

Final
Regulatory Impact Review
For a final rule to remove vessel cap limitations for
IFQ halibut harvested in IPHC regulatory
Areas 4B, 4C, and 4D for
the remainder of the 2020 IFQ fishing season

June 15, 2020

Lead Agency:	National Marine Fisheries Service, Alaska Region National Oceanic and Atmospheric Administration
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Abstract: This Regulatory Impact Review (RIR) evaluates the costs and benefits of a final rule to modify the halibut Individual Fishing Quota (IFQ) Program to remove vessel cap limitations for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ fishing season. This final rule would not modify any other aspects of the IFQ Program. This action is in response to local and State travel restrictions and health mandates and is within the authority of the Secretary of Commerce (Secretary) to establish additional regulations governing the taking of halibut under the provisions of the Halibut Act.

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1. Introduction

The North Pacific Fishery Management Council (Council) received two separate letters requesting action to modify IFQ Program vessel harvest limitations (vessel caps) 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 (see Figure 1 for a map of IPHC regulatory areas). The CBSFA letter specifically requested these exemptions due to a potential lack of harvesting capacity, stating that the small boat fishery out of St. Paul may not operate due to the high risk of spreading COVID-19 in the remote community, and lack of medical facilities in the region. The request also referenced low ex-vessel prices and the extreme nature of operations in the BSAI region, and distance from current halibut markets as barriers to vessels operating in the region.

The 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 considered these proposals in a special meeting to review emergency rule requests on May 15, 2020. The Council took action recommending emergency action based on the industry proposal for revising halibut vessel caps in areas 4B, 4C, and 4D. The 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.

The Council’s May 15, 2020 motion requested regulatory action “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 does not modify other aspects of the IFQ Program.”

This analysis provides background of the conditions in the fishery and a draft evaluation of the impacts of the Council’s recommended action to remove vessel use cap regulations for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ fishing season.

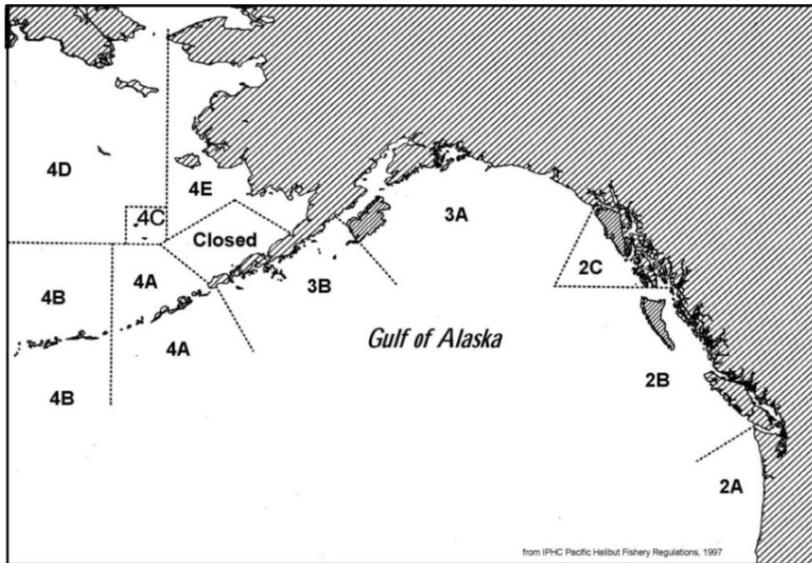


Figure 1. IPHC Regulatory Areas

2. Regulatory Impact Review

This Regulatory Impact Review (RIR)¹ examines the benefits and costs of a final rule to modify the Halibut and Sablefish Individual Fishing Quota (IFQ) Program to remove vessel limitations for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ fishing season.

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.

¹ Analysts have preliminarily determined that this action does not have the potential to have an effect individually or cumulatively on the human environment. 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.

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.

Under the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ), not otherwise managed under other existing law – such as halibut under the Halibut Act. The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

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

The Council convened a special meeting to review emergency rule requests on May 15, 2020. After considering requests to waive vessel caps in numerous regulatory areas for both the halibut and sablefish IFQ fisheries, the Council requested the Secretary promulgate regulations to remove vessel use caps for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ fishing season.

2.2.1 Alternative 1: No Action

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

2.2.2 Alternative 2: Remove vessel cap limitations in 4B, 4C, 4D (Preferred Alternative)

Temporarily remove vessel use cap regulations for IFQ halibut harvested in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ fishing season.

The Council requested the Secretary promulgate regulations under the authority of the Halibut Act 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. The applicable vessel 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,”

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 Council Rationale for Recommended Action

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 IFQ Program for halibut is implemented under the authority of the Halibut Act for the management of Halibut fisheries and the Magnuson-Stevens Act for the management of Sablefish fisheries. The two industry letters reviewed by the Council presented two different options to modify vessel use caps under the IFQ Program. The action recommended by the Council is limited in scope to only the management of halibut in the Bering Sea. The other option considered by the Council would have applied to the management of Halibut and Sablefish in the BSAI and GOA under the authority of the Halibut Act and the Magnuson-Stevens Act.

Because the Halibut Act does not include specific emergency rulemaking authority and the MSA does not authorize the management of halibut, the MSA emergency rule guidelines and criteria do not apply to the action recommended by the Council and analyzed in this document.

The Council structured its rationale for this action using the framework of the emergency rulemaking authority under MSA and NMFS's Policy Guidelines. This authority and these guidelines only apply to the management of groundfish however this does provide suitable rationale for the recommended action under the authority of the Halibut Act.

The Council recommended emergency action to address economic, and social situations present in the halibut IFQ fishery in Areas 4B, 4C, and 4D.

The evolving COVID-19 pandemic **is an unforeseen and recently discovered circumstance** that has prompted various restrictions to mitigate its spread, including travel restrictions and health mandates in Alaska that currently require a 14-day quarantine for everyone entering the State. The COVID-19 pandemic and its impact on fishery operations was unforeseen when the IFQ fishery began this year.

Travel restrictions, health mandates, and other operational challenges posed by COVID-19 mitigation measures **present serious management problems** in the halibut IFQ fishery in Areas 4B, 4C, and 4D. While IFQ fishing in the Aleutians and Central Bering Sea poses significant logistical challenges under normal circumstances, in 2020, concerns about personal health risk, health mandate restrictions and other significant limitations on transportation and support services in coastal communities in these areas will substantially restrict the number of halibut IFQ vessels operating in Areas 4B, 4C, and 4D. The number of vessels operating is expected to decrease this year from the already low levels of participation in recent years. A large proportion of vessels active in the fishery in Areas 4B, 4C, and 4D, are already near the vessel use cap. Public comment stated that there simply are not enough vessels with available harvesting capacity to catch all the halibut quota in the region without exceeding the vessel use caps. Exempting vessels from the use caps in IPHC regulatory Areas 4B, 4C, and 4D will provide additional flexibility to harvest IFQ and reduce the risk that substantial amounts of IFQ may be forgone.

The Council believes that without the recommended action, it is likely that a considerable portion of the harvest will be foregone due to the lack of available harvesting capacity under the vessel use caps for vessels planning to operate in Areas 4B, 4C, and 4D this season. The Emergency Rule criteria state that public health, economic, and social criteria can be used to justify an emergency action. These conditions are clearly met with respect to harvesting capacity in Areas 4B, 4C and 4D under the circumstances created by the COVID-19 pandemic.

These conditions **can be addressed through emergency regulations for which the immediate benefits outweigh the value of the normal rule making process.** It is not possible to address this issue without emergency regulation and the benefits of doing so clearly outweigh the normal notice-and-comment rulemaking process. Under the recommended action, all participants in Areas 4B, 4C, and 4D would have flexibility to use available harvesting capacity for the 2020 fishing season, thereby making it unlikely that substantial amounts of IFQ harvest will be foregone.

The Council considered an option to waive vessel caps for sablefish and for halibut in additional IPHC regulatory areas and determined that emergency rule criteria was not met and therefore did not recommend action for halibut in areas other than 4B, 4C and 4D or for sablefish.

Outside of Areas 4B, 4C and 4D for halibut, the Council determined that the number of vessels needed to fully harvest the allocation was substantially less than the number of vessels participating in recent years and that these participating vessels would be able to fully harvest their allocations while operating within the vessel use cap restrictions. The Council believes that even with restricted operations related to travel restrictions and health mandates, there will be sufficient harvesting capacity this year to avoid substantial amounts of forgone harvest in these areas. Therefore, expanding vessel cap waivers outside Areas 4B, 4C and 4D for halibut does not meet the second emergency rule criteria requiring the situation to present serious conservation or management problems in the fishery.

Additionally, numerous public comment letters opposed waiving the vessel use cap in areas other than 4B, 4C and 4D. Many of the commenters indicated that waiving the vessel use cap is not necessary, particularly in the Gulf of Alaska, because there will be sufficient harvesting capacity available on vessels that are already operating or have developed plans to operate under the current travel restrictions and health mandates.

The Council concurrently recommended emergency action to allow all individuals holding B, C, or D class QS to temporarily transfer IFQ in 2020. This provides a substantial amount of harvest flexibility making it unnecessary to consider waiving vessel use caps in areas other than 4B, 4C and 4D. Therefore, expanding vessel cap waivers outside Areas 4B, 4C and 4D for halibut does not meet the third emergency rule criterion requiring that the situation can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

The Council strongly supports the vessel use cap provisions of the IFQ Program. These requirements are an essential component of the IFQ Program to ensure harvesting opportunity is not consolidated onto too few vessels and instead is that broadly distribute harvest among a variety of operation types. Support for a temporary waiver of halibut vessel use caps in the 2020 fishing year for Areas 4B, 4C and 4D does not in any way indicate support to consider changing vessel cap provisions in the future. The COVID-19 pandemic and the resulting mitigation measures, health mandates and travel restrictions are a rare circumstance that warrant a regulatory change to allow flexibility for IFQ holders in the remote regions of Areas 4B, 4C and 4D.

2.3. Description of Fisheries

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 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 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.

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 4B, 4C and 4D-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. Further information on the IFQ Program are 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 Management (RAM) Transfer Report (NMFS 2015a), and choice statistics about the fishery were provided in the RAM Report to the Fleet (NMFS 2014), which was produced annually up until 2012.

2.3.2 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 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 caps, it is not discussed further in this document.

2.3.3 Allocation and Harvest

IFQ halibut allocation and harvest in Areas 4B and 4C/4D since 2006 are shown in Table 1. Area 4B halibut IFQ allocation increased between 2007 and 2011, then decreased until 2019. Area 4C/4D has seen more fluctuation in the halibut IFQ catch limits during this time period, however the overall decrease in TAC has been more substantial.

Both Area 4B and 4C/4D have had high harvest rates of halibut IFQ TAC. The harvest rate has been less than 90% of the TAC for only three years since 2006 in area 4B (2009, 2013, 2019) and four years since 2006 in area 4CD (2006, 2007, 2013, 2019). Despite relatively high TAC utilization rates, total harvest has declined in recent years as TAC has declined.

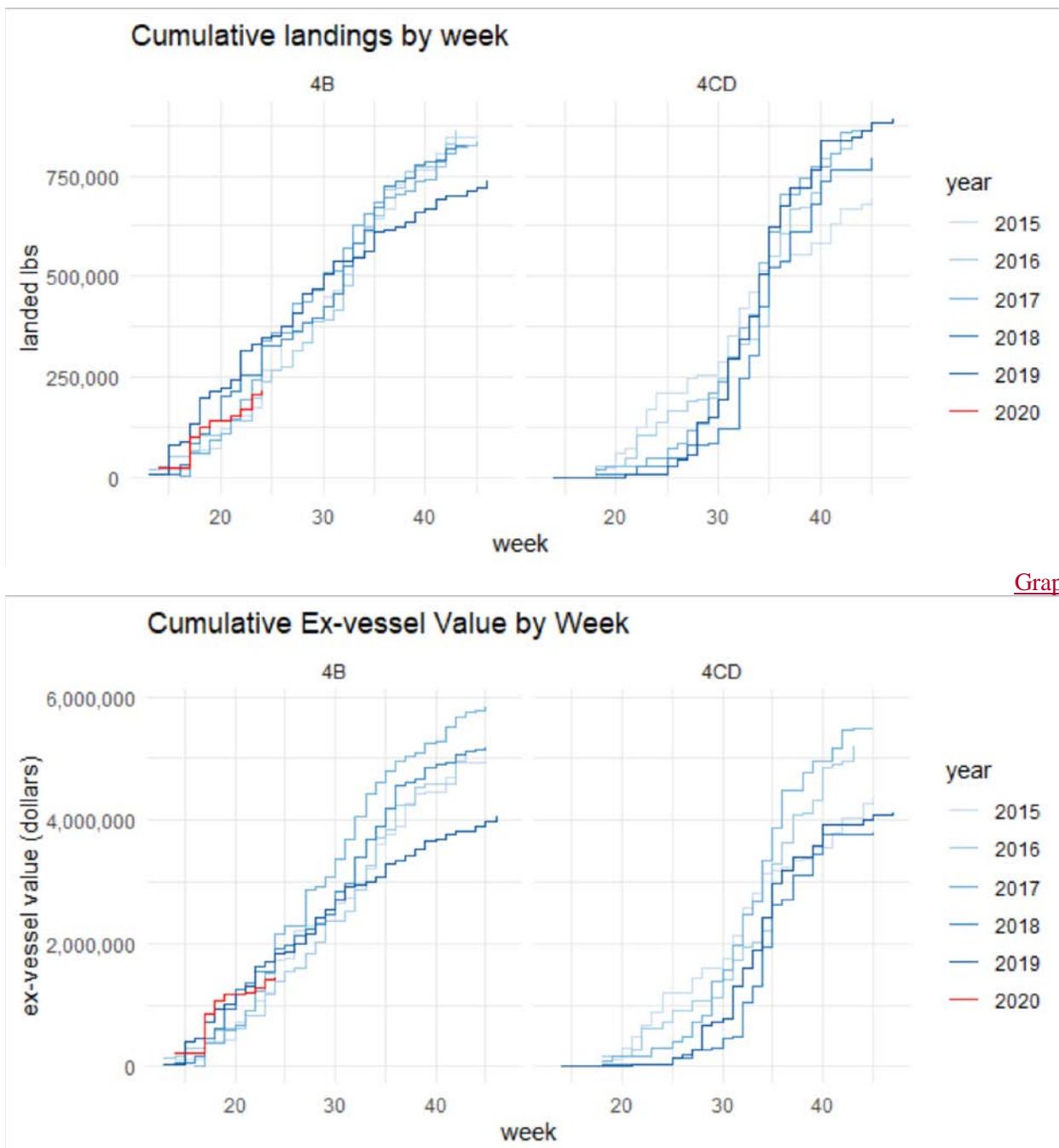
TAC in both areas increased in 2019, but percent of TAC harvested dropped to 76% in Area 4b and 82% in 4C/4D. This represented a decrease from 2018 in total pounds harvested in area 4B but an increase in area 4C/4D.

Table 1 IFQ Allocation and harvest area 4B and 4C/4D

Year	Area	TAC	Harvest	% TAC harvested
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		
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		

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

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 2015-2020. 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. Data for 2020 are complete through week 24, which is June 8-14. Area 4C/4D does not have any recorded landings yet for 2020, however this is fairly consistent with trends over the past two years. Area 4B landings and ex-vessel value totals so far in 2020 represent the lower end of the range of the previous five years.



[Graph](#)

Figure 2 Weekly cumulative IFQ landings and ex-vessel value

Source: Landed lbs- NMFS RAM IFQ landings database, ex-vessel value: ADF&G eLandings sourced through NMFS Alaska Region, data compiled by AKFIN. In 2020, the fishery opened in week 11 (March 9-15) and data are reported through week 24 (June 8-14).

2.3.4 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 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 2 displays the QS units and equivalent IFQ pounds held by the ACDC CQE. 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 2 QS holdings and equivalent IFQ pounds in the ACDC CQE

Year	QS units	IFQ lbs
2015	615,956	60,503
2016	678,609	66,657
2017	678,609	66,657
2018	678,609	61,395
2019	1,196,304	124,723
2020	1,196,304	113,385

2.3.5 Vessel Limits (Caps)

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 caps in Areas 2C, 3A, 3B, or 4A however they are included in this analysis for comparison purposes. Separate vessel 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 recommended action would only affect vessel limitations in fishing year 2020 in Areas 4B, 4C and 4D however information regarding caps and vessel harvest patterns in previous years and other regulatory areas are provided to help evaluate the proposed action. Table 3 lists halibut total catch limits and vessel caps for 2013-2020. The vessel cap in IPHC regulatory areas 4B and 4CD in 2020 is 80,396 lbs. of halibut.

Table 3. Annual catch limits and vessel caps for halibut, 2013-2020.

Year	Halibut	Areas 3 and 4	Area 2C	
	Total Catch Limit (lbs)	Vessel Cap (lbs)	Area Catch Limit (lbs)	Vessel 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	16,079,200	80,396	3,410,000	34,100

Source: NMFS Restricted Access Management (RAM).

Table 4 displays the annual allocations for each halibut regulatory area, the minimum number of vessels required to harvest 100% of the area allocation given vessel limitations, and the percent of the allocation that was harvested, and the number of vessels harvesting IFQ for both the entire fishing year and each fishing year through May 3rd and again in a separate time period through June 14th. From 2015-2019 more vessels than the minimum required under the vessel caps have harvested IFQ in every regulatory area. This suggests that even in years when the entire allocation was not landed, the supply of vessels and vessel cap were not constraining factors. As of May 3, 2020 (the last available week of complete data at the time that the Council considered this action) fewer vessels than the minimum required to harvest 100% of the allocation had harvested IFQ in all halibut areas. After Council action, Table 4 was updated to compare the potential rates of harvests through June 14 to ascertain whether the same harvest patterns observed earlier in the year (as of May 3) have continued.

Comparing the level of vessel activity and landings through May 3rd and June 14th in 2020 to fishing patterns during these same time periods in previous years shows different trends in different regulatory areas. For example, based on data through May 3rd in Area 3A, 81 vessels have already harvested 2020 halibut IFQ. This is lower than the average of 151 vessels that have participated year to date in the past five fishing seasons, however only seven more vessels (a total of 88) are needed to meet the minimum threshold to harvest the entire annual allocation in 3A. Through the May 3rd period in Area 4A, only 6 vessels have harvested IFQ in 2020, 12 less than the minimum of 18 vessels required to harvest all IFQ given vessel caps, however activity through May 3rd in 2020 is comparable to fishing activity through May 3rd in previous years. During this May 3rd period in Areas 4B and 4CD, only 3 out of the minimum 11 and 0 out of the minimum 12 vessels required to harvest each area specific allocation have harvested IFQ to date, this participation level is not a marked reduction from previous years.

Examining more recent data (fishing activity through June 14th) indicates that the trends that were observed earlier in the year generally have continued to hold with greater participation in the Gulf of Alaska (Areas 2C through 3B) than in the BSAI (Area 4). For example, Table 4 shows that since June 14th in Areas 2C, 3A, and 3B there are more vessels participating than are needed to meet the minimum threshold to harvest the entire allocations in 2020 under the existing vessel use caps. In Areas 4A and 4B, the number of vessels participating has increased, with the increase greater in Area 4A (from 6 vessels prior to May 3rd to 14 vessels in the period prior to June 14th) than in Area 4B (an increase from 3 to 8 vessels over the same period). This is generally consistent with overall harvest patterns observed in these Areas in previous years (see Figure 2).

The comparison of landings in 2020 during the May 3rd and the June 14th periods in Area 4CD is obscured by the fact that some data cannot be reported due to confidentiality rules however this is not unique to 2020. In addition, for the 2020 fishing year, harvests in Areas 4B, 4C, and 4D could be lower compared to previous years due to the expectation that NMFS will publish a rule to relieve the existing use caps and

provide additional harvest opportunities to vessels. Vessel operators and IFQ holders may be withholding harvesting activities until that regulation is published, thereby reducing harvest rates in those areas.

Table 4. Halibut annual area allocation, and minimum number of vessels required to harvest 100% of IFQ in each area under the vessel cap. Annual totals and totals each fishing year through May 3 and through June 14 of percent of allocation landed, and number of vessels harvesting IFQ. Area 2C data are provided for comparison only, as it is not included in this exemption request.

Area	Year	Allocation (pounds)	Minimum no. of vessels to harvest 100%	Annual Total		Fishing Year to Date (May 3)		Fishing Year to Date (June 14)	
				No. of vessels harvesting IFQ	Percent landed	No. of vessels harvesting IFQ	Percent landed	No. of vessels harvesting IFQ	Percent landed
2C	2015	3,679,000	100	439	96%	164	37%	279	64%
	2016	3,924,000	100	433	97%	173	41%	266	65%
	2017	4,212,000	100	423	96%	164	36%	269	61%
	2018	3,570,000	100	402	95%	127	30%	227	56%
	2019	3,610,000	100	406	94%	146	33%	222	56%
	2020	3,410,000	100			81	17%	160	38%
3A	2015	7,790,000	91	441	99%	168	28%	278	53%
	2016	7,336,000	86	431	99%	164	25%	287	56%
	2017	7,739,000	85	415	98%	145	25%	263	51%
	2018	7,350,000	89	401	98%	138	24%	246	50%
	2019	8,060,000	92	408	98%	142	26%	235	50%
	2020	7,050,000	88			81	13%	171	35%
3B	2015	2,650,000	31	196	98%	30	11%	95	38%
	2016	2,710,000	32	194	97%	41	16%	91	38%
	2017	3,140,000	35	192	96%	34	12%	89	31%
	2018	2,620,000	32	182	93%	25	9%	70	28%
	2019	2,330,000	27	169	94%	37	15%	69	31%
	2020	2,410,000	30			11	4%	52	26%
4A	2015	1,390,000	17	68	95%	5	3%	28	30%
	2016	1,390,000	17	69	97%	2	*	19	22%
	2017	1,390,000	16	65	91%	5	2%	19	19%
	2018	1,370,000	17	67	89%	6	4%	20	21%
	2019	1,650,000	19	63	83%	10	6%	19	19%
	2020	1,410,000	18			6	2%	14	10%
4B	2015	912,000	11	33	93%	2	*	9	27%
	2016	912,000	11	34	94%	4	11%	10	26%
	2017	912,000	10	30	91%	3	*	13	37%
	2018	840,000	11	27	98%	6	13%	13	32%
	2019	968,000	11	24	76%	6	20%	12	36%
	2020	880,000	11			3	*	8	24%
4CD	2015	715,920	9	38	96%	0	*	7	27%
	2016	880,320	11	36	96%	2	*	6	14%
	2017	902,400	10	38	96%	1	*	5	5%
	2018	880,200	11	38	90%	1	*	2	*
	2019	1,092,000	13	42	82%	1	*	4	1%
	2020	919,200	12			0	*	0	*

* Data cannot be reported due to confidentiality.

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

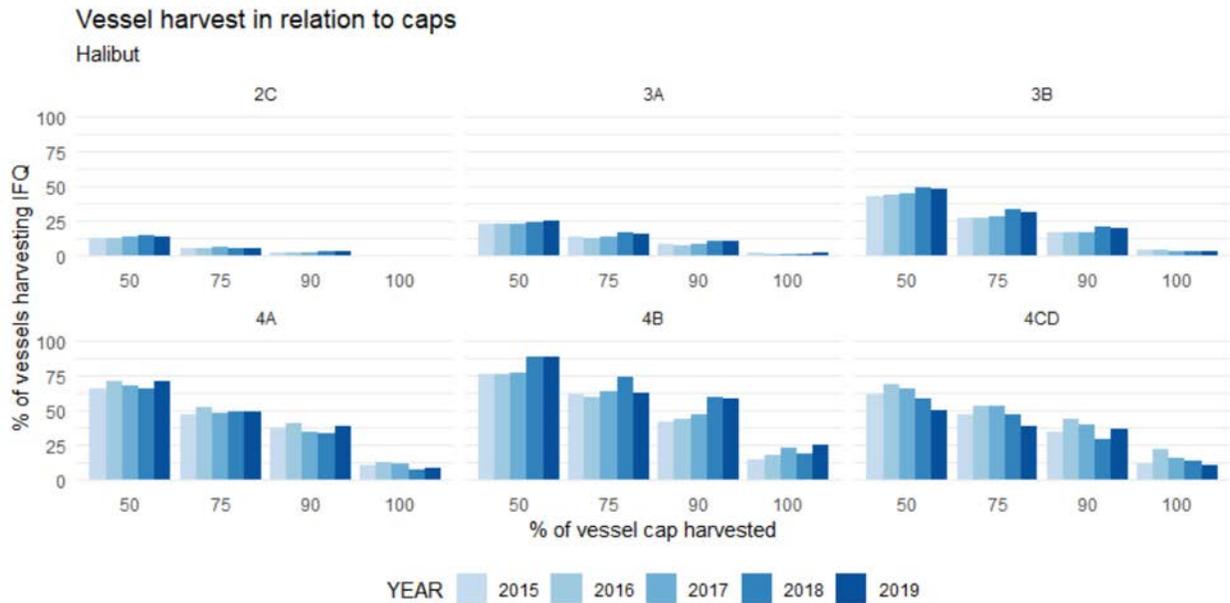


Figure 3. Percent of vessels harvesting IFQ in each regulatory area with total landings within 100%, 90%, 75% and 50% of the vessel cap. Percent of vessel cap harvested is calculated by total IFQ regardless of area of harvest (with the exception of 2C and SE). Vessels harvesting in multiple areas are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

One method to examine the effects of vessel 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% of the vessel 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 cap is calculated from the total IFQ harvested regardless of area. Vessels are included in each % threshold for which they qualify (a vessel that harvested 100% of the cap is included in the bar graph at 50%, 75%, 90% and 100%).

The percentage of vessels reaching thresholds declines at thresholds closer to 100% of the vessel cap in each regulatory area. Generally, there is a larger percentage of vessels operating closer to the cap in Area 4 than in other areas. In Halibut area 3, less than 25% of vessels have harvested up to 90% of the vessel cap. While in area 4, close to 40% of vessels in 4A and 4CD (24 and 15 vessels respectively), and almost 60% of vessels in 4B (14 vessels) harvested up to 90% of the vessel cap in 2019. In halibut areas outside of 2C and 4CD recent year trends show a growing percentage of vessels reaching each threshold.

2.3.6 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 5. 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 2016).

Table 5 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 2016). Table 6 shows the fish up and fish down provisions for areas 4B, 4C and 4D.

Table 6 Fish up/down provisions applicable to individually-held halibut IFQ

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

Table 7 shows the breakdown of the QS pool by class in 2020 for Areas 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 4B and 4CD. 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 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 allocated. In both Area 4B and 4CD 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. While vessels up to 35 feet make the smallest total of landings in pounds, they have become an increasingly larger number of participating vessels in Area 4CD.

Table 7 percentage of 2020 QS pool in each class.

	A	B	C	D
4B	6%	77%	15%	3%

4C	0%	40%	22%	38%
4D	8%	83%	9%	

Source: NMFS Restricted Access Management (RAM) division

Because these vessel 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 4B at least 18%, in Area 4C at least 60%, and in Area 4D at least 9% of the IFQ would need to be harvested on smaller “C class” or “D class” vessels. 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.

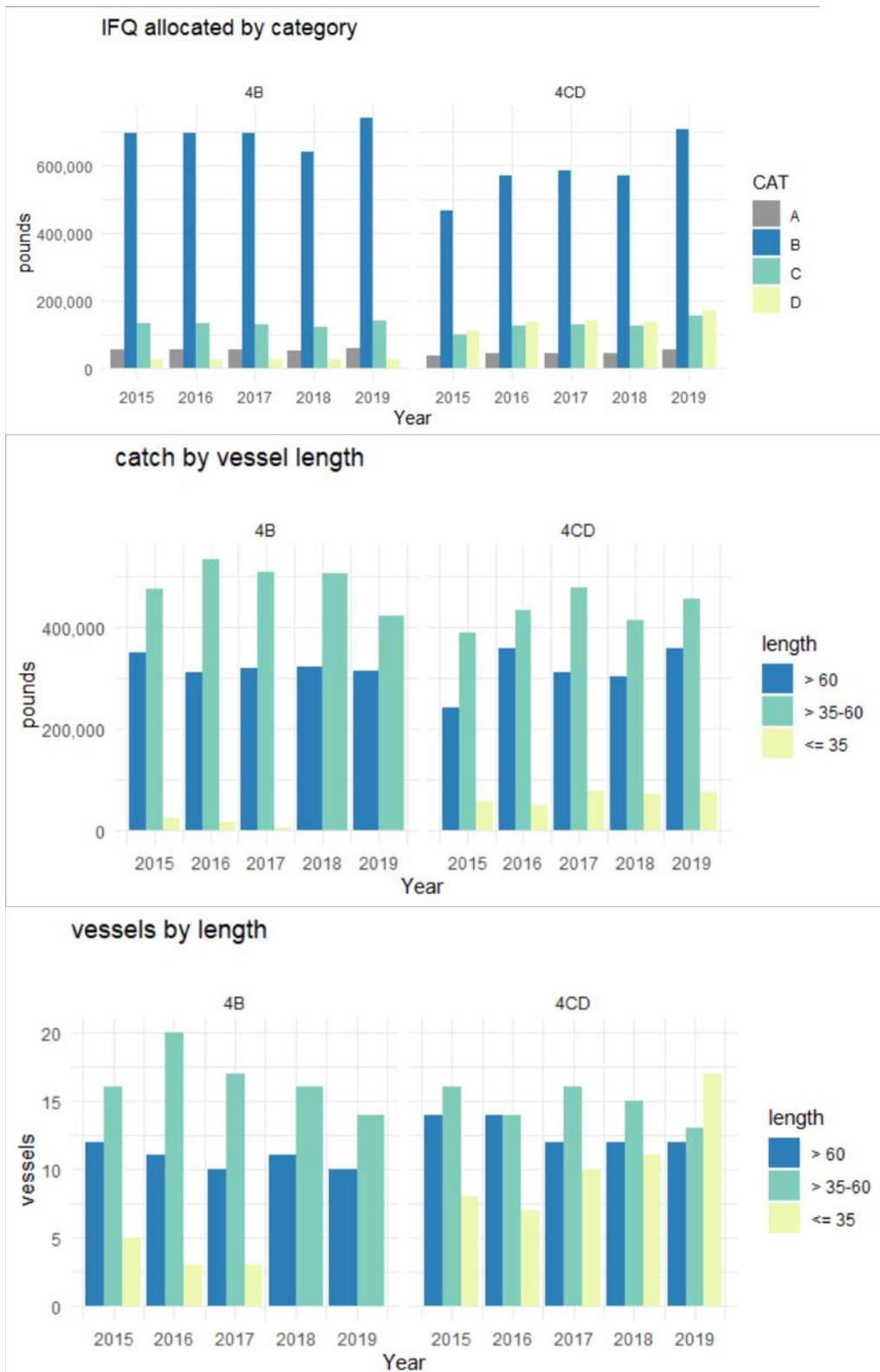


Figure 4 QS allocation by category, IFQ catch and vessel participation by vessel length.

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

Vessel landings, participation: NMFS IFQ landings database sourced by AKFIN

2.3.7 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 caps, QS caps are specific to regulatory areas however, unlike vessel 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 8 details how the QS use cap applies in areas 4B, 4C and 4D in 2020, 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% of the QS in each area. If QS could be spread out evenly and most efficiently, it would require a minimum of 37 people to land all of the IFQ allocated to areas 4B, 4C and 4D. Realistically, it is likely that harvesting 100% of the quota would require more people than the minimum number required due to logistical and regulatory constraints. Some of these constraints include the challenges for 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% of the quota.

Even considering that this minimum number is likely an underestimate of the actual number of people necessary to harvest 100% of the TAC, it represents fewer than half the number of QS holders who have delivered IFQ in area 4B, 4C, and 4D in previous years (Table 9). 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 he or she is on board. If the IFQ permit holder is not on board, the hired master is listed as the delivered by individual. Table 9 shows the number of individuals listed as the “delivered by individual” in Areas 4B, 4C, 4D since 2013. These data do not include crew members who did not land their own IFQ so they are not a comprehensive tally of individuals who participated in the fishery.

Table 8 2020 QS pool, IFQ TAC and use cap

Area	QS Pool (units)	Area TAC (pounds)	QS:IFQ ratio	QS Use cap (units)	IFQ equivalent to use cap (pounds)	Minimum people to harvest 100%
4B	9,284,774	880,000	10.5509		46,920	19
4C	4,016,352	383,000	10.4866		47,207	8
4D	4,958,250	536,200	9.247		53,536	10
Total	18,259,376			495,044		37

Source: NMFS Restricted Access Management (RAM) division

Table 9 Number of individual QS holders delivering IFQ

Year	4B	4C	4D	Total
------	----	----	----	-------

2013	52	21	32	82
2014	47	16	32	80
2015	47	19	32	79
2016	49	16	40	84
2017	47	20	43	90
2018	51	18	32	89
2019	44	18	41	87

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

2.3.8 Communities

Vessels participating in the IFQ halibut fishery in areas 4BCD are owned in numerous communities. Table 10 shows the number of vessels participating in the fishery by community of vessel ownership address. A majority of boats are owned in communities in Alaska (over 64%) while the other 35% of vessels are associated with ownership addresses outside of Alaska. In 2019, the largest number of vessels are owned in the communities of Savoonga and Saint Paul Island, Alaska with 9 and 8 vessels respectively.

Table 10 Community of Vessel Ownership by Address for Vessels Harvesting Halibut IFQ in 4BCD, 2015-2019 (number of vessels)

Geography	2015	2016	2017	2018	2019	Annual Average 2015-2019 (number)	Annual Average 2015-2019 (percent)
Adak	1	1	1	1	1	1.0	1.74%
Anchorage	4	3	2	2	2	2.6	4.51%
Atka	4	3	3	0	0	2.0	3.47%
Cordova	1	1	1	1	0	0.8	1.39%
Delta Junction	2	2	2	2	3	2.2	3.82%
Dutch Harbor	1	1	1	1	1	1.0	1.74%
Homer	4	3	5	5	3	4.0	6.94%
Juneau	1	1	1	1	0	0.8	1.39%
Kodiak	7	8	6	6	5	6.4	11.11%
Saint George Isl	1	1	1	2	1	1.2	2.08%
Saint Paul Isl	8	6	9	10	8	8.2	14.24%
Savoonga	0	0	0	0	9	1.8	3.13%
Seward	1	1	1	1	1	1.0	1.74%
Sitka	1	1	1	1	1	1.0	1.74%
Unalaska	1	1	0	0	0	0.4	0.69%
Wasilla	1	2	2	2	2	1.8	3.13%
Yakutat	1	1	1	1	1	1.0	1.74%
Alaska Total	39	36	37	36	38	37.2	64.58%
All Other States Total	20	21	20	21	20	20.4	35.42%
Grand Total	59	57	57	57	58	57.6	100.00%

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

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 IFQ fished 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 RAM ([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 11 through Table 13 shows 2020 QS holdings by community for areas 4B, 4C and 4D, as well as the IFQ equivalent and percentage of the 80,396 lb vessel cap. All 4B quota share held in Adak is held by the CQE group and is therefore subject to a vessel cap of 50,000 lbs. Quota share holdings in Area 4B are dominated by communities in Alaska and Washington, particularly Kodiak and Seattle (Table 11). In Area 4C the community of St Paul Island has the largest number of individual QS holders and the largest amount of QS units outside of Seattle, WA (Table 12). Quota share for area 4D is held predominantly in Seattle, WA and multiple communities in AK (Table 13).

Table 11 Area 4B 2020 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel cap
AK		40	4,718,009	447,166	556%
	Adak*	1	1,196,304	113,384	227%*
	Anchorage	5	819,066	77,630	97%
	Atka	8	349,066	33,084	41%
	Dillingham	1	370,314	35,098	44%
	Dutch Harbor	3	213,090	20,196	25%
	Fairbanks	1	22,392	2,122	3%
	Haines	1	7,293	691	1%
	Homer	2	190,973	18,100	23%
	Juneau	1	2,368	224	0%
	Kodiak	14	1,267,263	120,109	149%
	Petersburg	1	2	0	0%
	Sitka	1	219,984	20,850	26%
	Unalaska	1	59,894	5,677	7%
AZ		1	194,682	18,452	23%
CA		4	270,008	25,591	32%
ID		1	41,459	3,929	5%
OR		6	455,760	43,196	54%
VA		1	52,353	4,962	6%
WA		24	3,549,389	336,406	418%
	Seattle	12	1,963,042	186,054	231%

NMFS Restricted Access Management (RAM) division. Seattle includes other cities in the Seattle Metropolitan Statistical Area. *All 4B quota share held in Adak is held by the CQE group and is therefore subject to a vessel cap of 50,000 lbs.

Table 12 Area 4C 2020 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel cap
AK		30	2,000,631	190,780	237%
	Anchorage	6	582,004	55,500	69%
	Delta Junction	3	366,151	34,916	43%
	Dutch Harbor	1	96,994	9,249	12%
	Homer	2	19,575	1,867	2%
	Saint George Island	3	32,473	3,097	4%
	Saint Paul Island	12	754,450	71,944	89%
	Seward	1	12,077	1,152	1%
	Wasilla	2	136,907	13,055	16%
CA		1	109,227	10,416	13%
MT		1	28,291	2,698	3%
OR		4	307,239	29,298	36%
UT		1	107,843	10,284	13%
VA		1	23,150	2,208	3%
WA		12	1,439,971	137,315	171%
	Seattle	8	1,224,106	116,730	145%

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

Table 13 Area 4D 2020 QS holdings by community

State	Community	Individual QS holders	QS (units)	IFQ equivalent (lbs)	% of vessel cap
AK		16	1,950,096	210,890	262%
	Anchorage	6	465,752	50,368	63%
	Delta Junction	3	534,246	57,775	72%
	Dillingham	1	122,473	13,245	16%
	Dutch Harbor	1	220,204	23,814	30%
	Juneau	1	213,044	23,039	29%
	Kodiak	1	170,421	18,430	23%
	Seward	1	44,173	4,777	6%
	Wasilla	2	179,783	19,442	24%
CA		1	24,351	2,633	3%
OR		5	502,114	54,300	68%
UT		1	124,873	13,504	17%
VA		1	134,866	14,585	18%
WA		19	2,221,950	240,289	299%
	Seattle	13	1,736,971	187,842	234%

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

Table 14 and Table 15 show the communities that have processed IFQ halibut from Area 4B and 4C/4D since 2015. Due to confidentiality rules specific landings data cannot be reported however landings from both Areas are highly skewed with few communities processing the majority of the landed weight. In Area 4B the top three communities (Dutch Harbor, Adak and Akutan) processed 83% of the landed weight in 2019, while in Area 4C/4D the top three communities (St. Paul, Dutch Harbor and Akutan) processed 71% of the landed weight in 2019.

Table 14 Communities processing Area 4B IFQ halibut

Community	2015	2016	2017	2018	2019
Adak			x	x	x
Akutan	x	x	x	x	x
Atka	x	x	x		
Bellingham		x	x		
Dutch Harbor	x	x	x	x	x
Homer					x
King Cove	x	x			x
Kodiak	x	x	x	x	x
Sand Point		x			
Seattle			x	x	
Seward			x	x	x
St Paul			x		

Table 15 Communities processing Area 4C/4D IFQ halibut

Community	2015	2016	2017	2018	2019
Akutan	x	x	x	x	x
Dutch Harbor	x	x	x	x	x
False Pass	x				
Homer		x		x	x
Kenai				x	
King Cove		x	x	x	x
Kodiak	x	x	x		
Nome			x		x
Sand Point	x			x	
Savoonga			x		x
Seward			x	x	x
St Paul	x	x	x	x	x

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

2.3.9 Ex-vessel Values

Figure 5 plots ex-vessel value per pound for areas 4B, 4C, 4D and statewide in nominal dollars (not inflation-adjusted) in terms of head-and-gut net weight. These values are taken from NMFS Alaska Region website and are the annual estimates with which the reader will be most familiar. These values are

based on CFEC Fish Tickets for all commercial catch delivered by catcher vessels (CV) to inshore processors. The statewide estimate is a weighted average based on the volume and value of harvest taken across all Alaska IFQ areas. Data for Area 4C is redacted in 2014 and 2015 due to confidentiality. Halibut prices have fluctuated over the past 10 years with prices in area 4B, 4C and 4D consistently falling below the statewide average. Since 2016, prices have declined and in 2019 prices in area 4B, 4C, and 4D fell to the lowest since 2010.

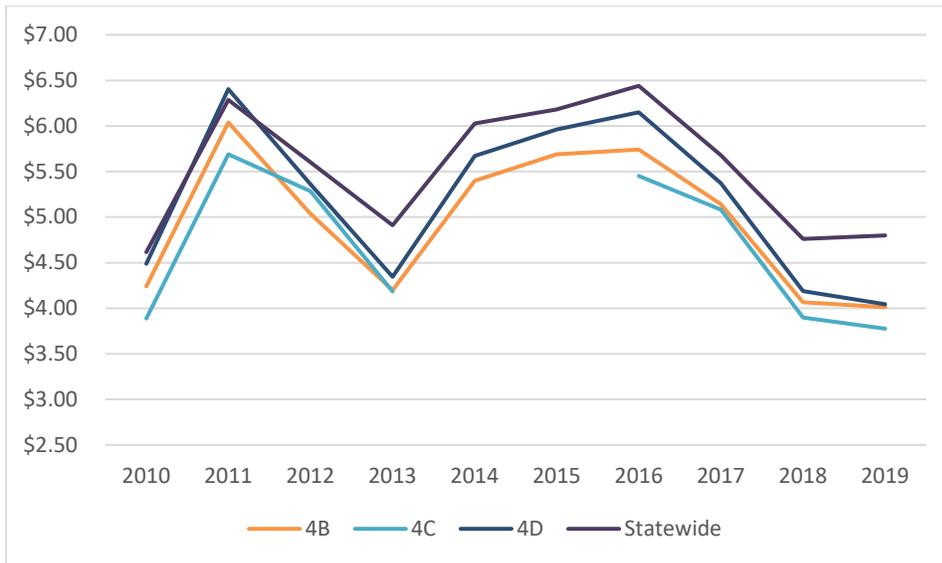


Figure 5 Commercial halibut ex-vessel value (nominal dollars), 2010 through 2019

Source: NMFS – see “Annual ex-vessel and volume prices – Halibut” at <https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/alaska-fisheries-management-reports>
 Note: Area 4C data in 2014 and 2015 is redacted as confidential.

It is difficult to assess price trends in 2020. 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. The effects of these and other variables may vary annually and/or regionally. Year to date fishing participation and harvest levels in 2020 may be particularly unique due to the uncertain, dynamic environment associated with COVID-19 including logistical challenges for fishermen, health concerns and depressed markets. Public testimony stated that low dock prices in the early 2020 season is a factor causing fewer vessels to participate in the 2020 IFQ fishery. Table 16 displays annual nominal (not adjusted for inflation) price per pound 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. Additionally, because the 2020 prices are calculated year to date they do not capture the entire seasonality of prices throughout an entire fishing year. Halibut prices have generally declined since 2015 except for a slight increase in the GOA from 2018 to 2019. Year to date 2020 prices cannot be reported in BSAI due to confidentiality rules but in the GOA, the first months of the 2020 fishing year show relatively large declines in prices from previous year’s annual average prices. How much these trends persist throughout the 2020 season and to what degree is uncertain.

Table 16. Annual nominal price per pound and percent change of halibut and sablefish prices 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
2015	BSAI	5.80	
2016	BSAI	5.98	3%
2017	BSAI	5.62	-6%
2018	BSAI	4.52	-20%
2019	BSAI	4.48	-1%
2020*	BSAI	**	**
2015	GOA	6.48	
2016	GOA	6.72	4%
2017	GOA	6.34	-6%
2018	GOA	5.38	-15%
2019	GOA	5.51	2%
2020*	GOA	4.07*	-26%

*2020 prices are through May 3.

**data cannot be reported due to confidentiality.

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

2.4. Analysis of Impacts: Alternative 1 (No Action)

If the recommended action is not implemented, the existing halibut IFQ Program would not be modified and the vessel 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 caps may help preserve opportunities for smaller operations that would not otherwise participate in the fishery if exemptions from vessel caps are granted.

However, due to circumstances that have arisen through the global pandemic vessel caps may not ensure additional opportunity for vessels and crew, particularly in remote Area 4B, 4C and 4D halibut fisheries. As highlighted in the proposal and public comments, health risks and financial concerns prompted the decision not to open the local processing plant on St Paul Island during the halibut season. Many vessels in the local fleet could not easily or safely travel to Dutch Harbor to access the available halibut markets. Thus, the proposal states that the local St. Paul fleet would not operate regardless of the existence of vessel caps in 2020. Given the health risks and financial concerns, other vessels that typically prosecute Area 4B, 4C and 4D may follow suit. If the supply of vessels available to prosecute Area 4B, 4C and 4D decreases in 2020 such that the entire allocation cannot be spread out amongst available vessels while meeting vessel limitations, it is possible that vessel 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. 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 COVID-19 or because individual operators cannot justify the costs (e.g. fuel, vessel maintenance, labor, etcetera) produced by operating a vessel given the decline in ex-vessel prices or other changes in profitability related to the global pandemic. At this time we cannot predict the number of vessels that may be active in these areas over the remaining duration of the IFQ fishery.

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, including the recently implemented emergency rule that allows IFQ to be transferred to any person. For these operations, maintaining vessel 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 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.

2.5. Analysis of Impacts: Alternative 2 (Preferred Alternative)

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 in IPHC regulatory Areas 4B, 4C, and 4D for the remainder of the 2020 IFQ season.

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 COVID-19 or because individual operators cannot justify the costs (e.g. fuel, vessel maintenance, labor, etcetera) produced by operating a vessel given the decline in ex-vessel prices or other changes in profitability related to the global pandemic. The large suite of factors that contribute to an individual vessel operator's decision to prosecute an IFQ fishery make it difficult to tease out precisely how constraining vessel IFQ caps may be over a regulatory area. However, previous participation and harvest patterns may provide an indication of the probability that vessel caps create a constraint.

Since 2015, in both Area 4B and 4CD the number of vessels participating have been greater than the minimum number required to harvest 100% of the area allocation (Table 5). Harvest rates have also been fairly high with at least 90% of the allocation harvested in both areas until 2019 when it dropped to 76% in 4B and 82% in 4CD. A comparison of annual fishery trends through May 3, show that only three vessels had harvested IFQ in area 4B while no vessels had harvested IFQ in area 4CD in 2020, however these participation levels are within the range of levels through the same date in the previous five years (Table 4).

The industry request for vessel cap waivers states that there will be a lack of harvesting capacity in 2020 specifically because the small boat fishery out of St. Paul will not operate due to the high risk of spreading COVID-19 in the remote community, and lack of medical facilities in the region. In 2019 eight vessels participating in the IFQ fishery in area 4BCD had ownership addresses in St. Paul Island (Table 10). This represents 24% of the 38 vessels owned in Alaska and 16% of the total vessels that participated in the IFQ fishery in area 4BCD in 2019.

Area 4CD has had a relatively high level of participation by small vessels in previous years. In 2019 over one third of participating vessels were less than or equal to 35 feet (Figure 4). If these vessels choose not to participate in 2020 due to health concerns that would represent a substantial reduction in the number of vessels operating in area 4CD. However, vessels in this size category represent a relatively small proportion of IFQ catch (Figure 4). No vessels under 35 feet have participated in Area 4B in the past two years (Figure 4), however a greater percentage of vessels in this area are closer to being constrained by the vessel caps (Figure 3). In Area 4B almost 60% of vessels were within 90% of the vessel cap in 2019

while in area 4CD almost 40% of vessels were within 90% of the cap. Generally, in the halibut IFQ fishery, Area 4 has more vessels closer to the vessel cap than other regulatory areas (Figure 3).

Industry and public comment has also mentioned that low prices in 2020 are making it difficult for vessels to operate profitably under the constraints of the vessel caps. Ex-vessel prices have generally declined since 2016 with area 4 prices falling below statewide averages (Figure 5). Price data for 2020 are limited but information that does exist supports the claim that prices are lower in 2020 than previous years (Table 9). Additionally, for vessels that have operated in area 4B through mid June in 2020: cumulative landings fall within the range of the past five years, while cumulative value falls at the bottom end of this range (Figure 2).

Consolidating harvesting privileges on a vessel is one way to minimize and share costs and operate more profitably. In addition to vessel 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. However, NMFS recently submitted an emergency rule to allow the temporary transfer of halibut and sablefish IFQ for all quota share holders for the remainder of the 2020 fishing season. Given this increased transfer flexibility, QS holders will have more flexibility to select vessels to harvest their IFQ. This would increase the number of potential vessels available to harvest IFQ, reducing the possibility that IFQ is left unharvested due to vessel cap limitations.

Removing the vessel use caps would provide additional harvest flexibility to the affected CQE, which under existing regulations, operates under a more constraining vessel use cap than applies to individual IFQ holders (see section 2.3.4). Currently the number of vessels owned by residents of Adak is less than the minimum number of vessels required to harvest the QS held by the CQE in area 4B (Table 10).

This transfer flexibility provides harvest flexibility to QS holders and removes the owner onboard provision for the 2020 fishing year, however other regulatory constraints will still apply. Harvesting vessel size would continue to be 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 quota share that can be held by an individual, therefore harvesting 100% of the TAC will require numerous individuals to hold quota share. While a waiver of vessel caps as proposed in this action, combined with the transfer flexibility, implemented by NMFS will likely decrease the number of participants on vessels there is still a minimum of 37 individuals required to fully utilize the TAC in areas 4B, 4C and 4D (Table 8). 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 areas 4B, 4C and 4D has been between 85 and 90 (Table 8). A potential reduction in the number of participants in the fishery may reduce the likelihood of health risks to fishing crews, communities, and the fishery participants and their families given concerns about the potential spread of COVID-19 from asymptomatic individuals. However, reducing the number of participants also reduces opportunities likely for crew or newer entrants to the fishery.

While it is difficult to determine if vessel participation levels in 2020 would be diminished enough to strand unharvested quota, waiving vessel caps would make it easier for vessels that choose to participate in the fishery to operate more efficiently if they are able to consolidate IFQ onto fewer vessels making them more likely to achieve economies of scale and harvest 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

industry request letter specifically referenced the extreme nature of operations in the BSAI region, and distance from current halibut markets as barriers to vessels operating in the region.

This may also decrease the participation of smaller scale vessels that would otherwise be necessary to operate to spread out harvest levels under vessel caps. While this may reduce COVID-19 related safety risks associated with the operation of more, likely smaller scale operations, it may also reduce the number of available crew jobs and opportunities for new entrants.

If fewer vessels participate in the fishery, it is possible that landings are also consolidated to fewer processors and communities based on geographic location of vessels and historic relationships or landing patterns. However if the proposed action results in a higher percentage of the TAC getting harvested, the overall revenue generated from these landings is increased.

2.6. Management and Enforcement Considerations

NMFS Restricted Access Management (RAM) division issues annual IFQ permits. Part of this process includes determining vessel caps based on the TAC published by NMFS. The Recommended action separates out distinct IFQ regulatory areas and requests the removal of vessel caps particular to a subset of regulatory areas. However, existing vessel caps are based on percentages of the total halibut IFQ TAC and Area 2C halibut IFQ TAC. The recommended action would entail modifying RAM code to simultaneously exempt regulatory areas 4B, 4C and 4D from vessel caps while maintaining vessel caps in other areas and ensuring their association with IFQ landings recordkeeping and reporting requirements. NMFS RAM staff have advised that accommodating the recommended action 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.

2.7. 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 4B, 4C, and 4D for the remainder of the 2020 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 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 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 has provided the analysts with the most recent complete set of gross revenue data by vessel. This includes 73 vessels harvesting halibut IFQ since 2014. Based on average annual gross revenue data, including affiliations, all but two of the vessels that landed halibut between 2014 and 2019 are considered small entities.

2.8. 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 4B, 4C, and 4D for the remainder of the 2020 IFQ season.

The analysis indicates that it is possible that vessel caps may increase the likelihood that some of the annual allocation of halibut in Areas 4B, 4C and 4D is left unharvested if the supply of vessels is decreased in 2020 such that the entire allocation cannot be spread out amongst participating vessels while meeting vessel cap limitations. Vessels available to prosecute remote waters of Area 4B, 4C and 4D may decrease in 2020 due to health and safety measures taken by individuals, harvesting and processing operations, and the economic ramification of COVID-19, including low ex vessel prices. In particular, stakeholders have indicated that the local small boat fishery in St Paul would not operate in 2020 and the one processing plant in town would not be accepting deliveries. 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 COVID-19 or because individual operators cannot justify the costs (e.g. fuel, vessel maintenance, labor, etcetera) produced by operating a vessel given the decline in ex-vessel prices or other 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 areas 4B, 4C and 4D in fishing season 2020.

This action could lead to possible distributional impacts across processors and communities. For instance, if halibut deliveries shift to Dutch Harbor, as expected in public testimony, Dutch Harbor/ Unalaska 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 revenue would also be accrued under no action.

Overall, there may be an increase in the amount of halibut harvested in area 4B, 4C, 4D, 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, this action does not discriminate by residents of different states. The proposed action would allow additional flexibility in harvesting IFQ for vessels in Area 4B, 4C and 4D regardless of home state. Table 10 shows that between 2015 and 2019, 65% of the vessels participating in the IFQ fishery in area 4BCD had ownership addresses in Alaska, while 35% of vessels were owned in other states. The proposed flexibility would be available to all those who hold QS in Area 4B, 4C, and 4D and vessels that harvest in these Areas regardless of the state of origin.

The temporary waiver of vessel limitations for vessels in Area 4B, 4C, and 4D 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.

4. Preparers and Persons Consulted

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