

**NOAA Fisheries Service
Alaska Regional Office
Tips for Submitting Effective Public
Comments**



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Introduction

Public comments on proposed government programs are a valuable tool for ensuring implementation of effective and appropriate regulations. Anyone can submit comments concerning new rules and regulations being considered by NOAA Fisheries. There is no specified format required for submission of public comments, except for certain limitations for submitting electronic comments. However, there are steps members of the public can take to ensure that comments are clear, relevant, and helpful in crafting public policy. Good public comments can improve the effectiveness of proposed programs, reduce the administrative costs of developing regulations (thereby reducing the public's tax burden!), and help ensure maximum benefits to the public.

The following tips on content, sentence structure, and format of good public comments will assist the public in submitting public comments on proposed rules to achieve the maximum impact in the public process. Additionally, these guidelines are intended to reduce the administrative burden on the government by encouraging concise, well-reasoned, and helpful comments on proposed rules and their associated analysis documents.

The Notice and Comment Process

NOAA Fisheries develops regulations designed to conserve, protect, and manage living marine resources in a way that ensures their continuation as functioning components of marine ecosystems, affords economic opportunities, and enhances the quality of life for the American public. NOAA Fisheries regulations have considerable impact on the nation's marine resources, the public's relationship to those resources, the industries those resources support, and the economy.

NOAA Fisheries must issue regulations consistent with the Administrative Procedure Act, which governs the rulemaking process for federal agencies. NOAA Fisheries encourages public comment on proposed rules because the public has a vested interest in the resources NOAA Fisheries regulates, and because the input provides critical insight into the potential effects of the regulation on the public. Suggestions from the public can and do influence NOAA Fisheries' actions.

For example, during the development of the Crab Rationalization Program regulations in the North Pacific, NOAA Fisheries received 49 letters of public comment containing 234 independent comments. NOAA Fisheries summarized and responded to all 234 comments, some of which resulted in significant changes to the proposed regulations. NOAA Fisheries approved the regulations only after taking into account the public's comments and recommendations. NOAA Fisheries provides significant time for public input, sometimes even extending comment periods when the public provides justification for the need. Most importantly, NOAA Fisheries carefully considers each comment when developing a final rule.

Publications Subject to Comment

NOAA Fisheries most often publishes proposed rules subject to notice and comment and these tips refer to proposed rules for simplicity. However, NOAA Fisheries also publishes other documents subject to notice and comment procedures. Frequently, these documents are similar in name, but different in purpose. For instance, when the Council recommends a Fishery Management Plan (FMP) amendment, a Notice of Availability (NOA) is published for that FMP providing an opportunity for the public to make comments on it. FMP changes are often accompanied by regulatory changes that are published in a separate notice that bears a similar name as the FMP NOA. Each document is different and comments must be submitted specifically for each document in order for them to be considered. A few examples of the document types subject to notice and comment are listed below.

- Notice of Availability
 - EIS
 - FMP Amendment
- Proposed Rule
 - List of Fisheries
 - Total Allowable Catch (TAC) Specifications
 - Marine Mammal Protection Act (MMPA) Listings
 - Regulatory Changes to Administrative Proceedings

How to Comment

When NOAA Fisheries plans to issue a new regulation or revise an existing one, it publishes an announcement in the *Federal Register* on the day the public comment period begins. NOAA Fisheries also posts the proposal on its website at:

<http://www.fakr.noaa.gov/index/prules/prules.asp>. A notice of proposed rulemaking (proposed rule) describes the planned regulation and provides background on the issue. The proposed rule also provides addresses for submitting written and electronic comments and the name of a person to contact for more information.

The proposed rule also identifies the comment period, which specifies how long the agency will accept comments from the public. Typically, the comment period stays open for 30 days; though comment periods often vary depending on the circumstances of the proposed rule. Some comment periods may be abbreviated to 15 days to accommodate an urgent need. Under some circumstances a longer comment period is required that may meet or exceed 60 days. When the public is unable to meet the submission deadlines, they may request an extension of the comment period.

Anyone can ask NOAA Fisheries to extend a comment period by submitting a written request if they do not think there is sufficient time to study the proposal and comment on it. However, requests for a comment extension must establish good reasons for extending the comment period. If NOAA Fisheries grants the extension and allows more time for the public to comment, a notice is published in the *Federal Register*.

There are no special forms or formats for comments. However, NOAA Fisheries can process comments most effectively if they are presented in the following manner. A sample proposed rule and public comment are provided with this document. The superscript numbers found throughout the suggestions below correspond to numbers found in the sample.

Preparation and Organization

- Begin your work well before the comment deadline.
- Read the proposed rule.
- Make sure you understand the applicable laws and regulations and exactly what they cover.¹ Contact the agency expert if you need additional information.²
- Ensure that you fully understand each issue being discussed so that your comments are fully relevant.
- Underline or highlight the issues that you wish to respond to.
- Outline your thoughts on a piece of paper before beginning to write your comment.

Format

- Comments should be legible
 - Comments may be handwritten or typed.
 - NOAA Fisheries encourages submitters to use print, rather than cursive, for handwritten comments.
 - If the comments are to be faxed, NOAA Fisheries encourages typed comments.
- Comments should be submitted on 8 1/2 by 11-inch paper unless submitted electronically.
- Mailed comments should be sent to the appropriate address, e-mail, or fax number indicated in the ADDRESSES section of the proposed rule.³
- Comments may also be submitted by webform at the Federal eRulemaking Portal: www.regulations.gov. Follow the instructions at that site for submitting comments.
- Submissions should include the comment submitter's name, address, and phone number. Anonymous submissions will not be considered.
- Comments must be delivered, postmarked, or dated, by the deadline indicated in the DATES section of the proposed rule.⁴
- Refer to the docket number⁵, program title⁶, or use the document identifier in the ADDRESSES section for electronic comments⁷ listed in the *Federal Register* notice in a subject line or in the first sentence of the comment.

Content and Style

- Clearly identify the issues in the notice you are commenting on.
- Confine comments to the *Federal Register* notice you are referencing.
 - Keep comments targeted to the issues within the scope of the proposed rule.
 - Avoid addressing different rules or policies in your comment.
- If you are commenting on a particular word, phrase, or sentence please provide the page number, column, and paragraph citation of the particular issue as indicated in the *Federal Register* notice.⁸
- Clearly indicate if you are for or against the proposed rule or some part of it, and why.

- Agency reviewers look for good science and reasoning in the comments they evaluate.
- Where available, use data to support your position.
- If you disagree with a proposed action, suggest an alternative and how the alternative might meet the same objective.
- If a proposed rule raises many issues, do not feel obligated to comment on every one. Select those issues that you are most concerned about, that affect you the most, and that you understand the best.
- If you are commenting in your capacity as a professional (scientist, attorney, fisherman, businessman, etc.), say so. To the extent appropriate and possible, briefly identify your credentials and experience that may distinguish your comments from others.
- Clearly indicate if you are commenting as an official representative or spokesperson for an organization. Provide a brief overview of your organization, its size, and its interest in the matter.
- To the extent possible, personalize your comments. Give real-life examples of how the proposed rule would impact you negatively or positively. If appropriate, indicate how failures to comply with the proposed regulation may adversely affect you.
- Research opposing views from your own, and take note of any specific opinions or facts that you disagree with. In your own comments, provide detailed information to counter information you perceive to be incorrect from these other sources.
- Include copies of articles or provide a list of references that support the comments. Only relevant material should be submitted.
- NOAA Fisheries encourages comment submitters to be courteous, professional, and respectful.
 - Although NOAA Fisheries appreciates and willingly receives any comments, constructive comments, whether negative or positive, are best.
 - Refrain from using politically-charged rhetoric.
 - A rant may make you feel better, but it will not help the agency resolve any problems.

Review

- Read through what you've written before submitting your comments. Sometimes it helps to wait a day or two before reviewing your comments.
- Ask someone you know who can quickly give you objective feedback to review your comments before you submit them.

Form Letters

Organizations often encourage their members to submit form letters designed to address issues common to their membership. Organizations including industry associations, labor unions, and conservation groups have used form letters to voice their opposition or support of a proposed rule. Many in the public mistakenly believe that their submitted form letter constitutes a "vote" regarding the issues concerning them. While public support or opposition may help guide important public policies, NOAA Fisheries makes determinations for a proposed action based on sound reasoning and scientific evidence, not a majority of votes. A single, well-reasoned comment may carry more weight than a thousand irrational and poorly researched form letters.

Moreover, large volumes of form letters impose significant administrative costs on the agency and provide little value to the administrative process.

When NOAA Fisheries receives large volumes of form letters, each letter must be carefully reviewed to ensure that any additional comments added to the form letter are considered, which requires substantial time and staff resources. Additionally, large volumes of form letters can impair processing equipment by jamming fax machines, overloading email accounts, and preventing other comments from being received. This can create a substantial drain on the agency's resources without providing any real benefit to the submitting organization or to the general public. However, NOAA Fisheries recognizes an organization's desire to express public support or opposition to a proposed action. Therefore, NOAA Fisheries recommends that if an organization wishes to indicate widespread support or opposition by their membership or the public, they submit a single copy of the comments contained in their form letter along with an attached list of signatures from their membership or other interested parties. Those organizations should continue to encourage their members to submit their own additional comments if they wish to do so.

What happens to comments after they are submitted

All proposed and final rules issued by NOAA Fisheries are published in the *Federal Register*, issued Monday through Friday. Pending matters open to public comment often are reported by the news media and also can be found on NOAA Fisheries', Alaska Region website <http://www.fakr.noaa.gov/> and the Federal e-rulemaking portal, www.regulations.gov. When NOAA Fisheries receives a comment letter, it is logged, numbered, and placed in a file for that docket. Regulatory specialists then summarize each independent comment within the comment letter and develop responses to those comments. After careful consideration of the comments and concerns on a proposed rule, NOAA Fisheries will usually summarize all comments received, respond to them in a final rule if approved, and publish a final rule including those comments and responses, unless a decision is made that the proposal should not be finalized.

Additional Questions

What is a proposed rule notice?

A proposed rule is a regulation published by an executive-branch department or administrative agency in the *Federal Register* for review and public comment prior to its adoption. A proposed rule describes a change to the regulations the agency feels would benefit the resource and the public and invites public comment on the proposed change. Proposed rules are not law.

What is a Notice of Availability?

An NOA is a notice published in the *Federal Register* that announces the availability of an analysis document for public comment. The NOA notifies the public of the availability of environmental documents required under the National Environmental Policy Act (NEPA) so as to inform those persons and agencies who may be interested or affected. The NOA is distinct from a proposed rule notice and may be commented on separately.

Why should I comment on a proposed rule or NOA?

Public comments give the agency valuable insight for determining if a potential effect from a proposed rule or NOA will be positive or negative from a public perspective. Public comments may also help the agency identify issues it might not have initially considered. Public comments often help direct the agency's prospective policy on a given issue.

Do my comments have any affect on the Federal rulemaking process?

Absolutely! Public input is imperative to helping the agencies make prudent, well-reasoned decisions. More importantly, public input is imperative to maintaining democratic principles in determining the wise use of publicly-owned resources.

Other questions about the notice and comment process should be directed to NOAA Fisheries Service, Alaska Region, Sustainable Fisheries Division, (907) 586-7172. Hours are 9 a.m. to 4 p.m. Alaska local time, Monday through Friday.

The *Federal Register* is available at many public libraries and colleges, and on the U.S. Government Printing Office website at <http://www.gpoaccess.gov/fr/>.

Sample Letter

May 20, 2005

Mrs. Sue Salvesson
Assistant Regional Administrator,
Sustainable Fisheries Division, Alaska Region, NMFS
P.O. Box 21668
Juneau, AK 99802

Attention: Records Officer

Subject: Docket # 050421110-5110-01 – Pacific Halibut Fisheries of Alaska IFQ/CDQ Program – Proposed Rule Change Allowing Harvest of Area 4C IFQ or CDQ in Area 4D

Dear Sir or Madam,

My name is Jack Schmoe and I am submitting this comment on behalf of Joe Schmoe Fisheries, Inc. This comment focuses specifically on the proposed rule section allowing Area 4C Individual Fishing Quota (IFQ) holders to harvest their IFQ in Area 4D. We generally support this allowance. However, we have two primary concerns related to the proposed rule.

First, in the summary section on p. 23830, column 1, paragraph 1 of the Federal Register notice, it appears you exclude Community Development Quota (CDQ) from the allowance to fish 4C quota in Area 4D. CDQ must be included to support many of the community based fishing vessels in Area 4C. An attached list of references and an article on the CDQ fishery in Area 4C illustrate the significance of the CDQ fishery in Area 4C and why it should be included in the allowance provided by this proposed rule.

Second, in reference to p. 23832, column 2, paragraph 2, we believe that Area 4D IFQ holders should also be allowed to harvest their IFQ in Area 4C. Out of fairness, an alternative to consider erasing the boundary line between Area 4C and 4D should be addressed. We understand the concerns of local area 4C fishermen who wish to alleviate the localized depletion in Area 4C, but the practical result of erasing the boundary will be to redistribute fishing to a larger area. Fishermen will not continue to fish in the local areas because there will be better fishing elsewhere.

As a life-long fisherman in Alaska for over 20 years, I feel it is important that the above questions are adequately addressed. Failure to address these questions could result in the exclusion of CDQ vessels from the allowance to fish their quota in Area 4D, which could have significant economic effects on Joe Schmoe Fisheries. Additionally, we feel that the “one-way door” allowing Area 4C quota holders to fish in Area 4D, but not the reverse, could result in significant political issues between the communities in those areas.

Thank you for the opportunity to comment on this proposed rule.

Sincerely
Jack S. Schmoe
Jack S. Schmoe
CFO, Joe Schmoe Fisheries

Sample Federal Register Notice

DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 50 CFR Part 679
(Docket No. 050421110-5110-01; I.D. 041505E)
 RIN 0648-AT03
 Pacific Halibut Fisheries; Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program
 AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.
 ACTION: Proposed rule; request for comments.
SUMMARY: NMFS proposes an amendment to the Pacific halibut regulations for waters in and off Alaska

5 – The Docket Number provides a unique identifier specific to each action.

1, 6 – The Summary usually contains the program title or other words that identify the specific program and will also direct you to the applicable laws and regulations.

4 – The DATES section includes any deadlines associated with the proposed action.

3 – The different methods for submitting comments can be found in the ADDRESSES section.

7 – The email identifier can provide an accurate and efficient subject

2 – If you have additional questions feel free to contact the agency expert!

DATES: Written comments must be received no later than June 6, 2005.
ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by:
 • Mail: P.O. Box 21668, Juneau, AK 99802.
 • Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
 • Fax: 907-586-7557.
 • E-mail: 4cd-0648-AT03@noaa.gov.
 Include in the subject line of the e-mail the following document identifier: IFQ Halibut 4CD RIN 0648-AT03. E-mail comments, with or without attachments, are limited to 5 megabytes.
 • Webform at the Federal eRulemaking Portal: www.regulations.gov Follow the instructions at that site for submitting comments.
 Copies of the environmental assessment (EA), regulatory impact review (RIR), and initial regulatory flexibility analysis (IRFA) prepared for this action are available from NMFS at the above address or by calling the Sustainable Fisheries Division, Alaska Region NMFS at 907-586-7228.
FOR FURTHER INFORMATION CONTACT:
 Bubba Cook, 907-586-7425 or bubba.cook@noaa.gov.

8 – The page number can be found in the upper left or right hand corner of the page.

8 – Column 3, Paragraph 2

Federal Register / Vol. 70, No. 86 / Thursday, May 5, 2005 / Proposed Rules 23831

to provide CDQ fishermen in Area 4E with additional harvesting opportunity. The entire Area 4E catch limit is assigned to the CDQ reserve and subsequently allocated to qualifying CDQ groups. The remainder of the combined catch limit is allocated as 46.43 percent to Area 4C, 46.43 percent to Area 4D, and 7.14 percent to Area 4E.

Previous Revision of the CSP

In 1999, four CDQ groups with CDQ halibut fishing authority in Area 4D requested a regulatory change to allow CDQ halibut allocated to them in Area 4D to be harvested in Area 4E. The Council subsequently recommended a CSP change authorizing halibut CDQ issued in Area 4D to be harvested in Area 4E. In January 2002, the IPHC concurred in the Council's recommendation because it considered the halibut in Areas 4C, 4D, and 4E to be a single stock unit for management purposes. The Council based its recommendation on the fact that most of the commercial in CDQ groups with only Area 4D halibut CDQ had to travel extended distances offshore to harvest Area 4D halibut CDQ or the quota had to be harvested by large, non-local vessels. In 2003, the CSP and the regulations were amended by the Secretary to allow only Area 4D CGS holders to harvest their CDQ in Area 4E (68 FR 9902, March 3, 2003).

The Proposed Revision of the CSP

Halibut IFQ and CDQ fishermen in Area 4C have concentrated a steady stream

increased in Area 4C over the last 10 years, catch per unit effort (CPUE) has declined steadily since commercial fishing began. Catch has increased because fishing effort increased, offsetting the decline in CPUE. IPHC research shows that a comparison of CPUE with effort indicates a continuous pattern of increasing effort and decreasing CPUE. The IPHC suggests that increased effort in Area 4C is unlikely to produce increased catch.

The commercial catch taken in Area 4C is highly concentrated around the two Pribilof Islands of St. Paul and St. George. For commercial catches between 1993 and 2004, with known latitude/longitude locations, approximately 73 percent of the Area 4C catch was taken within 18 nautical miles of St. Paul Island and 25 percent within 18 nautical miles of St. George Island. More importantly, much of the directed effort for the halibut fishery during the 1993–2004 time period occurred in relatively small areas south of the Pribilof Islands and was concentrated in the southwest corner of Area 4C. The IPHC notes that 46.43 percent of the entire Area 4C-E catch limit is allotted for only 5.1 percent of the total Area 4C-E fishing grounds located in Area 4C. The available fishing grounds in Area 4C consists of only 59.1 square nautical miles out of a total of 1,107.6 square nautical miles comprising Area 4C. The limited fishing grounds in Area 4C results in a concentrated fishing effort in a relatively small fishing area.

The CSP assigns 46.43 percent of the combined 4C-E catch to Area 4D, which is an amount equal to that allocated to Area 4C. However, for the same percentage, Area 4D has approximately ten times more fishing grounds at 5,605 square nautical miles than Area 4C at 59.1 square nautical miles. Fishermen in Area 4D have harvested an average of 92 percent of the IFQ allocation for Area 4D over the past ten years, achieving 100 percent during 2003 and 2004. Fishermen also harvested an average of 69 percent of the Area 4D CDQ allocation over the past ten years, achieving 80 and 64 percent during 2003 and 2004, respectively. On average, Area 4D conducted only 32 percent of the IFQ landings that Area 4C conducted over the past ten years inferring that less effort was required to achieve the full harvest of the 4D IFQ and CDQ halibut allocation. Likewise, CDQ landings of halibut from Area 4D were only 19 percent of those from Area 4C over the past ten years inferring that less effort was required to achieve the full harvest of the 4D CDQ harvest. Therefore, less effort was required to harvest the Area 4D IFQ and CDQ halibut allocation in Area 4D, indicating a higher CPUE in Area 4D.

Allowing Area 4C IFQ and CDQ holders to harvest their IFQ and CDQ in Area 4D would provide several benefits to Area 4C IFQ and CDQ holders including: (1) reducing fishing effort within Area 4C, thereby alleviating localized depletion; (2) increasing

Column 1

Column 2

Column 3