the halibut and sablefish fisheries by further promoting the conservation and management objectives of the Magnuson-Stevens Act and the Halibut Act, and to retain the character and distribution of the fishing fleets as much as possible. The Council included numerous provisions in the IFQ program with the goal of protecting small producers, part-time participants, and entry-level participants who may otherwise be eliminated from the fisheries because of potential excessive consolidation of harvesting privileges under the IFQ program (NPFMC/NMFS 2016). One of these provisions is vessel limits or IFQ caps for halibut and sablefish landings intended to prevent large amounts of IFQ from being fished on only a few vessels (see section 2.3.1.4 for more specific information on vessel caps). When comparing data presented in this analysis, note that due to recent Council actions, IFQ vessel caps were removed in Area 4A in 2021-2022 and in Areas 4B and 4C/D in 2020-2022.

Transfer provisions and restrictions are another aspect of the IFQ program developed by the Council to retain the owner-operator nature of the CV fisheries and limit consolidation of QS. Only persons who were originally issued CV QS (B and C for sablefish; B, C, and D for halibut) or who qualified as IFQ crew members are allowed to hold or purchase CV QS.¹¹ Only individuals and initial recipients are eligible to hold CV QS and they are required to be on the vessel when the QS is being fished (with a few exceptions). Since 1998, transfers, or leasing, of CV IFQ has generally been prohibited except under a few specific conditions. Additionally, most IFQ permit holders are required to be onboard the vessel. This requirement is intended to ensure that CV IFQ continues to be held by professional, active fishermen.

Transfer provisions and owner onboard requirements are not affected by this action, however recent Council actions to minimize restrictions on IFQ transfers provide important context when viewing data presented in this analysis. In 2020 and 2021, the Council recommended emergency action to allow the temporary transfer of catcher vessel halibut and sablefish IFQ for all individual QS holders for the fishing season. The Council concluded that travel policies, health advisories, and other logistical and operational challenges posed by the ongoing public health emergency presented management problems for the IFQ fisheries and that increased flexibility to temporarily transfer IFQ pounds would reduce the amount of anticipated forgone harvest and would accommodate the wide variety of operational plans that QS owners and vessel operators use to harvest halibut and sablefish. NMFS implemented temporary provisions to allow temporary IFQ transfers in fishing years 2020 and 2021. The Council recommended similar action in 2022 however NMFS denied the request for emergency action.

2.3.1.1 Harvest Flexibility

All halibut QS have regulatory area designations, which specify the area in which the IFQ derived from those shares may be harvested. These area designations correspond with the areas illustrated in Figure 1. There is some fishing flexibility within the halibut regulatory areas 4C, 4D and 4E. The IPHC considers the halibut in Areas 4C, 4D, and 4E to be a single stock unit for stock assessment and management

¹¹ To receive IFQ temporarily or QS permanently, individuals must obtain a Transfer Eligibility Certificate (TEC). Persons must have 150 or more days of experience working as a part of a harvesting crew in any U.S. commercial fishery

purposes. Separation of these areas was a socio-economic decision established in the Council’s Catch Sharing Plan for Area 4 (61 FR 11337). Therefore, there has been latitude for the Council to consider exemptions to harvesting halibut allocations across these management areas.

Effective July 22, 2005, in response to reports of localized depletion, decreasing catch per unit effort, and resultant limitations on the optimal utilization of Area 4C IFQ and CDQ, the Council passed an Omnibus (IV) amendment package providing for the harvest of Area 4C IFQ and CDQ in Area 4D (70 FR 43328, July 27, 2005). Therefore, the total amount of permissible halibut harvest for Area 4D is the sum of Area 4D TAC and Area 4C TAC. After the implementation of the 2005 amendment, Area 4C and 4D harvests have been reported together due to this flexibility. Thus, Area 4C and 4D catch limits, harvest and participation data are reported in aggregate in this document.

There is also an exception to allow CDQ Program participants to harvest allocations of Area 4D halibut CDQ in Area 4E. Effective April 2, 2003, NMFS amended the IFQ Program to allow CDQ Program participants to harvest allocations of Area 4D halibut CDQ in Area 4E (68 FR 9902, March 3, 2003). This action was intended to allow residents in CDQ communities along the Western Alaska coast to have more near-shore opportunities to harvest their group’s CDQ halibut. Therefore, the IPHC regulations dictate, the total amount of permissible halibut harvest for Area 4E is the sum of the 4E and 4D CDQ TAC. However, since this exception only affects CDQ halibut, which is not subject to vessel use caps, it is not discussed further in this document.

2.3.1.2 Allocation and Harvest

Halibut IFQ TACs increased from 2021-2022 for all areas in Area 4 (Table 1). TACs in 2022 increased to amounts not seen since 2011 in Area 4A, 2013 in 4B, and 2012 in Area 4C/D. The Area 4A halibut IFQ allocations show a decreasing trend between 2006 and 2014, dropping from 3.35 million pounds of halibut in 2006 to 0.85 million pounds in 2014. For the subsequent eight years (2015-2022) the Area 4A TAC has been relatively more consistent, with a slight increasing trend from 2020-2022. Area 4B halibut IFQ allocation increased between 2007 and 2011, then gradually decreased through 2018, since which it has fluctuated with an increase in 2022. Area 4C/4D has seen more fluctuation in the halibut IFQ catch limits during this time period. The decrease in TAC in Area 4C/D has been more substantial, although the 2022 increase in TAC is the largest of all in Area 4. All of Area 4 has historically had high harvest rates of halibut IFQ TAC, although this has declined in recent years most notably in Area 4B. Comparable percent of TAC harvested in 2022 for other Areas was 92% in Areas 2C and 3A and 86% in 3B.

Table 2 IFQ halibut allocation and harvest in Areas 4A, 4B, 4C/4D since 2006.

Year	Area	TAC	Harvest	% TAC harvested
2006	4A	3,350,000	3,260,395	97%
2007	4A	2,890,000	2,775,332	96%
2008	4A	3,100,000	2,962,290	96%
2009	4A	2,550,000	2,454,444	96%
2010	4A	2,330,000	2,267,000	97%
2011	4A	2,410,000	2,286,068	95%
2012	4A	1,567,000	1,544,024	99%
2013	4A	1,330,000	1,206,747	91%
2014	4A	850,000	827,075	97%
2015	4A	1,390,000	1,319,795	95%
2016	4A	1,390,000	1,343,260	97%
2017	4A	1,390,000	1,270,207	91%
2018	4A	1,370,000	1,217,036	89%

Year	Area	TAC	Harvest	% TAC harvested
2019	4A	1,650,000	1,372,332	83%
2020	4A	1,410,000	1,146,995	81%
2021	4A	1,660,000	1,430,595	86%
2022	4A	1,760,000	1,277,563	73%
2006	4B	1,336,000	1,220,833	91%
2007	4B	1,152,000	1,088,443	94%
2008	4B	1,488,000	1,357,128	91%
2009	4B	1,496,000	1,232,219	82%
2010	4B	1,728,000	1,394,752	81%
2011	4B	1,744,000	1,595,524	91%
2012	4B	1,495,200	1,370,408	92%
2013	4B	1,160,000	986,945	85%
2014	4B	912,000	864,227	95%
2015	4B	912,000	852,286	93%
2016	4B	912,000	861,167	94%
2017	4B	912,000	833,417	91%
2018	4B	840,000	826,707	98%
2019	4B	968,000	736,875	76%
2020	4B	880,000	683,163	78%
2021	4B	984,000	624,186	63%
2022	4B	1,024,000	511,136	50%
2006	4C/4D	1,932,000	1,655,348	86%
2007	4C/4D	2,239,800	1,986,725	89%
2008	4C/4D	2,122,800	2,113,434	99%
2009	4C/4D	1,882,800	1,737,668	92%
2010	4C/4D	1,950,000	1,809,616	93%
2011	4C/4D	2,028,000	1,847,773	91%
2012	4C/4D	1,328,827	1,207,051	91%
2013	4C/4D	1,030,800	917,155	89%
2014	4C/4D	715,920	688,225	96%
2015	4C/4D	715,920	690,581	96%
2016	4C/4D	880,320	842,932	96%
2017	4C/4D	902,400	866,513	96%
2018	4C/4D	880,200	791,736	90%
2019	4C/4D	1,092,000	890,372	82%
2020	4C/4D	919,200	908,070	99%
2021	4C/4D	885,600	819,798	93%
2022	4C/4D	1,104,000	928,321	84%

Table 2 Continued - IFQ halibut allocation and harvest in Areas 4A, 4B, 4C/4D since 2006

The harvest pattern throughout a fishing year may vary by year or area. The seasonal timing of landings and participation in a fishing year may be impacted by weather, vessel repairs, crew and processing availability, dock prices, and other factors. Figure 2 shows cumulative landings (pounds) and ex-vessel value (dollars) by week for fishing years 2015-2022. Landings are from the NMFS RAM IFQ landings

database while value was calculated from ADF&G eLandings sourced through NMFS Alaska Region, data compiled by AKFIN. These values are reported only for the purposes of comparing annual patterns. As can be seen in Figure 2, the rate of halibut harvest (as shown by cumulative landings by week) was somewhat different in 2022 relative to past harvest patterns. For Areas 4A and 4CD, the season began slower in 2022 relative to previous years, with landings evening out to somewhere near the midrange of the time series by the year end, corresponding to the largest ex-vessel values in the time series. In Area 4B the harvest rate in 2022 was low throughout the year, corresponding to a total annual ex-vessel value near the midpoint of the time series. Lower value may have driven the lower relative harvest rate for this area.

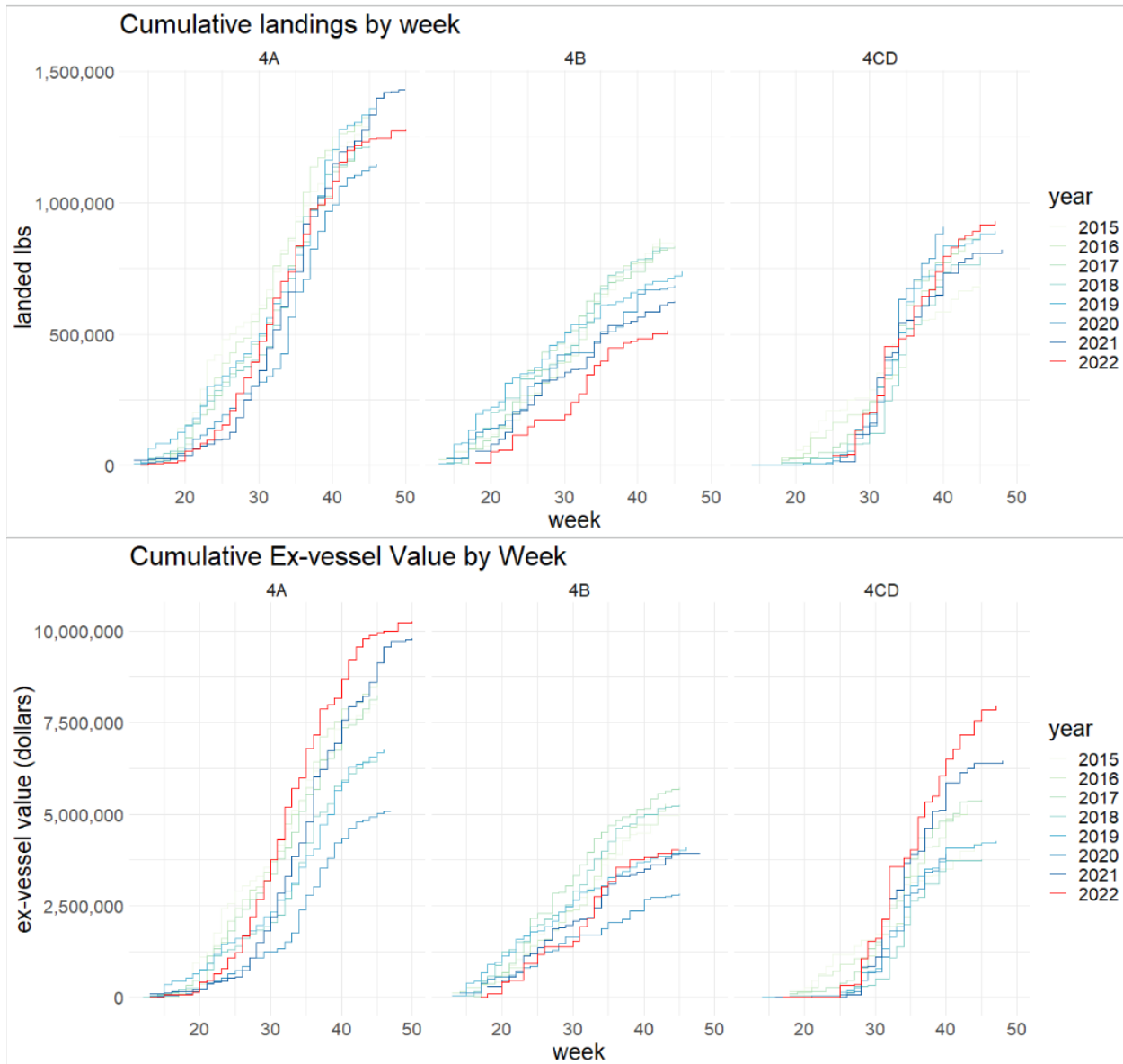


Figure 2 Weekly cumulative IFQ landings and ex-vessel value (2022 through 12/11/22)

Source: Landed lbs- NMFS RAM IFQ landings database, ex-vessel value: ADF&G eLandings sourced through NMFS Alaska Region, data compiled by AKFIN.

2.3.1.3 Community Quota Entities

In 2002, the Council revised the IFQ Program to allow specific communities to purchase sablefish and halibut QS through the Community Quota Entities (CQE) Program. The Council developed the CQE program in response to concerns about out-migration of QS out of small Gulf of Alaska coastal communities. Eligible communities can form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the IFQ resulting from the QS must be leased to eligible community residents annually. Since 2004, there have been several changes to the CQE Program intended to provide greater fishing opportunities for coastal communities in Alaska. In 2014, a CQE Program was implemented for halibut IFQ regulatory Area 4B and the sablefish Aleutian Islands regulatory area, and the community of Adak formed a CQE, the Adak Community Development Corporation (ACDC).

Table 3 displays the QS units and equivalent IFQ pounds held by the ACDC CQE and the number of vessels that have harvested IFQ. CQEs are not allowed to hold halibut QS in areas 4A, 4C, 4D and 4E 50 CFR §679.42(f)(3) therefore ACDC is the only CQE affected by this action.

Table 3 QS holdings and participating vessels in the ACDC CQE

Year	QS units	IFQ lbs	Vessels
2015	615,956	60,503	0
2016	678,609	66,657	0
2017	678,609	66,657	0
2018	678,609	61,395	3
2019	1,196,304	124,723	2
2020	1,196,304	113,385	1
2021	1,196,304	126,785	1
2022	1,369,350	151,023	1

2.3.1.4 Vessel Limits (Caps)

When initiating the IFQ Program, the Council sought to protect small producers, part-time participants, and entry-level participants who may otherwise be eliminated from the fisheries because of potential excessive consolidation of harvesting privileges under the IFQ program (NPFMC/NMFS 2016). For this reason, the IFQ Program includes vessel IFQ caps for halibut and sablefish landings intended to prevent large amounts of IFQ from being fished on only a few vessels. Federal Regulations in 50 CFR § 679.42(h)(1) specify that “No vessel may be used, during any fishing year, to harvest more IFQ halibut than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E.” These regulations also specify that “In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.” This action does not include exemptions for vessel use caps in Areas 2C, 3A, or 3B however they are included in sections of this analysis for comparison purposes. Separate vessel use caps are specified for IFQ leased from CQEs: “No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ halibut derived from QS held by a CQE” 50 CFR § 679.42(h)(1)(ii).

Regulations also include an exception specified at 50 CFR § 679.42(h)(3) that “An IFQ permit holder who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all that IFQ with a single vessel. However, two or more IFQ permit holders may not catch and retain their IFQs with one vessel in excess of these limitations.”

Because the vessel IFQ cap is specified as a percent of the annual TAC, the number of pounds capped changes annually and varies with the status of the stocks. The proposed action would only affect vessel limitations in Area 4 from 2023 to 2027 (unless subsequent Council action is taken prior to 2027). However, information regarding caps and vessel harvest patterns in previous years and other regulatory areas are provided to help evaluate the proposed action. When comparing data presented in this analysis, note that recent Council actions removed IFQ vessel caps in Area 4A in 2021-2022 and in Areas 4B and 4C/D in 2020-2022 (see section 1.2). Table 4 lists halibut total catch limits and vessel use caps for 2013-

2022. The vessel use cap for all IPHC regulatory areas for 2022 is 101,490 pounds of halibut, which is a 9.3 percent increase from the 2021 allocation. Vessel caps for 2023 cannot be calculated until catch limits are set at the IPHC Annual Meeting scheduled for January 23-27, 2023. An updated table will be posted to the Council eAgenda when 2023 vessel caps are available.

Table 4 Annual catch limits and vessel use caps for halibut, 2013-2022

Year	All Areas		Area 2C	
	Total Catch Limit (lbs)	Vessel Cap (lbs)	Area 2C Catch Limit (lbs)	Vessel use cap (lbs)
2013	21,810,800	109,054	2,970,000	29,700
2014	15,954,370	79,772	3,318,720	33,187
2015	17,136,920	85,685	3,679,000	36,790
2016	17,152,320	85,762	3,924,000	39,240
2017	18,295,400	91,477	4,212,000	42,120
2018	16,630,200	83,151	3,570,000	35,700
2019	17,710,000	88,550	3,610,000	36,100
2020 ¹	16,079,200	80,396	3,410,000	34,100
2021 ²	18,569,600	92,848	3,530,000	35,300
2022 ²	20,298,000	101,490	3,510,000	35,100

Source: NMFS Restricted Access Management (RAM).

¹ In 2020 vessel caps were waived for vessels fishing in Areas 4B, 4C, and 4D.

² In 2021 and 2022 vessel caps were waived for vessels fishing in Areas 4A, 4B, 4C, and 4D.

Table 5 displays the annual allocations for each halibut regulatory area, the minimum number of vessels required to harvest 100 percent of the area allocation given vessel cap limitations, as well as the percent of the allocation that was harvested and the number of vessels harvesting IFQ for fishing years 2015-2022. In all years and all areas, the number of vessels harvesting IFQ has exceeded the minimum number of vessels required to harvest the halibut IFQ for each area. While individual vessels may have been constrained by the caps, this suggests that even in years when the entire allocation was not landed, the supply of vessels and vessel use cap were not constraining factors.

Table 5 also demonstrates that fewer vessels participated in halibut IFQ fishery for each area in 2020-2022 relative to the previous five years. The recent decline in participation is particularly noticeable in Area 4CD which dropped from 42 vessels in 2019 to 20 vessels in 2022. Recent participation in Area 4B also declined substantially. This may be due in part to the vessel use cap exemptions in Area 4 and the temporary transfer flexibility in all areas; however, it is likely some vessels would have chosen not to participate in 2020-2022 regardless, as the COVID-19 pandemic made traveling difficult and raised many concerns with health and safety. Thus, it is difficult to estimate the affect of the regulatory flexibilities on the number of vessels participating in the halibut IFQ fishery in 2020 through 2022.

Table 5 Halibut annual area allocation of IFQ, and minimum number of vessels required to harvest 100 percent of IFQ in each area under the vessel use cap, number of vessels harvesting IFQ and percent of allocation landed. Area 2C, 3A, and 3B data are provided for comparison only, as they are not included in the proposed action.

Area	Year	Allocation (pounds)	Minimum no. of vessels to harvest 100% (if cap in place)	No. of vessels harvesting IFQ	Percent of TAC landed
2C	2015	3,679,000	100	439	96%
	2016	3,924,000	100	433	97%
	2017	4,212,000	100	423	96%
	2018	3,570,000	100	401	95%
	2019	3,610,000	100	405	94%
	2020	3,410,000	100	376	94%
	2021	3,530,000	100	363	93%
	2022	3,510,000	100	368	92%
3A	2015	7,790,000	91	441	99%
	2016	7,336,000	86	431	99%
	2017	7,739,000	85	415	98%
	2018	7,350,000	89	399	98%
	2019	8,060,000	92	406	98%
	2020	7,050,000	88	374	97%
	2021	8,950,000	97	385	97%
	2022	9,550,000	95	381	92%
3B	2015	2,650,000	31	196	98%
	2016	2,710,000	32	194	97%
	2017	3,140,000	35	192	96%
	2018	2,620,000	32	182	93%
	2019	2,330,000	27	169	94%
	2020	2,410,000	30	144	93%
	2021	2,560,000	28	148	94%
	2022	3,350,000	34	155	86%
4A	2015	1,390,000	17	68	95%
	2016	1,390,000	17	69	97%
	2017	1,390,000	16	65	91%
	2018	1,370,000	17	67	89%
	2019	1,650,000	19	63	83%
	2020	1,410,000	18	58	81%
	2021*	1,660,000	18	59	86%
	2022*	1,760,000	18	59	73%
4B	2015	912,000	11	33	93%
	2016	912,000	11	34	94%
	2017	912,000	10	30	91%

Area	Year	Allocation (pounds)	Minimum no. of vessels to harvest 100% (if cap in place)	No. of vessels harvesting IFQ	Percent of TAC landed
	2018	840,000	11	27	98%
	2019	968,000	11	24	76%
	2020*	880,000	11	23	78%
	2021*	984,000	11	19	63%
	2022*	1,024,000	11	16	50%
	2015	715,920	9	38	96%
	2016	880,320	11	36	96%
	2017	902,400	10	38	96%
4C/D	2018	880,200	11	38	90%
	2019	1,092,000	13	42	82%
	2020*	919,200	12	33	99%
	2021*	885,600	10	27	93%
	2022*	1,104,000	11	20	84%

Years and Areas where vessel caps were removed.

Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN. 2022 data through 12/11/22.

Table 5 Continued - Halibut annual area allocation of IFQ, and minimum number of vessels required to harvest 100 percent of IFQ in each area under the vessel use cap, number of vessels harvesting IFQ and percent of allocation landed

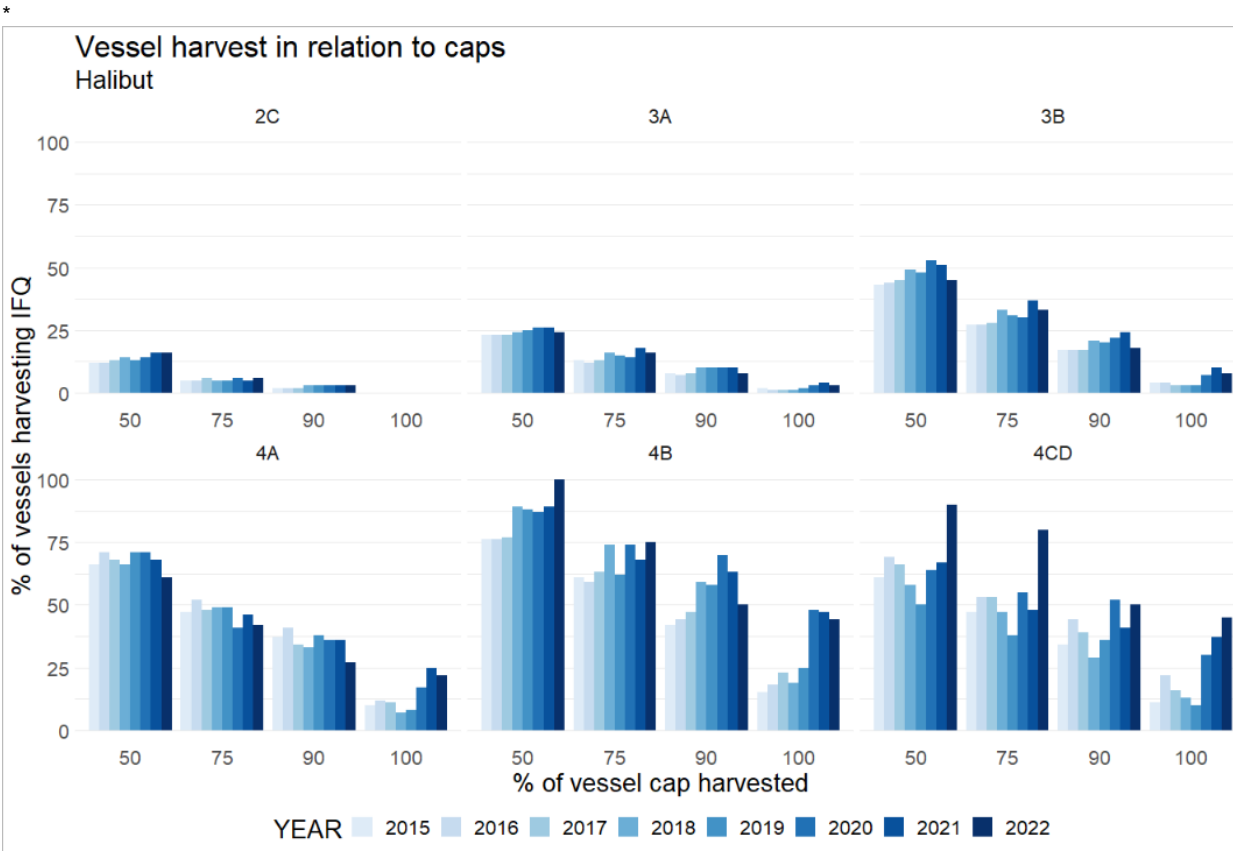


Figure 3 Percent of vessels harvesting IFQ in each regulatory area with total landings within 100 percent, 90%, 75% and 50% of the vessel use cap. Percent of vessel use cap harvested is calculated by total IFQ regardless of area of harvest (with the exception of 2C). Vessels harvesting in multiple areas are included in every area IFQ is harvested. Updated 2.14.2022.

One method to examine the effects of vessel use caps is to evaluate how many vessels operate at or near the caps. Figure 3 displays the percentage of vessels that have harvested up to 50, 75, 90 and 100 percent of the vessel use cap in each IPHC regulatory area since 2015. Vessels that harvest IFQ in multiple regulatory areas are included in each area and their percentage of vessel use cap is calculated from the total IFQ harvested regardless of area. Vessels are included in each percent threshold for which they qualify (a vessel that harvested 100 percent of the cap is included in the bar graph at 50, 75, 90 and 100 percent).

The percentage of vessels reaching thresholds declines at thresholds closer to 100 percent of the vessel use cap in each regulatory area. Generally, there is a larger percentage of vessels operating closer to the cap in Area 4 than in Area 2C, 3A, and 3B, particularly since 2020 (likely due to the removal of vessel caps in Area 4 in those years). In Areas 2C, 3A, and 3B, less than 25% of vessels have harvested up to 90% of the vessel use cap in any year since 2015. In 2022, around 30% of vessels in 4A, and 50% of vessels in 4B and 4C/4D harvested up to 90% of the vessel use cap.

In 2020-2022, there was a notable increase in vessels in Area 4 that met, or due to the temporary exemption, exceeded the vessel use caps. The greater percent of vessels that harvested up to the vessel use cap in 2020-2022 relative to previous years is in part due to a decreased number of vessels participating in the fishery and a greater proportion of these participating vessels fishing up to the vessel use cap.

2.3.1.5 Vessel Class Categorizations

There are four vessel classes in the halibut IFQ fishery (A through D). These classes correspond to vessel length as shown in Table 6. This action does not modify vessel class categorizations, and those limitations would continue to apply.

Class A shares are designated for vessels that process at sea or catcher-processors (i.e., constitute freezer longliner vessels) and do not have a vessel length restriction. Class B shares were designated to be fished on vessels greater than 60 feet LOA, Class C shares were designated to be fished on vessels greater than 35 feet but less than or equal to 60 feet LOA and Class D shares were designated to be fished on vessels less than or equal to 35 feet LOA. These vessel class designations were intended to maintain the diversity of the IFQ fleets, and the Council intended for the Class D QS to be the most likely entry-level opportunity (NPFMC/NMFS 2016).

Table 6 Vessel length associations by QS class

QS Class	Vessel Length Designation
A	Any length
B	> 60 feet
C	> 35 feet to 60 feet
D	≤ 35 feet

Over the course of the IFQ Program, the Council has lifted some of the constraints on the size of the vessel upon which catcher vessel IFQ may be fished. In January 1996, the Council approved a “fish down” amendment that allowed IFQ derived from larger class QS to be fished on smaller class vessels. The Council intended for this provision to provide flexibility for QS holders to acquire more catcher vessel QS. The Council has also amended the IFQ Program to allow “fishing up” in some halibut IFQ areas – the landing of IFQ derived from smaller class QS on larger class vessels. In 2007, an amendment was implemented to the IFQ Program to allow halibut IFQ derived from Class D QS to be fished on vessels less than or equal to 60 feet in length in Areas 3B and 4C. In 2014, an amendment was implemented allowing halibut IFQ derived from Class D QS to be fished on vessels in the Class C category in Area 4B. The intent of these “fish up” amendments was to alleviate safety concerns and issues with not being able to fully harvest QS allocated to small vessels in western Alaska waters (NPFMC/NMFS 2016). Table 7 shows the fish up and fish down provisions for IFQ in Area 4.

Table 7 Fish up/down provisions applicable to individually-held halibut IFQ

Area	Fish up	Fish down
4A	No	Yes
4B	D class quota can be fished up on C class vessels	
4C		
4D	No, but no D class quota	

Table 8 shows the breakdown of the QS pool by class in 2022 for Areas 4A, 4B, 4C and 4D. Due to the fish up and fish down provisions, QS allocation by class may not correspond directly to landings by vessel length. Figure 4 shows annual IFQ pounds allocated by category, catch of IFQ pounds and number of vessels participating by vessel length for Areas 4A, 4B and 4C/4D. The data on the length of vessel upon which the IFQ was harvested was taken from the IFQ landings database. For the landings database, this information is sourced from the NMFS Alaska Region database on vessel lengths, which is a combination of data that is self-reported by the vessel owner when they obtain a Federal Fisheries Permit and data from the State of Alaska Commercial Fisheries Entry Commission (CFEC) database. The data in Figure 4 show the fish up and fish down provision are frequently utilized as the pounds of IFQ landed by vessels in the 35-60 foot category is greater than IFQ pounds of class C quota share (QS) allocated. In both Area 4B and 4C/4D a majority of the QS is category B, corresponding to vessels >60 feet, however a majority of the IFQ is landed on vessels that are in the >35-60 foot length category (with the exception of 4B in 2022). Vessels <35 ft continue to participate in small numbers in Area 4A, however no vessels under 35 ft have participated in since 2017 in Area 4B or in 2022 in Area 4CD.

Table 8 Percentage of 2022 QS pool in each class for Area 4.

	A	B	C	D
4A	4%	59%	30%	7%
4B	6%	77%	15%	3%
4C	0%	40%	22%	38%
4D	8%	83%	9%	

Source: NMFS Restricted Access Management (RAM) division, updated 2/14/22

Because these QS class categories would continue to apply under this action, even if vessel use caps were relieved there would still need to be different sizes of vessels harvesting the IFQ resulting from the QS. In combination with the “fish up” provisions in place, and the flexibility for A shares to be harvested on any size of vessel, this means that in Area 4A at least 37 percent, Area 4B at least 18 percent, in Area 4C at least 60 percent, and in Area 4D at least 9 percent of the IFQ would need to be harvested on smaller “C class” or “D class” vessels (vessels ≤ 60 feet). These provisions would limit the ability of IFQ to be completely consolidated on a few larger B class vessels. Theoretically, A and B category IFQ could be “fished down” on smaller C or D class vessels if there were adequate vessels available in this size class.



Figure 4 QS allocation by category, IFQ catch and vessel participation by vessel length.

Source: QS holdings NMFS RAM accessed [https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#individual-fishing-quota-\(ifq\)-halibut/sablefish-and-cdq-halibut-ifq](https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#individual-fishing-quota-(ifq)-halibut/sablefish-and-cdq-halibut-ifq)
 Vessel landings, participation: NMFS IFQ landings database sourced by AKFIN. Updated 12.11.2022.

2.3.1.6 QS use caps

The IFQ Program includes QS use caps intended to prevent excessive consolidation of harvesting privileges. Regulations specify that “Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person other than a CQE representing the community of Adak, AK, individually or collectively, may use more QS than specified by the use caps found at 50 CFR 679.42 (f).” Similar to vessel use caps, QS caps are specific to regulatory area. However, unlike vessel use caps, QS use caps are a constant number of QS units rather than a percentage of the TAC. In Area 4, the QS use cap is 495,044 QS units (50 CFR 679.42(f)).

Table 9 details how the QS use cap applies in Area 4 in 2022, displaying the QS use cap, and the QS Pool, TAC, IFQ equivalent to the use cap and the minimum number of people needed to harvest 100 percent of the QS in each area. If QS could be spread out evenly and most efficiently, it would require a minimum of 68 people to land all of the IFQ allocated to Area 4. Realistically, harvesting 100 percent of the quota would require more people than this minimum because of other regulatory constraints as well as numerous practical challenges. For instance, the QS holders identifying persons who are able to harvest their IFQ with the appropriately sized vessel, agreeing to lease arrangements, and processing all of the IFQ transfers. In addition to logistical constraints there are regulatory constraints such as the QS block program that restrict how QS can be consolidated and transferred that would prevent QS from being distributed equally and would increase the number of individuals necessary to harvest 100 percent of the quota.

Table 9 2022 QS pool, IFQ TAC and QS use cap

Area	QS Pool (units)	QS use cap (1.5% of Area 4 QS pool in units)	Area TAC (lbs)	QS:IFQ ratio	IFQ equivalent to use cap (lbs)	Minimum number of individuals to harvest 100%
4A	14,586,011	495,044	1,760,000	8.2875	59,734	30
4B	9,284,774		1,024,000	9.0672	54,597	19
4C	4,016,352		460,000	8.7312	56,698	10
4D	4,958,250		644,000	7.6991	64,299	9

Source: NMFS Restricted Access Management (RAM) division

While we do not collect data on every individual on a fishing vessel, each IFQ landing requires an individual listed as the “delivered by individual” on the fish ticket. The delivered by individual is the IFQ permit holder, if they are on board. If the IFQ permit holder is not on board, the hired master is listed as the delivered by individual. Table 10 shows the number of individuals listed as the “delivered by individual” in Areas 4A, 4B, and 4C/4D since 2013. These data do not include crew members without IFQ so they are not a comprehensive tally of individuals who participated in the fishery.

Even considering that the minimum number of individuals listed in Table 9 is an underestimate of the actual number of people necessary to harvest 100 percent of the TAC, it typically represents fewer than half the number of QS holders who have delivered IFQ in Area 4A, 4B, 4C, and 4D in previous years. Similar to other trends in 2020, the number of individual QS holders delivering IFQ have decreased in all areas in Area 4 since 2020.

Table 10 Number of individual QS holders delivering IFQ.

Year	4A	4B	4C/4D	Total
2013	100	53	48	148
2014	109	48	49	153
2015	111	48	45	151
2016	116	49	48	159
2017	109	47	44	152
2018	107	50	46	160
2019	111	43	53	164
2020	78	30	35	106
2021	79	25	30	103
2022	81	28	35	108

Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN. 2022 data updated through 12.11.22.

2.3.1.7 Communities

Vessels participating in the IFQ halibut fishery in Area 4 are associated with numerous communities. Table 11 shows the number of vessels delivering IFQ in the Area 4 halibut IFQ fishery by community. A majority of these vessels are owned by people in communities in Alaska (with an average of 70 percent of vessels for 2015-2022). In 2022, the largest number of vessels were owned by people in the Alaskan communities of Homer (13 vessels) and Kodiak (7 vessels). Notably, the community of Savoonga declined from 7 vessels in 2021 to no vessels in 2022. The community of St. Paul experienced a similar decline from 8 vessels in 2019 to one vessel in 2020.

Table 11 Community of Vessel Ownership by Address for Vessels Harvesting Halibut IFQ in 4ABCD, 2015-2021 (number of vessels)

Geography	2015	2016	2017	2018	2019	2020	2021	2022	Annual Average 2015-2022 (number)	Annual Average 2015-2022 (percent)
Adak	1	1	1	1	1	1	0	1	0.9	1.04%
Akutan	3	3	1	1	2	0	1	0	1.4	1.64%
Anchorage	4	3	2	2	3	2	2	2	2.5	2.98%
Atka	4	3	3	0	0	0	0	0	1.3	1.49%
Cordova	2	2	2	1	1	1	1	1	1.4	1.64%
Craig	1	1	1	0	0	0	0	0	0.4	0.45%
Delta Junction	3	3	3	2	3	3	3	3	2.9	3.42%
Dutch Harbor	1	2	2	3	2	3	3	3	2.4	2.83%
Gambell	0	0	0	0	0	1	0	0	0.1	0.15%
Homer	9	11	13	15	13	12	13	13	12.4	14.73%
Juneau	3	2	2	3	1	1	1	2	1.9	2.23%
Ketchikan	1	1	0	0	0	0	0	0	0.3	0.30%
Kodiak	10	12	10	10	11	8	7	5	9.1	10.86%
Petersburg	1	1	2	1	1	1	0	1	1.0	1.19%
Port Lions	0	0	0	0	0	1	0	1	0.3	0.30%
Saint George Isl	1	1	1	2	1	0	0	0	0.8	0.89%
Saint Paul	8	6	9	10	8	1	1	0	5.4	6.40%
Savoonga	0	0	0	0	9	9	7	0	3.1	3.72%
Seward	1	1	1	2	1	0	0	1	0.9	1.04%
Sitka	3	3	3	3	3	2	3	3	2.9	3.42%
Soldotna			1	1	1	1	1	1	1.0	1.19%
Unalaska	5	4	3	4	4	4	5	2	3.9	4.61%
Wasilla	3	3	3	3	2	2	1	2	2.4	2.83%
Yakutat	1	1	1	1	1	1	1	1	1.0	1.19%
Alaska Total	65	64	64	65	68	54	50	42	59.0	70.24%
All Other States Total	26	27	25	26	24	24	25	23	25.0	29.76%
Grand Total	91	91	89	91	92	78	75	65	84.0	100.00%

NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN. Data updated through 12.11.22

The number of vessels associated with ownership addresses in a community may not correspond to the amount of QS held by residents of these communities, or the amount of IFQ fished from the vessels in these communities. For example, residents of a given community may hold QS that results in IFQ that is fished on a vessel that is owned by residents outside of that community. The amount of halibut IFQ harvested from vessels in these communities cannot be shown for each community due to limitations on the release of confidential data. However, information on QS holdings by community is publicly available and reported by NMFS RAM¹². Table 12 through Table 15 show the 2022 QS holdings by community for Area 4A, 4B, 4C and 4D, the IFQ equivalent pounds and the percentage of the 101,490 pound 2022 vessel use cap. Area 4A halibut QS is primarily associated with the Alaskan communities of Anchorage, Homer, Kodiak, and Unalaska as well as the states of Washington and Oregon (Table 12). Area 4B halibut is primarily held by the Alaskan communities of Adak and Kodiak as well as the State of Washington (Table 13). All 4B QS for Adak is held by the CQE group which is subject to a vessel use cap of 50,000 lbs. In Area 4C, Washington state primarily holds QS, followed by the Alaskan communities of St. Paul Island and Anchorage (Table 14). QS for Area 4D is held predominately in Washington state and the Alaskan communities of Anchorage and Delta Junction (Table 15).

¹² [https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#individual-fishing-quota-\(ifq\)-halibut/sablefish-and-cdq-halibut-ifq](https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#individual-fishing-quota-(ifq)-halibut/sablefish-and-cdq-halibut-ifq)

Table 12 Area 4A 2022 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel use cap
AK		136	9,353,697	1,128,650	1112%
	Akutan	8	273,563	33,009	33%
	Anchorage	13	1,105,406	133,382	131%
	Cordova	5	321,241	38,762	38%
	Delta Junction	1	114,599	13,828	14%
	Dillingham	1	22	3	0%
	Dutch Harbor	8	631,126	76,154	75%
	Fairbanks	2	120,159	14,499	14%
	Fritz Creek	1	60,078	7,249	7%
	Homer	30	1,733,213	209,136	206%
	Juneau	3	14,450	1,744	2%
	King Salmon	1	86	10	0%
	Kodiak	27	2,747,426	331,514	327%
	Naknek	1	102	12	0%
	Petersburg	3	152,338	18,382	18%
	Pilot Point	1	73	9	0%
	Saint George Island	1	14	2	0%
	Saint Paul Island	3	2,254	272	0%
	Seward	1	139,639	16,849	17%
	Sitka	4	255,599	30,841	30%
	Soldotna	1	117,375	14,163	14%
	Togiak	2	60	7	0%
	Twin Hills	1	10	1	0%
	Unalaska	11	1,208,995	145,882	144%
	Wasilla	6	304,428	36,733	36%
	Wrangell	1	51,441	6,207	6%
AZ		1	290,182	35,014	35%
CA		2	68390	8,252	8%
CO		1	45,399	5,478	5%
FL		2	144,907	17,485	17%
IN		1	61,738	7,450	7%
NM		1	69,953	8,441	8%
OR		12	1,225,689	147,896	146%
TX		1	56,563	6,825	7%
UT		1	58,841	7,100	7%
VA		1	64,547	7,788	8%
WA		36	3,144,250	379,396	374%
	Seattle	17	2,051,843	247,583	244%

NMFS Restricted Access Management (RAM) division. Seattle includes other cities in the Seattle Metropolitan Statistical Area.

Table 13 Area 4B 2022 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel use cap
AK		40	4,860,391	536,043	528%
	Adak	2	1,386,179	152,879	151%
	Anchorage	5	819,066	90,333	89%
	Atka	8	349,066	38,498	38%
	Dillingham	1	370,314	40,841	40%
	Dutch Harbor	3	213,090	23,501	23%
	Fairbanks	1	22,392	2,470	2%
	Haines	1	7,293	804	1%
	Homer	1	17,927	1,977	2%
	Juneau	1	2,368	261	0%
	Kodiak	13	1386735	152,940	151%
	Petersburg	1	2	0	0%
	Sitka	1	219,984	24,262	24%
	Unalaska	2	65,975	7,276	7%
AZ		1	194,682	21,471	21%
CA		3	127,626	14,076	14%
FL		1	239,816	26,449	26%
ID		1	41,459	4,572	5%
OR		5	322,814	35,603	35%
VA		1	52,353	5,774	6%
WA		24	3,442,519	379,669	374%
	Seattle	12	1,963,042	216,500	213%

NMFS Restricted Access Management (RAM) division. Seattle includes other cities in the Seattle Metropolitan Statistical Area.

*All 4B QS held in Adak is held by the CQE group and is therefore subject to a vessel use cap of 50,000 lbs.

Table 14 Area 4C 2022 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel cap
AK		31	2,038,714	233,498	230%
	Anchorage	8	738,649	84,599	100%
	Delta Junction	3	247,891	28,391	34%
	Dutch Harbor	1	96,994	11,109	13%
	Homer	1	19,273	2,207	3%
	Saint George Island	3	32,473	3,719	4%
	Saint Paul Island	12	754,450	86,409	102%
	Seward	1	12,077	1,383	2%
	Wasilla	2	136,907	15,680	19%
CA		1	109,227	12,510	15%
MT		1	28,291	3,240	4%
OR		4	460,346	52,724	62%
UT		1	107,843	12,351	15%
VA		1	23,150	2,651	3%
WA		11	1,248,781	143,025	169%
	Seattle	5	713,015	81,663	97%

NMFS Restricted Access Management (RAM) division. Seattle includes other cities in the Seattle Metropolitan Statistical Area.

Table 15 Area 4D 2022 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel use cap
AK		18	2,022,293	262,665	259%
	Anchorage	7	505,467	65,653	65%
	Delta Junction	3	494,531	64,232	63%
	Dillingham	1	122,473	15,907	16%
	Dutch Harbor	1	220,204	28,601	28%
	Juneau	1	213,044	27,671	27%
	Kodiak	2	267,484	34,742	34%
	Seward	1	44,173	5,737	6%
	Wasilla	2	154,917	20,121	20%
CA		1	24,351	3,163	3%
FL		1	23,640	3,070	3%
OR		5	612,371	79,538	78%
UT		1	124,873	16,219	16%
VA		1	134,866	17,517	17%
WA		17	2,015,856	261,830	258%
	Seattle	10	1,391,204	180,697	178%

NMFS Restricted Access Management (RAM) division. Seattle includes other cities in the Seattle Metropolitan Statistical Area.

Table 16 through Table 18 show the communities that have processed IFQ halibut from Area 4A, 4B and 4C/4D since 2015. Due to confidentiality rules, specific landings data cannot be reported for each community. Landings from all of Area 4 are highly skewed with few communities processing the majority of the landed weight. In 2022, six communities processed halibut from Area 4, down from nine communities in 2021 and 11 in 2019. In 2021 and 2022, the top three communities processing landings were Dutch Harbor, Akutan, and King Cove, representing 90% and 96% of overall landings in Area 4. In 2020, the top three communities were Dutch Harbor, Akutan, and Kodiak, accounting for 88% of landings.

Table 16 Communities processing Area 4A IFQ

Community	2015	2016	2017	2018	2019	2020	2021	2022
Adak	x	x	x	x	x			
Akutan	x	x	x	x	x	x	x	x
Atka	x		x					
Dutch Harbor	x	x	x	x	x	x	x	x
False Pass	x							
Homer	x	x	x	x	x	x	x	x
King Cove	x	x	x	x	x	x	x	x
Kodiak	x	x	x	x	x	x	x	x
Sand Point	x	x	x	x	x	x	x	x
Seward				x	x		x	
St Paul	x	x	x	x	x			

Table 17 Communities processing Area 4B IFQ

Community	2015	2016	2017	2018	2019	2020	2021	2022
Adak	x	x	x	x	x	x		
Akutan	x	x	x	x	x	x	x	x
Atka	x	x	x					
Dutch Harbor	x	x	x	x	x	x	x	x
Homer					x		x	
King Cove	x	x	x	x	x	x	x	x
Kodiak	x	x	x	x	x			
Sand Point		x						
St Paul			x					

Table 18 Communities processing Area 4C/4D IFQ halibut

Community	2015	2016	2017	2018	2019	2020	2021	2022
Akutan	x	x	x	x	x	x	x	x
Dillingham							x	
Dutch Harbor	x	x	x	x	x	x	x	x
False Pass	x							
Homer		x		x	x	x	x	
King Cove		x	x	x	x	x	x	x
Kodiak	x	x	x			x		x
Sand Point	x			x		x		
Savoonga			x		x	x	x	
Seward					x		x	
St Paul	x	x	x	x	x			
St George	x	x	x		x			

Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN, updated 1.4.23

Processor revenue by fishery cannot be reported for individual processors or communities participating in Area 4 halibut processing due to confidentiality rules. Therefore, to demonstrate the relative dependence of processors on the halibut fishery, Table 19 shows the number of processors in the BSAI¹³ FMP areas that process halibut and the percent of overall revenue derived from processing halibut in 10% increments. In 2021, three processors derived less than 10 percent of their revenue from halibut, while one processor was highly dependent on halibut, accounting for 90-100% of their revenue. Table 20 shows the same processors and the percent revenue derived from crab. Prior to 2020, more halibut processors in the BSAI derived a majority of their revenue from processing crab. In 2020 and 2021, no halibut processor in the BSAI derived more than 30% of their revenue from crab.

Table 19 The number of processors processing halibut in BSAI and percent of revenue derived from halibut

% Revenue from halibut	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<1%				2	1	1	1	1	1	1		1
1-10%	3	3	6	5	5	5	6	4	4	4	3	2
10-20%	2	3				1		3	2	1		
20-30%	1		1									
30-40%			1				1			1		
40-50%												1
50-60%			1									
60-70%		1		1							1	
70-80%	1	1			2	1						
80-90%						1		1				
90-100%	2	2	1	2	1	1	2	1	1	1	1	1
Any	9	10	10	10	9	10	10	10	8	8	5	5

¹³ BSAI is an approximation of Area 4 however part of Area 4A overlaps the GOA FMP area.

Table 20 The number of processors processing halibut in BSAI and percent of revenue derived from crab

% Revenue from crab	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<1%	5	6	6	6	5	6	5	4	3	3	2	3
1-10%									1	1	1	
10-20%	1	1	2	1	1		1	2	2	2	2	1
20-30%	1	1		1	1	2	1	1				1
30-40%												
40-50%												
50-60%										1		
60-70%												
70-80%	1											
80-90%	1	2			1	1		2	2			
90-100%			2	2	1	1	3	1		1		
Any	9	10	10	10	9	10	10	10	8	8	5	5

2.3.1.8 Ex-vessel Values

Figure 5 plots ex-vessel value per pound for Areas 4A, 4B, 4C, and 4D in nominal dollars (not inflation-adjusted) in terms of head-and-gut net weight. These values are based on CFEC Fish Tickets for all commercial catch delivered by catcher vessels (CV) to inshore processors. There is a data lag because of the reporting schedule for revenue data, therefore ex-vessel values from 2021 are the most recent year provided. Data for Area 4C is redacted in 2014 and 2015 due to confidentiality. Halibut prices have fluctuated over the past 10 years. Prices in Area 4A, 4B, 4C, and 4D declined between 2016 and 2020 falling to the lowest since 2010 in 2020 before rebounding substantially in 2021.

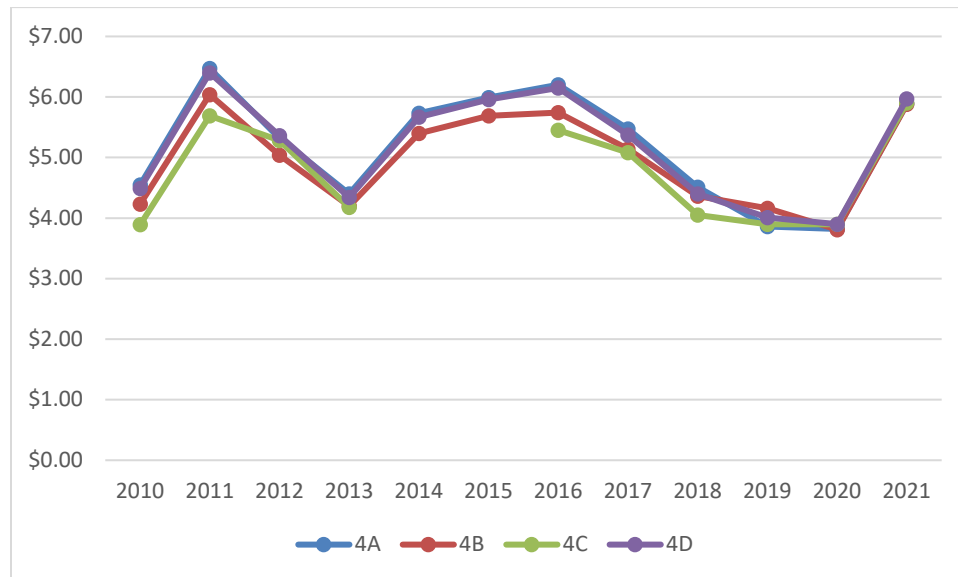


Figure 5 Commercial halibut ex-vessel value (nominal dollars), 2010 through 2021

Source: Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT
 Note: Area 4C data in 2014 and 2015 is redacted as confidential.

Table 21 displays annual nominal (not adjusted for inflation) price per pound of halibut in the BSAI and GOA as calculated by the total ex vessel value and total net landed weight. The prices reported in this document are only for the purpose of estimating annual differences and do not reflect final pricing. Final annual prices are adjusted by Commercial Fisheries Entry Commission (CFEC) to include contracts and Commercial Operator’s Annual Reports (COAR) information at the end of the year.

Table 21 shows similar trends as the above figure with prices in both the BSAI and GOA declining between 2016 and 2020. In 2021, halibut prices increased over 50% from the previous year in both the BSAI and GOA and continued to increase in 2022 although by a lesser margin.

Table 21. Annual nominal price per pound and percent change of halibut in the BSAI and GOA region.
Prices are only for the purpose of estimating annual differences and do not reflect final pricing. Final prices are adjusted by CFEC to include contracts and COAR information at the end of the year.

Year	Region	Halibut price per pound	% change from previous year	Region	Halibut price per pound	% change from previous year
2015	BSAI	\$ 5.80		GOA	\$ 6.48	
2016	BSAI	\$ 5.99	3%	GOA	\$ 6.72	4%
2017	BSAI	\$ 5.62	-6%	GOA	\$ 6.34	-6%
2018	BSAI	\$ 4.52	-20%	GOA	\$ 5.38	-15%
2019	BSAI	\$ 4.49	-1%	GOA	\$ 5.51	2%
2020	BSAI	\$ 3.77	-16%	GOA	\$ 4.28	-22%
2021	BSAI	\$ 5.74	52%	GOA	\$ 6.47	51%
2022	BSAI	\$ 7.05	23%	GOA	\$ 7.31	13%

Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN

2.3.1.9 Recent trends in effort

Much of the public testimony describing the current need for flexibility from vessel caps, cites the need to use larger vessels to operate more efficiently and travel further to fishing grounds and to reach active processors. Figure 6 examines the distribution of effort parameters, by trip in the IFQ halibut fishery in Areas 4A, 4B and 4CD from 2017-2022. Trip duration is calculated as the days between fishing start and landed date, distance to port is calculated as the straight line distance in nautical miles from the center of the ADFG stat area where fishing occurred and the port where fish were landed. The years 2017-2022 represent three years of data prior to any changes in vessel caps or transfer flexibility (2017-2019) and three years that include flexibility (2020-2022). Boxplots show the distribution of the data each year. The center line represents the median, the box represents the middle 50% (25% above, and 25% below the median) and the lines represent the lower and higher 25% of scores excluding outliers.

Generally, there are no obvious trends throughout the time series in Area 4A. Area 4B shows slight increases in the distribution of vessel length in the past 2 years as well as trip duration and distance for the last three years. Area 4CD shows variable trends with the most notable increases in vessel length, trip duration and distance in 2022. Given the removal of vessel caps in recent years it is difficult to determine the direct cause of these trends. Whether trips generally trended towards longer and farther due to the fact that vessel caps were removed or was a trend that was occurring in the fishery regardless cannot be determined in the data.

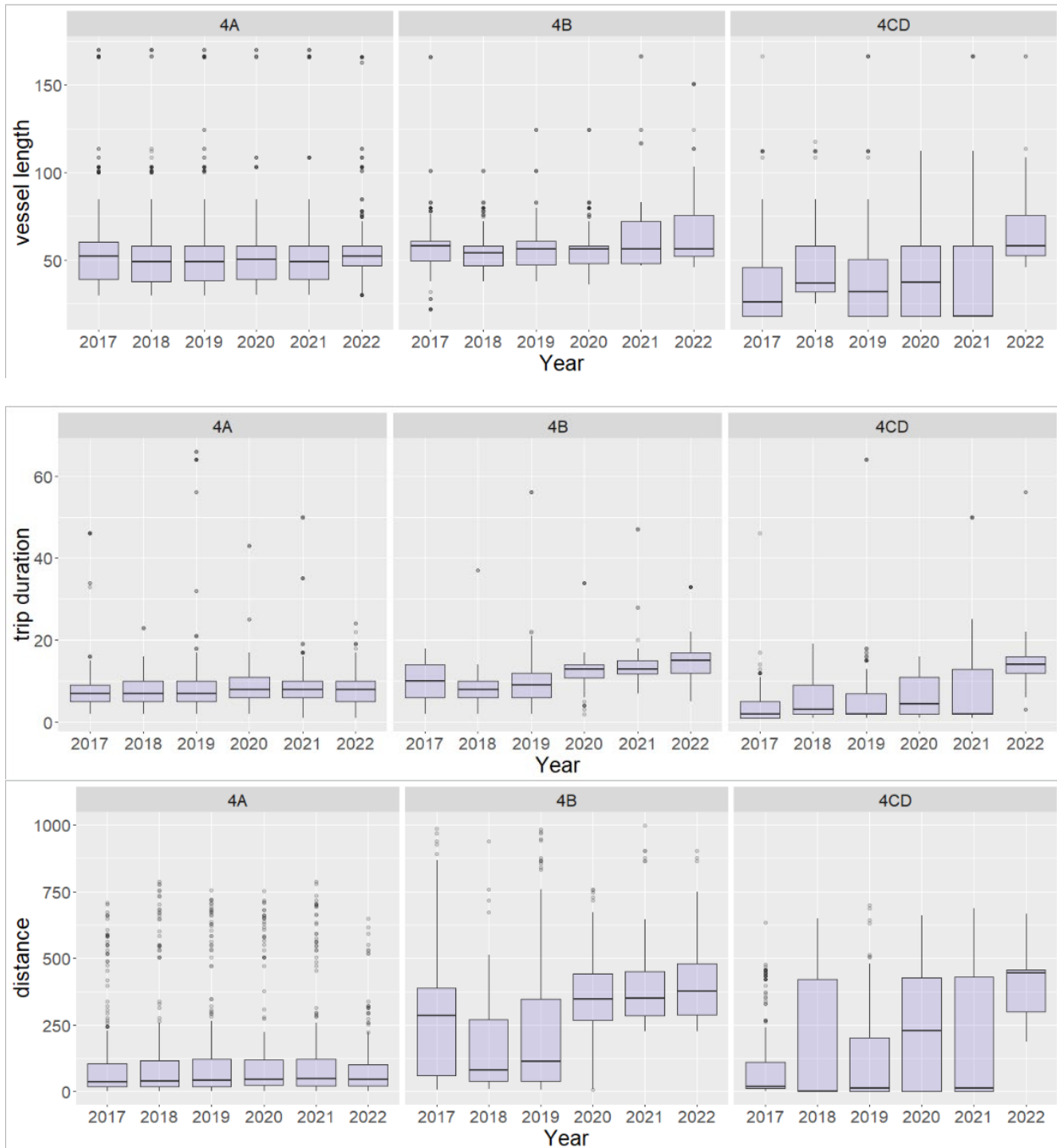


Figure 6 Distribution of effort parameters, by trip in the IFQ halibut fishery in Areas 4A, 4B and 4CD from 2017-2022.

2.4 Analysis of Impacts:

2.4.1 Alternative 1 (No Action)

If Alternative 1 is selected, the existing halibut IFQ Program would not be modified and the vessel use caps as defined under 50 CFR § 679.42(h) will remain in place.

The intention of vessel IFQ caps is 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 and circumstances that have arisen due to the global pandemic, 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 may particularly be the case in Area 4 where there is a smaller number of participating vessels and these vessels are closer to the caps relative to Area 2 and 3 (Figure 3). The number of vessels participating in Area 4 has declined in recent years (Table 5) however it is unclear which vessels did not participate because of the regulatory flexibilities taken as emergency action (i.e., the temporary transfer flexibility as well as the exemption from the vessel use caps in Area 4) and which vessels would have otherwise not participated due to health and safety or financial concerns experienced in 2020-2022.

The likelihood that the supply of vessels is constrained enough to strand unharvested quota each year over the next five years (through 2027) depends on many factors. Some vessels may have not operated in recent years due to health and safety concerns related to COVID-19 or because individual operators could not justify the costs (e.g. fuel, vessel maintenance, labor, etc.) produced by operating a vessel given the uncertain ex-vessel prices or other changes in profitability related to recent market impacts and the global pandemic. Nominal ex-vessel prices increased substantially in 2021 (Figure 5) however inflation also rose considerably over that time so the increase in prices may not have offset increased costs. If vessel participation remains steady or continues to decline, there is still a buffer before the number of vessels decreases below the minimum number of vessels required to harvest the full TAC with a cap in place (Table 5).

The number of active halibut IFQ processors in Area 4 has declined over recent years (Tables 16-18). Vessels harvesting halibut IFQ in Area 4B and 4CD have traveled farther from fishing grounds to processing locations in recent years (Figure 6). Whether these trends are due to limited vessel and processor capacity or the increased flexibility from the temporary removal of regulatory restrictions in recent years is unknown. If these trends continue and vessels need to travel further to reach active processing locations, smaller vessels may be less likely to operate, reducing the overall supply of vessels and the demographics of participation in Area 4.

The community of St. Paul has not processed IFQ halibut in Area 4 since 2019 (Table 16). A 2022 Council analysis on EBS snow crab demonstrates that the Trident Seafoods plant, located in St. Paul is highly dependent on crab deliveries: “As noted on Trident’s website, the plant is the largest crab processing plant in the world. The plant can process and freeze more than 500,000 pounds of snow crab per day. The plant has processed snow crab, king crab, and Tanner crab in the past. During the peak of the snow crab season in February, the plant employs as many as 400 workers. Given the processor’s focus on crab processing and the loss of EBS snow crab operating revenue and the potential continued loss of BBRKC operating revenue due to the continued closure of the fishery, it is likely the processor will be severely impacted by this loss of operating revenue” (NPFMC 2022). The same analysis describes the

uncertainty of future processing operations in St. Paul: “(a)s noted in a personal communication with a Trident representative, in general, it is more costly to operate at low TAC levels than to have the shoreplants shuttered and pay for annual maintenance. However, long-term implications of doing so, for the community and regional delivery requirements, make the cost of not operating in St. Paul severe. If the plant is shuttered for a prolonged period, there would be additional costs related to the replacement non-stainless steel parts (e.g., drive changes and some bearings)” (NPFMC 2022).

If the vessel use cap provisions are maintained, there could be differential impacts on QS holders depending on their fishing operations, and the availability of vessels in the community where they operate. For example, some QS holders may hold small amounts of quota, or reside in a community where numerous vessels are able to operate and could consolidate their IFQ on those vessels under existing regulations. For these operations, maintaining vessel use caps under the no action alternative would have minimal impact. Some QS holders in other communities may not be able to find an adequate number of vessels operating out of their community and may have difficulty identifying vessel owners who are able to harvest their IFQ. Maintaining vessel use caps under the no action alternative may limit the harvest of IFQ for QS holders who have difficulty finding vessel operators to harvest their IFQ, or who prefer to consolidate their IFQ on one or a few vessels that have traditionally operated out of a given community.

2.4.2 Analysis of Impacts: Alternative 2

If the recommended action is implemented, Federal regulations implementing the IFQ program at 50 CFR § 679.42(h), would be revised to exempt vessels from the vessel limitations for halibut IFQ fishing in IPHC regulatory Areas 4A, 4B, 4C, and 4D through the 2027 fishing season (or until the Council takes a subsequent action to modify vessel cap limits in Area 4 if before 2027).

It is expected that those who typically participate in the Area 4 halibut IFQ fisheries may see similar challenges to those that were expected in Areas 4A, 4B, 4C, and 4D in 2020-2022. Some harvesters did not participate in recent fishing seasons, likely due to health and safety concerns in fishing and processing communities throughout Alaska as well as financial barriers created by the economic conditions of the pandemic such as uncertainty with pricing and processing capacity. The likelihood that the supply of vessels in 2023 is constrained enough to strand unharvested quota depends on how many vessels do not operate. The large suite of factors that contribute to an individual vessel operator’s decision to prosecute an IFQ fishery make it difficult to determine precisely how constraining vessel IFQ caps may be for regulatory Areas 4A, 4B, 4C, and 4D.

While some participants may re-enter the fishery in 2023 due to reduced concerns over health and safety as the threat of COVID-19 wanes, many uncertainties and reduced processing capacity are likely to continue. Given the relative dependence of St. Paul processing capacity on crab stocks (NPFMC 2022), and the current closures of the EBS snow crab and Bristol Bay Red King Crab, it is likely that the lack of halibut IFQ processing in St. Paul will continue. Some vessels that may have otherwise participated in the fishery in 2023, may not if vessel caps are removed through 2027, due to inability to compete with larger, more efficient, operations that are unconstrained by vessel limitations. This may lead to some vessels permanently leaving the fishery and long-term shifts in participation after a cumulative eight years (2020-2027) without vessel caps in place.

Participation and harvest patterns in 2020-2022 do not clearly identify the direct impact of an Area 4 vessel use cap exemption because of other factors which may have influenced participation decisions. There was a decline in participating vessels as illustrated in Table 5; however, it is unclear whether vessels did not participate because of the regulatory flexibilities taken as emergency action (i.e., the temporary transfer flexibility in Area 4A and both the temporary transfer flexibility as well as the exemption from the vessel use cap in Area 4A, 4B, 4C and 4D) versus which vessels would have otherwise not participated due to health and safety concerns or financial barriers as experienced in 2020-2022.

Regulatory exemptions implemented for the 2020-2022 IFQ seasons likely had a cumulative positive impact on the harvest rates for Area 4. In Area 4A, vessel use caps were waived for 2021 and 2022 but not for 2020. From 2020 to 2021, harvest rates increased from 81 to 86 percent before dropping to 73 percent in 2022 (Table 2). Harvest was slower to start than in previous years but picked up and continued at a relatively normal rate with annual landings totals reduced from most previous years, however total value was the highest of previous years (Figure 2). In Area 4B, the data does not show the same level of positive impact for the temporary regulatory exemptions implemented for 2020-2022. Harvest rates increased slightly in 2020 but both % of TAC and overall pounds harvested declined in 2021 and 2022 despite a higher TAC (Table 2). The number of vessels harvesting IFQ in Area 4B also declined from 23 in 2020 to 16 in 2022 (Table 5). Cumulatively, these factors may have contributed to the decreased harvest rate. Additionally, public testimony suggested that a combination of reduced processor capacity, closures, and limited air travel service contributed to some unharvested quota in both Area 4A and 4B for 2020-2022.

For Areas 4C and 4D, 2020 was the highest rate of harvest for the years 2012 to 2021 at 99 percent (Table 2). 2021 saw a decreased rate of harvest to 93 percent, which further declined to 84 percent in 2022 although the total pounds landed in 2022 was the largest amount since 2012 (Table 2). Cumulative landings in 2021 started later than usual relative to pre-pandemic fishing years but picked up later in the year and ended higher in landings and value than any year since 2015 (Figure 2).

In 2020-2022 for Area 4, there was a notable increase in the proportion of vessels that met or exceeded the vessel use cap (Figure 3), in part, due to the temporary regulatory flexibilities. Although there were fewer participating vessels overall in 2020-2022 relative to pre-pandemic fishing years, a higher proportion of vessels fished up to 100 percent of the cap (Figure 3). These trends will likely continue if Alternative 2 is selected and vessel caps are waived through 2027.

Consolidating harvesting privileges on a vessel is one way to minimize and share costs and operate more efficiently and profitably. In addition to vessel use caps, other regulations prevent the consolidation of harvesting privileges. Since 1998, transfers, or leasing, of CV IFQ has generally been prohibited except under a few specific conditions. NMFS promulgated emergency rules to allow the temporary transfer of halibut and sablefish IFQ for all QS holders for the 2020 and 2021 fishing seasons, but denied a Council request to extend that flexibility in 2022. In addition to transfer restrictions, other regulatory constraints still apply. Harvesting vessel size is limited by quota class category although existing fish up and fish down provisions in area 4 mean these limitations are less constraining. While vessels greater than 60 feet can only fish B class quota; any vessel 60 feet or shorter in area 4B and 4C could harvest B, C and D class quota.

Additionally, quota use caps would still apply. Use caps limit the amount of QS that can be held or used by an individual, therefore harvesting 100 percent of the TAC will require numerous individuals to hold QS. While a waiver of vessel use caps as proposed in this action would likely decrease the number of participants on vessels there is still a minimum of 68 individuals required to fully utilize the halibut IFQ TAC in Area 4 (Table 9). It is likely that full TAC utilization will require the participation of more individuals due to logistical constraints and the difficulty in efficiently and evenly distributing quota. However, this may still represent a reduction in participants. In recent years, the total number of QS holders delivering IFQ in Area 4 has been between 103 and 159 and has substantially declined since 2019 (Table 10). A potential reduction in the number of participants in the fishery may reduce the potential of health risks to fishing crews, communities, fishery participants and their families because of potential spread of COVID-19 from asymptomatic individuals. However, reducing the number of participants reduces economic opportunities for crew or newer entrants to the fishery.

While it is difficult to determine if vessel participation levels in 2023-2027 would be diminished enough to strand unharvested quota, or whether other factors like processing capacity would increase the likelihood of stranded quota, waiving vessel use caps would make it easier for vessels that choose to

participate in the fishery to operate more efficiently and profitably. If participants are able to consolidate IFQ onto fewer vessels this increases the likelihood of achieving economies of scale and harvesting IFQ more profitably. This may be particularly helpful for these areas in the BSAI where the costs and risks associated with reaching the fishing grounds and prosecuting the fishery are often higher and the availability of processing facilities are limited. The remoteness of these fishing grounds and distance from available halibut markets may be a barrier to vessels operating in the region. Trends in trip duration and distance to port as well as increases in distribution of vessel length can be seen in Areas 4B and 4CD since 2019 (Figure 6). Whether these trends are an effect of the reduced regulatory restrictions in recent years or are caused by other external factors is unknown.

Possible negative impacts of waiving IFQ vessel use caps in Area 4 include a potential reduction in crew jobs and opportunities for new entrants in Area 4. While halibut QS holders would still earn revenue off of IFQ they consolidate and lease, under the proposed flexibility, crew members who do not hold QS may not have as many opportunities available. Given recent trends toward longer trips on larger vessels it is possible that smaller vessels will be unable to compete with efficiencies of larger vessels unconstrained by vessel caps and therefore less likely to participate.

If fewer vessels participate in the fishery, it is possible that landings would also consolidate to fewer processors and communities based on geographic location of vessels and historic relationships or landing patterns. In 2019-2022, the processing plant in St. Paul did not open for the halibut season. As a result, deliveries shifted to Dutch Harbor and other processing hubs. One processor is dependent on halibut for over 90% of their revenue (Table 19) and if landings shift away from this processor that could have a detrimental affect on this community. However, if the proposed action results in a higher percentage of the TAC getting harvested, the overall revenue generated from these landings would increase.

Removing vessel caps through 2027 may provide increased stability for planning purposes for stakeholders and participants, especially compared to the annual actions taken by the Council over the past three years. A multi-year action also reduces the analytical time and meeting time consumed by individual, annual actions, allowing the Council to provide relief to vessel cap constraints in the short-term, while working on a more substantial, longer term solution. However, removing vessel caps through 2027 reduces the Council's ability to adapt to changes in the dynamics of the fishery on an annual basis as has occurred for the past three years.

2.5 Management and Enforcement Considerations

NMFS Restricted Access Management (RAM) division issues annual IFQ permits. Part of this process includes determining vessel use caps based on the TAC published by NMFS. Alternative 2 separates out distinct IFQ regulatory areas and requests the removal of vessel use caps particular to a subset of regulatory areas (Areas 4A, 4B, 4C and 4D). However, existing vessel use caps are based on percentages of the total halibut IFQ TAC and Area 2C halibut IFQ TAC. Vessel use caps are enforced at the point of landing and Alternative 2 would be implemented by NMFS Enforcement not counting Area 4 landings by vessels making qualifying landings above the established cap. This is how the vessel use cap waiver was implemented in 2020-2022. Only landings of Area 4 halibut IFQ would be excluded from the vessel use cap so this exclusion would not apply to a vessel that only made landings from Areas 2 or 3. However, if a vessel fished in Area 4, then moved into Areas 2 or 3, the Area 4 landings would not be counted when determining whether a vessel exceeded the cumulative total cap in those other areas.

NMFS RAM staff have advised that accommodating Alternative 2 by permanently modifying the landings programming would require NMFS developers approximately four weeks of dedicated time to determine the business requirements, modify existing (antiquated) code, and implement the changes to ensure participants could land IFQ without reporting errors.

Any action to modify the IFQ Program recommended by the Council would be subject to cost recovery under the MSA.¹⁴ The IFQ Program cost recovery was 3 percent in 2020 and 2.3 percent in 2021 and 1.9 percent in 2022. NMFS does not anticipate a substantive drop in management costs. Under the provisions of the Magnuson-Stevens Act, the fee percentage cannot exceed 3 percent of ex-vessel value regardless of direct program costs. By implementing this temporary action without modifying the landings database programming, this will only add additional administrative costs that are billable to the halibut and Sablefish cost recovery program for the staff time necessary to record and issue landings waivers for the vessels that use this provision through 2027. However, implementing a multi-year modification reduces the overall management time required to analyze and publish individual rules each year as has occurred since 2020.

2.6 Affected Small Entities

Section 603 of the Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis (IRFA) be prepared to identify if a proposed action will result in a disproportionate and/ or significant adverse economic impact on the directly regulated small entities, and to consider any alternatives that would lessen this adverse economic impact to those small entities. This section provides information that NMFS will use to prepare the IRFA for this action, namely a description and estimate of the number of small, directly regulated entities to which the proposed action will apply.

In considering which entities are “directly regulated”, the operative phrase in the proposed action under consideration is: “exempt vessels from the vessel limitations in IPHC regulatory Areas 4A, 4B, 4C, and 4D for through the 2027 IFQ season.” In light of this directive, the universe of entities that might be directly regulated by this action is limited to the vessels that have traditionally harvested halibut IFQ in Area 4A, 4B, 4C, or 4D. However, this action only directly regulates vessels to the extent that they choose to take advantage of the exemption of the vessel use cap limitation. This is voluntary, and nothing above the status quo is “required” of the vessel.

The thresholds applied to determine if an entity or group of entities are “small” under the RFA depend on the industry classification for the entity or entities. Under the RFA, businesses classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts not in excess of \$11.0 million for all affiliated operations worldwide, regardless of the type of fishing operation (81 FR 4469; January 26, 2016). If a vessel has a known affiliation with other vessels – through a business ownership or through a cooperative – it is measured against the small entity threshold based on the total gross revenues of all affiliated vessels.

AKFIN provided the analysts with the most recent complete set of gross revenue data by vessel. There is a lag due to the publishing and review schedule for revenue data. Therefore, 2021 represents the most up-to-date set of gross revenue data by vessel. In 2021, 98 active vessels participated in the halibut IFQ fishery in Areas 4A, 4B, 4C, and 4D. 97 of these vessels were considered small entities. 36 vessels that previously participated from 2017-2020 were not active in 2021.

¹⁴ Additional information and annual cost recovery reports are available at: <https://www.fisheries.noaa.gov/resource/document/individual-fishing-quota-ifq-cost-recovery-reports>

2.7 Summation of the Alternatives with Respect to Net Benefit to the Nation

This section uses qualitative methods to assess the potential net benefit of action on the Nation (relative to the no action baseline). Compared to ‘no action’, the proposed action in this analysis would exempt vessels from the vessel limitations in IPHC regulatory Areas 4A, 4B, 4C, and 4D through the 2027 IFQ season.

The analysis indicates that it is possible existing vessel use caps regulations may increase the likelihood that some of the annual allocation of halibut IFQ in Areas 4 is left unharvested. This may occur if the availability of vessels is decreased in 2023 such that the entire allocation cannot be spread out amongst participating vessels while meeting vessel use cap limitations. Vessels available to prosecute remote waters of Area 4 may decrease in 2023 due to health and safety measures taken by individuals and harvesting and processing operations. In particular, stakeholders have indicated that the local small boat fishery in St Paul did not operate in 2020-2022. In addition, the economic ramification of the global pandemic, including uncertainty with prices and higher operating costs to safely operate may mean a trip to Area 4 is not economically viable for some historically participating vessels and crew.

The likelihood that the supply of vessels is constrained enough to strand unharvested quota depends on how many vessels do not operate due to health and safety concerns related to the pandemic or because individual operators cannot justify the costs (e.g., fuel, vessel maintenance, labor, etcetera) produced by operating a vessel given the changes in profitability related to the global pandemic. Therefore, the temporary waiver of vessel use caps could lead to a larger total harvest of IFQ in Area 4 through fishing season 2027 then may have otherwise been harvested.

This action could lead to possible distributional impacts across crew, processors, and communities. For instance, if consolidation of halibut IFQ on a smaller number of vessels occurs due to this proposed increased flexibility, this would likely decrease the amount of crew needed to harvest the IFQ, resulting in lost jobs and revenue. Additionally, if halibut deliveries shift to Dutch Harbor, Akutan or King Cove as has occurred in recent years, these communities would benefit from any additional fisheries landing tax associated with increased landing and other communities could lose these revenues. If the operations in these communities would not have otherwise participated due to health concerns or economic constraints, then this loss in jobs and revenue would also be accrued under no action. When examining data since 2020, it is difficult to assert the counterfactual scenario that may have occurred without this flexibility.

Overall, this action may lead to an increase in the amount of IFQ halibut harvested in Area 4 and therefore product produced and available to consumers producing small net benefits to the Nation.

3 Pacific Halibut Act Considerations

The fisheries for Pacific halibut are governed under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773-773k). For the United States, the Halibut Act gives effect to the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea. The Halibut Act also provides authority to the Regional Fishery Management Councils, as described in § 773c:

(c) Regional Fishery Management Council involvement

The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the International Pacific

Halibut Commission (IPHC). Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853(b)(6) of this title. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges.

The Halibut Act states that the Council may develop regulations, including limited access regulations, to govern the fishery, provided that the Council's actions are in addition to, and not in conflict with, regulations adopted by the International Pacific Halibut Commission (IPHC). Adherent to the Halibut Act, the proposed action is not in conflict with any existing regulations adopted by the IPHC.

In addition, consistent requirements under the Halibut Act, this action does not discriminate by residents of different states. The proposed action would allow additional flexibility in harvesting IFQ for vessels in Area 4 regardless of home state. Table 11 shows that between 2015 and 2022, on an annual average basis, 70 percent of the vessels participating in the IFQ fishery in Area 4 had ownership addresses in Alaska, while 30 percent of vessels were owned in other states. The proposed flexibility would be available to all those who hold QS in Area 4A, 4B, 4C, and 4D and vessels that harvest in these areas regardless of the state of origin.

The waiver of vessel limitations for vessels in Area 4A, 4B, 4C, and 4D through fishing year 2027 is also consistent with limited entry criteria set forth in Section 1853(b)(6) of the Halibut Act. This action would not create a new limited access privilege program, rather it would temporarily amend the current Halibut IFQ Program. The proposed action maintains current allocations as determined through multiple types of halibut management programs established through the Council. Additionally, QS use caps in place in the Halibut and Sablefish IFQ Program would still apply to those holding QS, continuing to ensure no particular individual, corporation, or other entity acquires an excessive share of harvesting privileges.

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