FINAL

Regulatory Impact Review for a final rule to remove vessel cap limitations for IFQ halibut harvested in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the remainder of the 2022 IFQ fishing season

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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 remainder of the 2022 IFQ fishing season. This action would not modify any other aspects of the IFQ Program. This action is in response to the COVID-19 pandemic and associated health concerns. 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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1 Introduction

In February 2022, the North Pacific Fishery Management Council (Council) passed a motion to request the Secretary of Commerce (Secretary) promulgate expedited regulations to modify the halibut Individual Fishing Quota (IFQ) Program. The Council requested the removal of vessel use cap limitations[1] for IFQ halibut harvested in International Pacific Halibut Commission (IPHC) regulatory Areas 4A, 4B, 4C, and 4D (as shown in Figure 1) for the 2022 IFQ fishing season.

This request the same as the expedited rulemaking actions implemented in the 2020 and 2021 in response to the COVID-19 pandemic and associated health and public safety concerns. Similar to 2020 and 2021, in 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.[2] Stakeholders commented that the obstacles persist and continue to make fully harvesting Area 4's halibut IFQ a challenge. In particular, local ordinances to reduce viral transmissions are still in place across communities in Alaska, such as the City of Saint Paul[3]. Moreover, stakeholders highlighted that remote communities bordering Area 4, such as St. Paul and Adak are 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 for 2022 would allow the flexibility for utilizing available vessels and crew that have the capacity and capability to harvest halibut in Area 4.

The action would not modify other aspects of the IFQ program; nor would the action apply to the sablefish IFQ fishery. The 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.

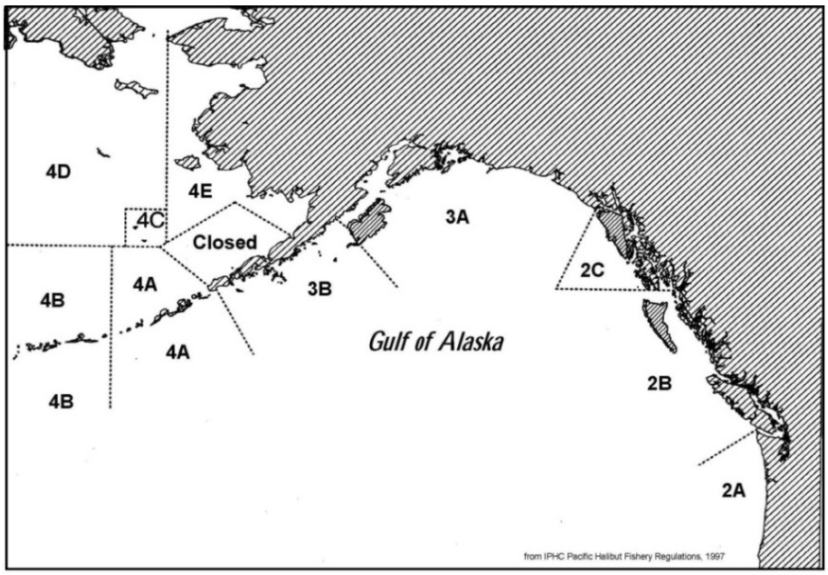
This analysis provides background of the conditions in the fishery and an evaluation of the impacts of the Council's recommended action to remove vessel use cap regulations for IFQ halibut harvested in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the remainder of the 2022 IFQ fishing season

[1] Federal Regulations 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." For sablefish, the limit is "one percent of the combined fixed gear total allowable catch (TAC) of sablefish for the GOA and BSAI IFQ regulatory areas" (50 CFR § 679.42(h)). Areas in the southeast have separate limits for both halibut and sablefish. Halibut area 2C and sablefish east of 140 degrees W. long (the SE sub district) are subject to vessel caps of one percent of the area TAC.

[2] Letter from CBSFA: https://meetings.npfmc.org/CommentReview/DownloadFile?p=99f1af91-48ba-452c-b66e-1b19be41a63f.pdf&fileName=CBSFA%20Council%20letter%20IFQ%20transfer%20and%20vessel%20caps%20January%202022%20Final.pdf
Letter from Fishing Vessel Owners' Association Incorporated: https://meetings.npfmc.org/CommentReview/DownloadFile?p=eab0241c-9eb4-49df-ad10-ea3921ee9ef5.pdf&fileName=DOC943.pdf

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

Figure 1 IPHC Regulatory Areas



2 Regulatory Impact Review

This Regulatory Impact Review (RIR)[4] examines the benefits and costs of an interim 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 2022 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 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.

[4] 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 action will be categorically excluded from the need to prepare an Environmental Assessment.

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.

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 action would temporarily amend Federal regulations implementing the IFQ program at 50 CFR 679.42(h).

2.2 Alternatives

In February 2022, the Council received requests for expedited changes to the halibut IFQ vessel use cap requirements in IPHC regulatory Areas 4A, 4B, 4C, and 4D in the 2022 fishing season. These requests identified one action alternative to address the highlighted concerns. The Council made a motion for the action alternative as the preferred alternative.

2.2.1 Alternative 1

2.2.1.1 No Action

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

2.2.1.2 Alternative 2

Alternative 2: Remove vessel use cap limitations in 4A, 4B, 4C, 4D (Preferred Alternative)
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 4A, 4B, 4C, and 4D for the remainder of the 2022 IFQ fishing season. 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."

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.

2.3 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 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 action recommended by the

Council 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.

The Council stated a need for immediate action, through expedited regulations, to create regulatory flexibility for the halibut IFQ fisheries in Areas 4A, 4B, 4C and 4D to mitigate economic, social, and public health challenges that persist in the harvesting and processing communities due to the ongoing COVID-19 pandemic. The previous rules implemented in 2020 and 2021 applied for those years only. Expedited regulations for the 2022 fishing year are necessary to address the Council's request and challenges identified by the public in harvesting halibut IFQ in Area 4A, 4B, 4C and 4D.

Earlier in the pandemic, the Federal government and state of Alaska developed numerous restrictions to mitigate the spread of COVID-19. Many urban Alaskan communities no longer have travel restrictions in place and state-wide health mandates have either expired or have been rescinded due to the continued progress in managing the pandemic. However, COVID-19 is still present and may spread to harvesters, crews, and remote communities that hold IFQ and support this fishery. Under normal circumstances, IFQ fishing in the Aleutians and Central Bering Sea can pose operational challenges. Public testimony at the February 2022 Council meeting identified continued concerns about health risks, limitations on transportation, and vessel support services in remote coastal communities. Public testifiers highlighted that remote communities bordering Area 4, such as St. Paul and Adak are particularly vulnerable to health risks specific to the COVID-19 pandemic. Many residents have pre-existing conditions, there are limited medical facilities, and a small number of medical personnel to provide services when needed. These conditions, as highlighted by the public in remote coastal communities, are public health and social challenges. The burdens of these challenges may be eased by allowed for flexibility with removal of halibut vessel use caps.

For 2022, the number of vessels operating is expected to continue to be lower this year from the already low numbers of vessels in recent years. This is in part, due to the flexibilities provided under the previous rules in 2020 and 2021 which reduced the number of vessels operating in Area 4 (See Section 2.5 of the Analysis for additional detail). Consistent with previous years, a large proportion of vessels active in the fishery in Area 4 are already near the vessel use cap. Exempting vessels from the use caps in IPHC regulatory Areas 4A, 4B, 4C, and 4D would provide additional flexibility to harvest IFQ and reduce the risk that IFQ may be forgone. Public testimony at the February 2022 Council meeting identified that there are higher operational costs to safely harvest and process in Area 4. Given these factors, it is expected that fewer vessels will be able to make a trip to Area 4 economically viable. Similar to previous years, 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 current vessel use caps, especially for vessels planning to operate in Area 4A and 4B. These conditions, as analyzed in this RIR and identified by public testimony are economic and social challenges created by the conditions of the ongoing COVID-19 pandemic

The action would not modify other aspects of the IFQ program; it would not apply to the sablefish IFQ fishery and it does not include halibut harvesting in Area 4E. Halibut in Area 4E is entirely allocated to harvest under the Western Alaska CDQ Program and therefore IFQ Program vessel use caps do not apply.

In 2022, the Council did not consider expanding the action outside of Area 4. Moreover, similar to 2020 and 2021, the Council concurrently recommended emergency action to temporarily allow all individuals holding B, C, or D class QS to transfer IFQ to another individual to be harvested for the 2022 season. This action is under review by NMFS.

Despite the Council's recommendation to remove vessel use caps in Area 4 in 2022, the Council continues to strongly support 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 broadly distributes harvest among a variety of operation types. Support for a temporary waiver of halibut vessel use caps in the 2022 fishing year for Areas 4A, 4B, 4C and 4D does not in any way indicate support to consider changing vessel use cap provisions in the future.

2.4 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/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.

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 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. Further information on the IFQ Program are incorporated into the analysis of impacts.

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 2015), and choice statistics about the fishery were provided in the RAM Report to the Fleet (NMFS 2014), which was produced annually up until 2012.

2.4.1 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 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.

2.4.1.1 Allocation and Harvest

Table 1. 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%
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		
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		
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		

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 (Table 1). For the subsequent seven years (2015-2021) the Area 4A TAC has been relatively more consistent, with variability in the last three years. 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.

All areas have had high harvest rates of halibut IFQ TAC. The harvest rate has been less than 90 percent of the TAC for four years since 2006 in Area 4A (2018, 2019, 2020, and 2021), six years in Area 4B (2009, 2010, 2013, 2019, 2020, 2021) and four years in Area 4C/4D (2006, 2007, 2013, 2019).

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 2021 relative to past harvest patterns. For Area 4A, the season began slower in 2021 relative to the previous seven years. Harvest rates began to increase around week 27 (July 5 to July 11) and steadily increased until around week 41 (October 11 to October 17). In 2021, the harvest

increased relative to 2020 and a higher percentage of the TAC was harvested in comparison to 2019 and 2020 (Table 1). This is likely because the overall TAC was higher for Area 4A. Cumulative ex-vessel value by week was the highest of any year between 2015 and 2021 which may also have driven the higher harvest rate for this area.

For Area 4B the harvest rate decreased. Harvest did not pick up until around week 17 (April 26 to May 2). Harvest remained relatively steady throughout the fishing tear but overall was the lowest since 2006. Cumulative ex-vessel value by week was lower for Area 4B relative to Areas 4A and 4C/4D. Lower value may have driven the lower relative harvest rate for this area.

For Areas 4C and D the harvest rate also decreased. Harvest rates increased around week 27 and increased rapidly until around week 35 (August 30 to September 5). Harvest rates for 2021 decreased relative to 2020 which resulted in a lower percentage of the TAC being harvested. Ex-vessel value by week was the highest for any year between 2015 and 2021.

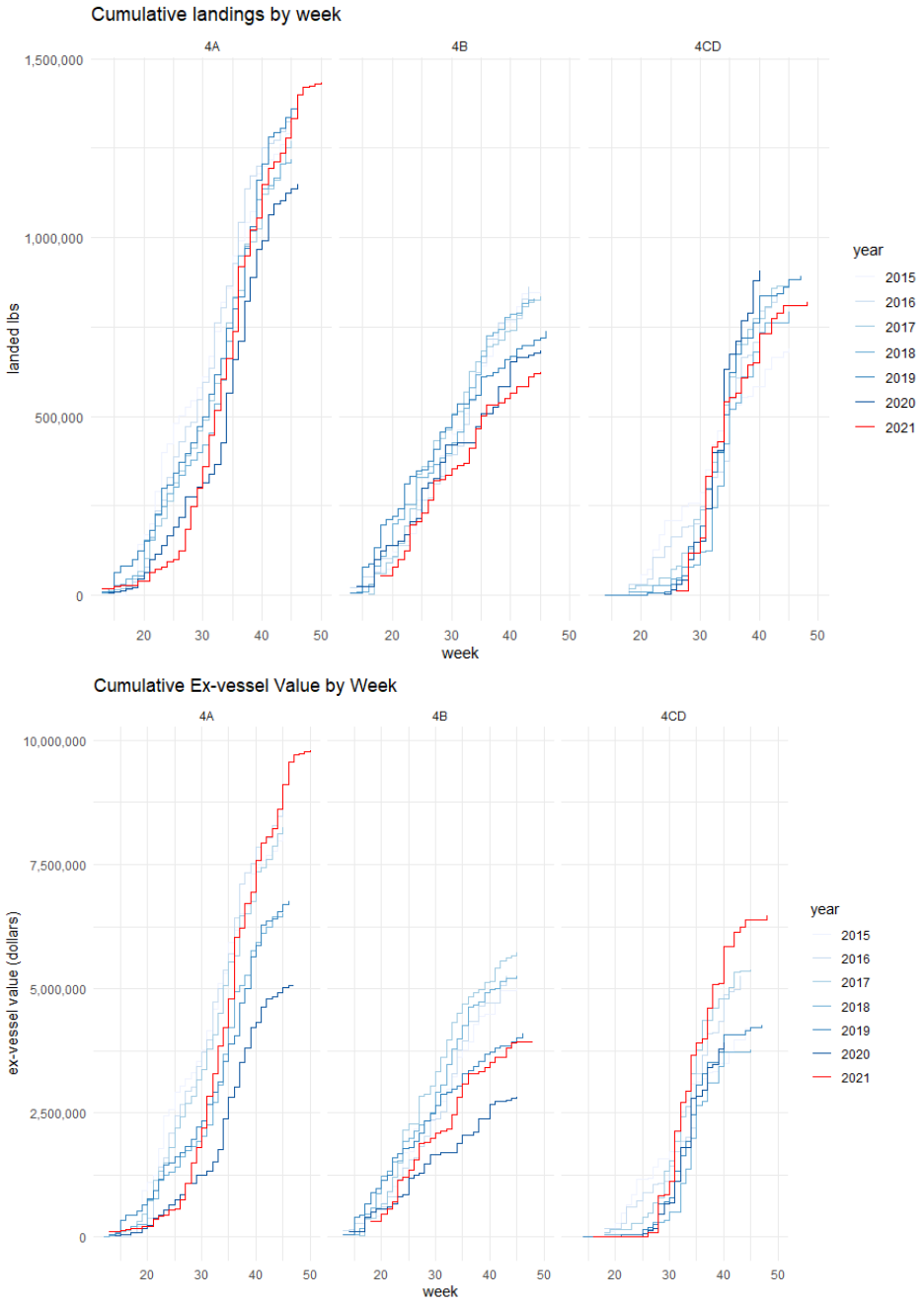


Figure 2 Weekly cumulative IFQ landings and ex-vessel value

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

2.4.2 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 2 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 2 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	

2.4.2.1 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 use caps in Areas 2C, 3A, or 3B however they are included in 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 recommended action would only affect vessel limitations in fishing year 2022 in Areas 4 however information regarding caps and vessel harvest patterns in previous years and other regulatory areas are provided to help evaluate the action. Table 3 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 lbs of halibut, which is a 9.3 percent increase from the 2021 allocation.

Table 3. 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	20,298,000	101,490	3,510,000	35,100

Source: NMFS Restricted Access Management (RAM).

[1] In 2020 vessel use caps were waived for vessels fishing in Area 4B, 4C, and 4D.

[2] In 2021 vessel use caps were waived for vessels fishing in Area 4A, 4B, 4C, and 4D.

Table 4 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 limitations, as well as the percent of the allocation that was harvested and the number of vessels harvesting IFQ for both the entire fishing year. It shows that in all areas, there has consistently been at least double 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 4 also demonstrates that fewer vessels participated in halibut IFQ fishery for each area in 2020 and 2021 relative to the previous five years, and in fact a fewer number of vessels than ever before. This may be due in part to the vessel use cap exemption in Area 4B, 4C and 4C and the temporary transfer flexibility in all areas; however, it is likely some vessels would have chosen not to participant in 2020 or 2021 regardless, as the COVID-19 pandemic made traveling difficult and raised many concerns with health and safety. Thus, it is difficult to estimate the exact effect regulatory flexibilities had on the number of vessels participating in the halibut IFQ fishery in 2020 or in 2021.

Table 4. 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. Annual totals 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%	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		
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		
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		
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		
4B	2015	912,000	11	33	93%
	2016	912,000	11	34	94%
	2017	912,000	10	30	91%
	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		
4C/D	2015	715,920	9	38	96%
	2016	880,320	11	36	96%
	2017	902,400	10	38	96%
	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		

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

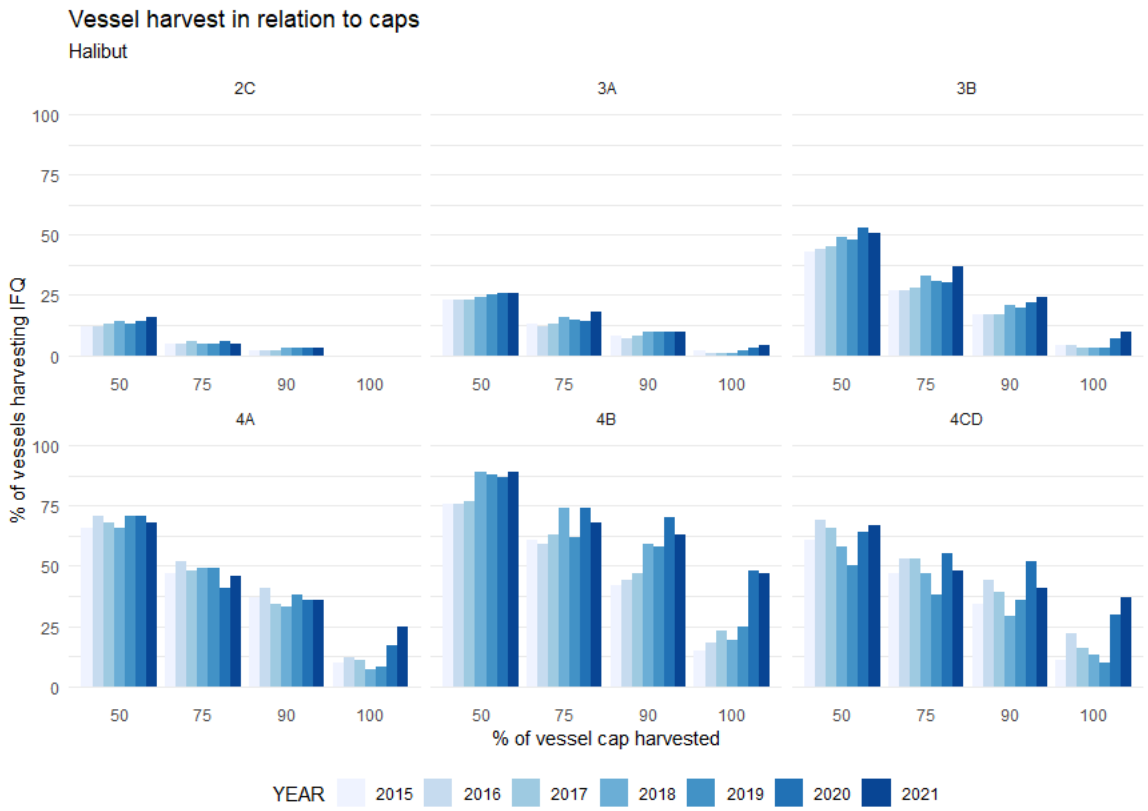


Figure 3. Percent of vessels harvesting IFQ in each regulatory area with total landings within 100 percent, 90%, 75% and 50% of the vessel use cap. Percent of vessel use cap harvested is calculated by total IFQ regardless of area of harvest (with the exception of 2C). Vessels harvesting in multiple areas 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, especially in 2020 and 2021. In Areas 2C, 3A, and 3B, less than 25% of vessels have harvested up to 90% of the vessel use cap. In Area 4, around 40% of vessels in 4A and 4C/4D and almost 60% of vessels in 4B harvested up to 90% of the vessel use cap.

In 2020 and 2021, there was a notable increase in vessels in Area 4 that met, or due to the temporary exemption, exceeded the vessel use caps. In Area 4A in 2019, 8 percent of the participating vessels harvested up to the vessel use cap. In Area 4A for 2020, 17 percent of vessels harvested up to the vessel use cap and in 2021, 25 percent of vessels harvested up to the vessel use cap. In Area 4B in 2019, 25 percent of the participating vessels harvested up to the vessel use cap. In Area 4B for 2020, 48 percent harvested up to the vessel use cap and in 2021, 47 percent harvested up to the vessel use cap. In Areas 4C/4D in 2019, 10 percent of the participating vessels harvested up to the vessel use cap. In Areas 4C/4D in 2020, 30 percent harvested up to the cap and in 2021, 37 percent harvested up to the cap. The greater

percent of vessels that harvested up to the vessel use cap in 2020 and 2021 relative to 2019 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.

2.4.2.2 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/NMFS 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/ NMFS 2016). Table 6 shows the fish up and fish down provisions for IFQ in Area 4.

Table 6 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 7 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 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. 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 4C/4D.

Table 7 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
Vessel landings, participation: NMFS IFQ landings database sourced by AKFIN. Updated 2.14.2022.

2.4.2.3 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 8 details how the QS use cap applies in Areas 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 8 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 8 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 this minimum number 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 (Table 8). Similar to other trends in 2020, the number of individual QS holders delivering IFQ continue to decrease, with the exception of Area 4A.

2.4.2.4 Communities

Vessels participating in the IFQ halibut fishery in Area 4 are associated with numerous communities. Table 9 shows the number of vessels delivering IFQ in the Area 4 halibut IFQ fishery.

Table 8. 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

Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN, updated 2.14.22.

Table 10 shows the number of vessels harvesting IFQ in the Area 4 halibut IFQ fishery. A majority of these vessels are owned by people in communities in Alaska (with an average of 71 percent ownership for 2015-2021) while the other vessels are associated with ownership addresses outside of Alaska (with an average of 25 percent ownership for 2015-2021). In 2021, the largest number of vessels are owned by people in the Alaskan communities of Homer (13 vessels), Kodiak (7 vessels) and Savoonga (6 vessels). Since 20119, the number of participating vessels decreased in many Alaskan communities (i.e., Adak, Homer, Kodiak, St. George, Saint Paul, Savoonga, Seward, and Wasilla). From 2020 to 2021 there was a slight decrease in the number of vessels participating from outside of Alaska.

Table 9. 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	Annual Average 2015-2021 (number)	Annual Average 2015-2021 (percent)
Adak	1	1	1	1	1	1	0	0.9	0.99%
Akutan	3	3	1	1	2	0	1	1.6	1.81%
Anchorage	4	3	2	2	3	2	2	2.6	2.96%
Atka	4	3	3	0	0	0	0	1.4	1.64%
Cordova	2	2	2	1	1	1	1	1.4	1.64%
Craig	1	1	1	0	0	0	0	0.4	0.49%
Delta Junction	3	3	3	2	3	3	3	2.9	3.29%
Dutch Harbor	1	2	2	3	2	3	3	2.3	2.63%
Homer	9	11	14	16	13	14	13	12.9	14.80%
Juneau	2	1	1	1	0	0	0	0.7	0.82%
Ketchikan	1	1	0	0	0	0	0	0.3	0.33%
Kodiak	10	13	11	11	11	9	7	10.3	11.84%
Saint George Isl	1	1	1	2	1	0	0	0.9	0.99%

Saint Paul	8	6	9	10	8	1	1	6.1	7.07%
Sand Point	1	1	1	1	1	0	1	0.9	0.99%
Savoonga	0	0	0	0	9	10	6	3.6	4.11%
Seward	1	1	1	2	1	0	0	0.9	0.99%
Sitka	3	3	3	3	3	2	5	3.1	3.62%
Soldotna	0	0	1	1	1	1	1	0.7	0.82%
Unalaska	6	5	4	5	5	4	5	4.9	5.59%
Wasilla	3	3	3	3	2	2	1	2.4	2.80%
Yakutat	1	1	1	1	1	1	1	1.0	1.15%
Alaska Total	65	65	65	66	68	54	51	62.0	71.38%
All Other States Total	26	26	25	26	24	24	23	24.9	28.62%
Grand Total	**91**	**91**	**90**	**92**	**92**	**78**	**74**	**86.9**	**100.00%**

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 RAM[5]. Table 11 through Table 14 show the 2022 QS holdings by community for Area 4A, 4B, 4C and 4D, and the IFQ equivalent and percentage for the 101,490 lbs. 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 11). Area 4B halibut is primarily held by the Alaskan communities of Adak and Kodiak as well as the State of Washington (Table 12). 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 primarily holds QS, followed by the Alaskan communities of St. Paul Island and Anchorage (Table 13). QS for Area 4D is held predominately in Washington and the Alaskan communities of Anchorage and Delta Junction (Table 14).

Table 10. 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%

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

	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 11. 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 12. 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 13. 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 15 through Table 17 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 2021, the top three communities processing landings were Dutch Harbor, Akutan, and King Cove. These communities represent 88 percent of round landed weight in Area 4A, 94 percent in Area 4B, and 88 percent in Area 4 C and D. Relative to 2020, this indicates a slight shift towards a greater percent of the landing being processed in the top three communities and 20201 is the first year King Cove has been in the top three processing communities.

Table 14. Communities processing Area 4A IFQ

Community	2015	2016	2017	2018	2019	2020	2021
Adak			x	x	x		
Akutan	x	x	x	x	x	x	x
Anchorage	x			x		x	x
Atka	x		x				
Dutch Harbor	x	x	x	x	x	x	x
False Pass	x						
Homer	x	x	x	x	x	x	x
Kenai		x				x	x
King Cove	x	x	x	x	x	x	x
Kodiak	x	x	x	x	x	x	x
Sand Point	x	x	x	x	x	x	x
Seahurst				x			
Seattle				x	x	x	x

Seward			x	x	x		x
St Paul	x	x	x	x	x		

Table 15. Communities processing Area 4B IFQ

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

Table 16. Communities processing Area 4C/4D IFQ halibut

Community	2015	2016	2017	2018	2019	2020	2021
Akutan	x	x	x	x	x	x	x
Anchorage						x	
Dutch Harbor	x	x	x	x	x	x	x
False Pass	x						
Homer		x		x	x	x	x
Kenai				x			
King Cove		x	x	x	x	x	x
Kodiak	x	x	x			x	
Nome			x		x		
Saint David Island					x		
Sand Point	x			x		x	
Savoonga			x		x	x	x
Seward			x	x	x		x
St Paul	x	x	x	x	x		

Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN, updated 2.17.21

2.4.2.5 Ex-vessel Values

Figure 5 plots ex-vessel value per pound for Areas 4A, 4B, 4C, and 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 used for cost recovery fees. 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 (i.e., 2020 is available starting in 2022) because of the reporting schedule for revenue data, therefore ex-vessel values from 2020 are provided. 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 4A, 4B, 4C and 4D consistently falling below the statewide average (with the exception of 2011. Since 2016, prices have declined and in 2020 prices in Area 4A, 4B, 4C, and 4D fell to the lowest since 2010.

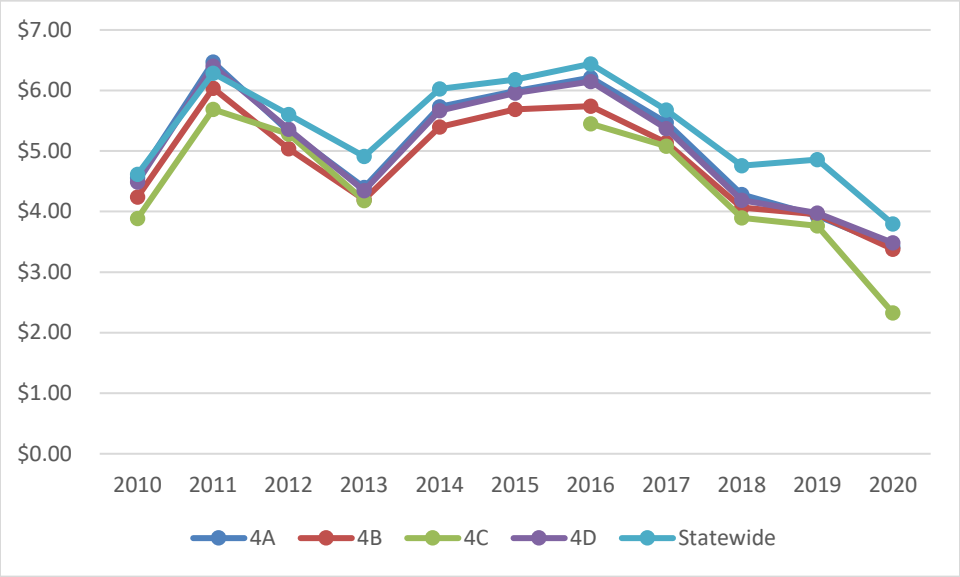


Figure 5 Commercial halibut ex-vessel value (nominal dollars), 2010 through 2020

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.

Table 14 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.

As can be seen in Table 14, sablefish prices in both BSAI and GOA have generally been on the decline since 2016 and only began rebounding in 2021. Between 2017 and 2020, halibut prices in both the BSAI and GOA decreased. In 2021, halibut prices increased 52 percent for the BSAI and 51 percent for the GOA.

Table 17. 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	Sablefish price per pound	% change from previous year
2015	BSAI	$ 5.80		$ 4.46	
2016	BSAI	$ 5.99	3%	$ 5.28	18%
2017	BSAI	$ 5.62	-6%	$ 4.41	-16%
2018	BSAI	$ 4.52	-20%	$ 3.33	-24%
2019	BSAI	$ 4.49	-1%	$ 2.81	-16%
2020	BSAI	$ 3.77	-16%	$ 1.81	-35%
2021	BSAI	$ 5.74	52%	$ 2.27	25%
2015	GOA	$ 6.48		$ 5.71	
2016	GOA	$ 6.72	4%	$ 6.42	12%
2017	GOA	$ 6.34	-6%	$ 7.43	16%
2018	GOA	$ 5.38	-15%	$ 5.41	-27%
2019	GOA	$ 5.51	2%	$ 4.25	-21%
2020	GOA	$ 4.28	-22%	$ 2.71	-36%
2021	GOA	$ 6.47	51%	$ 3.01	11%

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

2.5 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 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 circumstances that have arisen through 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 such that the entire allocation cannot be spread out amongst available vessels while meeting vessel 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. The likelihood that the supply of vessels is constrained enough to strand unharvested quota in 2022 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, etc.) produced by operating a vessel given the possible ex-

vessel prices or other changes in profitability related to recent market impacts and the global pandemic. Even looking at participation rates in 2020 and 2021, it is difficult to make this assertion because it is unclear which 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 4B, 4C and 4D) and which vessels would have otherwise not participated due to health and safety or financial concerns experience in 2020 and 2021.

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 difficultly 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.

2.6 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 for halibut IFQ fishing in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the remainder of the 2022 IFQ season.

It is expected that those who typically participant in the Area 4 halibut IFQ fisheries in 2022 may see similar challenges to those that were expected in Areas 4A, 4B, 4C, and 4D in 2020 and 2021. Vaccines are widely available, however similar health and safety concerns exist for fishing and processing communities throughout Alaska. Moreover, there are financial barriers created by the economic conditions of the pandemic such as uncertainty with pricing, processing capacity, and potential closures. These conditions deprived some harvesters from participating in the 2020 and 2021 halibut seasons. It is possible that the same conditions will exist for the 2022 fishing season.

The likelihood that the supply of vessels in 2022 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 and uncertainty with pricing. 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.

Participation and harvest patterns in 2020 and 2021 did 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 4; however, 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 and 2021.

Regulatory exemptions implemented for both the 2020 and 2021 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 but not for 2020. For 2020 and 2021, harvest rates increased from 81 to 86 percent, respectively (Table 1). Harvest was slower to start than in previous years but picked up and continued later in the year than normal (Figure 2). In Area 4B, the data does not show the same level of positive impact for the temporary

regulatory exemptions implemented for 2020 and 2021. Harvest rates declined in 2021 despite a higher TAC (Table 1) and there was a decrease in the number of vessels harvesting IFQ in 2021 (Table 4). Cumulatively, these factors may have contributed to the decreased harvest rate. Additionally, in 2020 and in 2021, 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 Areas 4C and 4D, 2020 was the highest rate of harvest for the years 2012 to 2021 at 99 percent (Table 1). 2021 saw a decreased rate of harvest at 93 percent. Cumulative landings in 2021 started later than usual relative to pre-pandemic fishing years and picked up later in the year after regulatory provisions were in place. Public testimony from the Central Bering Sea Fishermen's Association (CBSFA) highlighted the benefit of the regulatory flexibilities in 2020 and 2021. Because of the exemptions, harvest rates were at 99 percent for CBSFA CDQ and 100 percent for CBSFA member-owned IFQ.

In 2020 and 2021 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 less vessels overall in 2020 and 2021 relative to pre-pandemic fishing years, a higher proportion of vessels fished up to 100 percent of the cap (Table 4). For 2022, the TAC increased for all areas in 4A. A vessel use cap exemption for the 2022 fishing year may allow for additional harvest capacity for the increased TAC.

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. However, the Council also recommended NMFS promulgate an emergency rule to allow the temporary transfer of halibut and sablefish IFQ for all QSholders for the remainder of the 2022 fishing season. If the increased transfer flexibility is implemented, QS holders would have more flexibility to select vessels to harvest their IFQ. If the increased transfer flexibility is not implemented then there may be an impact to QS holders and their ability to harvest IFQ. This would increase the number of potential vessels available to harvest IFQ, reducing the possibility that IFQ is left unharvested due to vessel use cap limitations.

The recommended emergency action to allow transfer flexibility would provide harvest flexibility to QS holders and would remove the owner onboard provision for the 2022 fishing year, however other regulatory constraints would 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 QS that can be held or used by an individual, therefore harvesting 100 percent of the TAC will require numerous individuals to hold QS. A waiver of vessel use caps combined with the possible transfer flexibility 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 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 Area 4 has been between 103 and 159 (Table 8). 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 2022 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, particularly during a global pandemic.

Possible adverse consequences of the temporary flexibly to waive 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 consolidated and leased in the 2022 season, under this flexibility, crew members who do not hold QS may not earn a wage in this season. It is possible that their crewing opportunity may not have been available regardless, if the vessel chose to stand-down due to the health, safety and financial concerns stemming from the pandemic; however, is it not possible to identity if this was the case.

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 2020, 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. However, if the action results in a higher percentage of the TAC getting harvested, the overall revenue generated from these landings would increase.

2.7 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. The Council's PA 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 the recommended action 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 and 2021. 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 the recommended action 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.[6] The IFQ Program cost recovery was 3 percent in 2020 and 2.3 percent in 2021. 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

[6] Additional information and annual cost recovery reports area available at: https://www.fisheries.noaa.gov/resource/document/individual-fishing-quota-ifq-cost-recovery-reports

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 in 2022.

2.8 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 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, direction regulated entities to which the action will apply.

In considering which entities are "directly regulated", the operative phrase in the action under consideration is: "exempt vessels from the vessel limitations in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the remainder of the 2022 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, 2020 represents the most up-to-date set of gross revenue data by vessel. In 2020 there were 99 active vessels that had participated in the halibut IFQ fishery in Areas 4A, 4B, 4C, and 4D. 98 of these vessels were considered small entities. 29 vessels that previously participated from 2016-2019 were not active in 2020.

2.9 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 action alternative in this analysis would exempt vessels from the vessel limitations in IPHC regulatory Areas 4A, 4B, 4C, and 4D for the remainder of the 2022 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 2022 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 2022 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 or 2021. 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 in fishing season 2022 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 in 2022 due to this increased flexibility, this would likely decrease the amount of crew needed to harvest the IFQ, resulting in lost jobs and revenue for 2022. Additionally, if halibut deliveries shift to Dutch Harbor, as was the case in 2020, 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 jobs and revenue would also be accrued under no action. Even when examining data from 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 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 action would allow additional flexibility in harvesting IFQ for vessels in Area 4 regardless of home state. Table 9 shows that between 2015 and 2021, on an annual average basis, 71 percent of the vessels participating in the IFQ fishery in Area 4 had ownership addresses in Alaska, while 29 percent of vessels were owned in other states. The 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 temporary waiver of vessel limitations for vessels in Area 4A, 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 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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5 References

National Marine Fisheries Service [NMFS]. 2014. Fishing year 2012: Pacific halibut-sablefish IFQ report. March 2014. Juneau, AK.

NMFS. 2015. Transfer Report – Changes under Alaska's Sablefish IFQ Program, 1995 through 2014.

North Pacific Fisheries Management Council/ National Marine Fisheries Service [NPFMC/NMFS]. 2016. Twenty-Year Review of the Pacific Halibut and Sablefish Individual Fishing Quota Management Program. December, 2016. Available at: http://www.npfmc.org/wp-content/PDFdocuments/halibut/IFQProgramReview_1216.pdf

Queirolo, L. E. 2013. Conducting Economic Impact Analyses for NOAA Fisheries Service. (Revised in response to Presidential Executive Order 13563). National Marine Fisheries Service, P. O. Box 21668, Juneau, AK 99802. October 24, 2013.