



C3 Area 4 Vessel Use Cap Interim Measures

February 2023 Council Meeting

Action Memo

Council Staff: Anna Henry

Action Required: 1. Review Initial/Final regulatory impact review analysis
2. Select preferred alternative

BACKGROUND

At this meeting, the Council will review an analysis to extend the temporary rule to waive vessel use caps in Area 4 through the 2027 fishing season while the Council considers permanent changes to this provision.

The IFQ Program includes vessel IFQ caps for halibut landings intended to prevent large amounts of IFQ from being fished on only a few vessels. 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” (50 CFR § 679.42(h)(1)). 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).

Since 2020 the Council has received annual requests from stakeholders to remove vessel caps. In 2020, 2021 and 2022 the Council requested NMFS promulgate expedited regulations to remove vessel use cap regulations for IFQ halibut in Area 4 due to impacts on harvesters, processors, and communities as a result of travel restrictions, health mandates, and operational challenges directly attributable to the global pandemic.

In April 2022, individuals and organizations petitioned the Council to consider a range of possible changes to the halibut vessel use caps for IPHC Area 4. The desired effect would be similar to the expedited rules but rather than simply removing caps, may adjust the limits, would be longer-lasting and would proceed through the regular Council/NMFS rulemaking process, thus likely would not be implemented for numerous IFQ seasons. The Council adopted a purpose and need statement and alternatives for analysis that would adjust the vessel cap for area 4 halibut in June 2022. This motion is often referred to as the “long term solution” and has not yet been scheduled for Council consideration. As part of this motion the Council included a request that NMFS evaluate options for extending the temporary rule to waive vessel use caps in Area 4 while the Council considers permanent changes to this provision.

NMFS provided an update at the October 2022 meeting, suggesting that there was sufficient time to propose interim measures to remove vessel use caps in Area 4 and proceed through the standard notice and comment rulemaking before vessels in Area 4 may be constrained by halibut vessel use caps in 2023. The Councils and Secretary must, whenever possible, afford the full scope of public participation in rulemaking. In response, the Council initiated the action analyzed in the RIR under this agenda item, often referred to as the “interim solution.” This action would remove these vessel cap limitations for IFQ halibut harvested in Areas 4A, 4B, 4C and 4D through the 2027 fishing season. The action alternative

would take effect through the 2027 fishing season unless the Council decides to take subsequent action prior to 2027 to permanently modify vessel cap limits in area 4. The Council selected 2027 as a sunset date, to indicate that this is intended to be an interim measure, not a long-term solution. This action would provide consistency for stakeholders over the next five years, while the Council develops an analytical package that includes a more balanced range of alternatives to provide a long-term solution that is more reflective of stakeholder concerns regarding potential impacts to the IFQ program. The current action is scheduled for initial/final review at the February 2023 meeting to provide sufficient time to proceed through the standard notice and comment rulemaking before vessel use caps become constraining in 2023.

Vessel cap limitation amounts for 2023 are not included in the RIR as they were not available at document publication deadlines. Vessel caps cannot be calculated in IFQ pounds until catch limits are set at the IPHC Annual Meeting scheduled for January 23-27, 2023. Updated vessel cap tables, including 2023 will be posted to the Council eAgenda when they are available.