

NMFS Report
Recovery of Incremental Costs Associated with the Pacific Coast
Groundfish Fishery Sablefish Permit Stacking Program
June, 2015

Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan (FMP) introduced a Permit Stacking Program to the limited entry, fixed gear primary sablefish fishery off Washington, Oregon, and California. This Permit Stacking Program is a type of individual fishing quota (IFQ) program under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and therefore falls under the Magnuson-Stevens Act requirements for cost recovery. In accordance with the Magnuson-Stevens Act, 1854(d)(2), NMFS collects mandatory fees of up to three percent of the ex-vessel value of an IFQ program, a type of limited access privilege, to recover the incremental costs directly related to the management, data collection and analysis, and enforcement of the LAPP.

Background

Historically, sablefish harvested by the limited entry, fixed gear fleet was separated into a small, year-round daily trip limit fishery and a primary season fishery which took 85 percent of the annual limited entry fixed gear sablefish allocation. The Pacific Fishery Management Council (Council) managed harvest in the primary season fishery without vessel cumulative limits by setting the season length short enough to ensure that the fishery would not exceed its quota. Capitalization in the fishery increased over time and the Council set ever-shorter primary seasons to control catch levels. By 1996, the fleet was able to take the bulk of the primary season sablefish catch in a 5-day fishery.

This new, derby-style fishery, induced the Council to make management changes intended to rationalize fishing effort and improve safety for primary season fishery participants. Amendment 9 to the FMP introduced a sablefish endorsement program that limited the number of vessels allowed to participate in the primary season fishery. This program was intended to restrict primary season fishery participation to those permit holders with historical participation in and dependence upon the sablefish fishery.

Following Amendment 9, the Council further separated participation in the primary season sablefish fishery by introducing the three-tier program in 1998. This program divided sablefish-endorsed permits into 3 tiers based on historical landings. Under the three-tier program, participants in the primary season may land sablefish up to the limit associated with his/her permit. Qualifications for each of the 3 tiers were based on the cumulative sablefish landings

associated with a permit from 1984 through 1994. The three-tier system also set a between-tier ratio to describe the relationship between the cumulative limits that would be available to each tier during the primary season fishery.

While the three-tier program slowed the pace of the primary season fishery, the season was still less than 10 days long in each of the primary seasons from 1998 to 2000. Because of this, the Council continued to set the seasons short enough to ensure that not all participants would be able to catch their full cumulative limits of sablefish.

The Magnuson-Stevens Act defines an Individual Fishing Quota (IFQ) fishery as a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. At the time, the Magnuson-Stevens Act, as amended by Public Law 106-554, included a moratorium on the implementation of new IFQ programs through October 1, 2012, (The moratorium has since been lifted). However, via Public Law 106-554, Congress exempted from the moratorium a Pacific Council IFQ program for the fixed gear sablefish fishery that: (1) allows the use of more than one limited entry groundfish permit per vessel; and/or (2) sets cumulative trip limit periods, up to 12 months in any calendar year, that allow fishing vessels a reasonable opportunity to harvest the full amount of the associated trip limits. Amendment 14 to the FMP implemented a permit-stacking program that meets these moratorium exemption requirements.

Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan (FMP) introduced a permit-stacking program to the limited entry, fixed gear primary sablefish fishery off Washington, Oregon, and California. Under this permit-stacking program, a vessel owner may register up to 3 sablefish-endorsed permits for use with their vessel to harvest each of the primary season sablefish cumulative limits associated with the stacked permits. Amendment 14 also provided for a fishing season up to 7 months long, from April 1 - October 31, which allows time for vessels to pursue their primary season limits. Portions of Amendment 14 were implemented for the 2001 primary sablefish season. The extended sablefish season was fully implemented in 2002. In 2006, NMFS implemented additional regulations for Amendment 14. At that time, NMFS planned to implement a Permit Stacking Program cost recovery fee system, as required by the MSA, at some time in the future.

Analysis

This document reviews the incremental costs associated with the Permit Stacking Program to evaluate if the annual sablefish permit application fee that is currently in place is recovering these costs. Under the Pacific Coast Groundfish Trawl Rationalization Program (Trawl Rationalization Program), actual incremental costs are those net costs that would not have been incurred *but for* the implementation of the Trawl Rationalization Program, including both

increased costs for new requirements of the program and reduced costs resulting from any program efficiencies. We use the same definition here to assess the Permit Stacking Program. In practice, incremental costs have been the costs of employees' time (salary and benefits) spent working on recoverable tasks though other costs may be included in the future. For example, the incremental costs of travel, rent/utilities/overhead, transportation, printing, supplies, and equipment would require additional research and documentation to be adequately accounted for in this analysis but could be included in future actual incremental cost calculations if deemed necessary.

To determine the Permit Stacking Program's incremental costs we have identified the divisions within NMFS that were most likely to incur these costs: The West Coast Region (WCR), Northwest Fisheries Science Center (NWFSC), Office of Law Enforcement (OLE), Northwest Section of the Office of General Counsel (General Counsel), and, through NMFS' grants, the Pacific States Marine Fisheries Commission (PSMFC). Each of these entities was asked to provide an estimate of any costs associated with the Permit Stacking Program that could be considered incremental.

Northwest Fisheries Science Center

NWFSC reported that it may not be appropriate to quantify their Observer Program incremental costs before and after implementation of the permit stacking program because the Observer Program started about the same time as the permit stacking program. Quantifying incremental costs would require several assumptions about what observer coverage might have been in the pre-IFQ fishery.

In addition, because observer coverage was not a required component of the Amendment 14 permit stacking program, the observer coverage levels for the fishery before or after the program would likely be the same. Therefore, the net incremental costs would be zero.

It seems reasonable to conclude that the costs associated with placing observers on vessels participating in the Permit Stacking Program are not incremental. It may however, be worthwhile to revisit this determination if changes to the sablefish FMP warrant.

Office of Law Enforcement

There are several new requirements implemented through the Permit Stacking Program including: permit allocations, owner-on-board, ownership limitations, 3 permits per vessel, and others. However, OLE reported that they do not consider any of the time they spend on the Permit Stacking Program recoverable. OLE does not monitor near real time management of allocations during the season. They have not conducted any investigations because no suspected violations have been detected and no suspected violations have been referred to them either by the NMFS West Coast Region or our state partners. The RCA monitoring would be done regardless and is not considered an incremental cost. As such, all time that OLE spends on

limited access sablefish is time staff would have been spent performing these activities prior to the Permit Stacking Program.

It seems reasonable to conclude that any OLE costs associated with the Permit Stacking Program are not incremental. As with other groups, OLE did suggest that future changes to the Permit Stacking Program could generate recoverable costs. One example is the possibility of real-time/in season monitoring of allocations when and if E tickets are implemented.

Northwest Section of General Counsel

General Counsel costs associated with the Permit Stacking Program are not included as incremental costs. This is consistent with the other cost recovery program in the WCR, the Trawl Rationalization Program, which does not include the cost of employees from the Northwest Section of General Counsel in the cost recovery calculation. Of the other Regions around the country collecting cost recovery fees for LAPPs under the MSA, no other Region currently includes General Counsel in recoverable costs.

Pacific States Marine Fisheries Commission

PSMFC reported that it does not have any costs associated with the Permit Stacking Program that they consider incremental; NMFS concurs with this assessment. They foresee that possibility of new costs in the future and have identified at least one, E-reporting of sablefish fish tickets, which may be recoverable.

West Coast Region

The WCR has identified incremental costs associated with the Permit Stacking Program. These costs consist of tasks that fall into two categories, those recovered under the current sablefish permit renewal fees, and those additional tasks that could be considered incremental costs.

The administrative costs, specific to sablefish stacking requirements, incurred by the permits office for renewal activities are currently being recovered through annual permit renewal fees charged to industry participating in the Permit Stacking Program. These costs are for those activities needed to complete a permit renewal (i.e. enter renewal data; to print, file and mail the renewed permit). Costs for other permit related activities such as transfers or general permit data requests the WCR may get during the year are not included in the permit renewal fee cost computation. The sablefish specific tasks currently covered by the renewal permit fees are:

- Revise/prepare/print renewal and ownership interest forms and cover letters; prepare mailing of renewal application package; make file copies of outgoing renewal application document.
- Receive/review permit renewal and ownership interest application forms for completeness/review checks for correct payment.
- Enter permit renewal and ownership interest data into database; prepare application review worksheets; print permits.

The WCR currently does not charge for transfers of permits, however there are some associated tasks that could be considered incremental:

- Review ownership interest forms (only required if the permit or vessel is owned by a business).
- Ownership Interest data entry.
- Compliance check on own/hold limits.
- Review mid-season transfer certification.

In addition, the permit renewal fees also recover costs for postage (certified and registered mailings) and materials (paper, envelopes, labels, and printer supplies). These costs are calculated as part of the permit renewal fee process and detailed in the *Pacific Coast Groundfish Limited Entry Permit Renewal Cost Computation Worksheet*.

The WCR has also identified several other tasks related to the Permit Stacking Program that may be incremental and are not recovered through sablefish permit fees. While these tasks do have costs, the costs are considered minimal.

- Sablefish permit transfer: review ownership interest form, ensure that shareholders in the entity do not exceed the own/hold count (max 3), and enter the shareholders into a database and record the date the form was signed.
- Process “owner on board” exemption requests: review request, make determination (supervisor), and prepare and mail response.
- Customer service: respond to phone calls/emails re: information about the regulations governing sablefish permit.

One source of incremental costs not included in this analysis, but important to keep in mind, is the costs associated with new Council actions affecting the permit-stacking program. The Council considered and took action to allow any vessel owner who has 20% or less interest in a vessel to be exempt from the own/hold count for any sablefish permit it is associated with. Further, the Council approved provisions to better track, in season, the harvest of individual tier amounts assigned to the permits through electronic fish tickets. WCR staff have spent time in the development of these issues and the review and drafting of documents for the Council, coordination with industry and the Alaska Region, and presentations to the Council. The WCR will now finalize the Environmental Assessment and prepare regulations beginning in 2015 requiring additional time. It is difficult to anticipate exactly what additional changes to sablefish permit rules will be made in the future but it is certain that some action will be forthcoming and could generate additional costs.

Costs of Collecting Cost Recovery Fees

When considering implementation of a cost recovery program, it is important to take into account the cost of the cost recovery program itself. While there are some economies of scale when running cost recovery programs, for the most part the costs will be similar regardless of the level of costs being recovered. What this means is that if the total funds to be recovered is small, it may cost close to or more to recover these funds than would be recovered. As the cost of implementing a cost recovery program is considered incremental, this could result in industry being required to pay more for the calculation and collection of cost recovery fees than the value of all other recoverable costs.

Estimated Cost Recovery Calculation

If implemented, the cost recovery fee for the Permit Stacking Program would be calculated along the same lines as for the Trawl Rationalization Program. To calculate the Trawl Rationalization Program fee percentage, NMFS used the formula specified in regulation at § 660.115(b)(1), where the fee percentage by sector equals the lower of three percent or direct program costs (DPC) for that sector divided by total ex-vessel value (V) for that sector multiplied by 100.

$$\text{Fee percentage} = \text{the lower of 3\% or } (DPC/V) \times 100$$

“V” or ex-vessel value, specified in regulation at §660.115(b)(1)(ii), is the total ex-vessel value for each sector from the previous calendar year. The ex-vessel value for each sector is defined at §660.111 (see below).

Ex-vessel value means, for the purposes of the cost recovery program specified at § 660.115, all compensation (based on an arm’s length transaction between a buyer and seller) that a fish buyer pays to a fish seller in exchange for groundfish species (as defined in § 660.11), and includes the value of all in-kind compensation and all other goods or services exchanged in lieu of cash. Ex-vessel value shall be determined before any deductions are made for transferred or leased allocation, or for any goods or services.

“DPC” or direct program costs, defined in regulation at §660.115(b)(1)(i), are the actual incremental costs for the previous fiscal year directly related to the management, data collection, and enforcement of each sector. Actual incremental costs means those net costs that would not have been incurred but for the implementation of the Trawl Rationalization Program, including both increased costs for new requirements of the program and reduced costs resulting from any program efficiencies. If the amount of fees collected by NMFS is greater or less than the actual net incremental costs incurred, the DPC will be adjusted accordingly for calculation of the fee percentage in the following year.

Example estimated sablefish permit stacking program cost recovery fee calculation using 2014 estimates.

DPC					V			
WCR *	NWFSC	OLE ^	PSMFC	DPC total	2014 primary season allocation (lb) **	price/lb ^^	estimated ex-vessel value	fee % ***
\$30,000	0	0	0	\$30,000	2,764,597	\$2.50	\$6,911,493	0.43

* WCR does not include costs already included in the permit renewal fee. Does include FPO estimated time for transfers, etc noted in this memo (~60-75/year, estimated staff time at \$5k). Does include Groundfish branch estimated staff time over 2014 on program changes (1 FTE for 6 months = \$30K)

** This is high estimate because it represents the potential landings in the fishery (i.e., 2014 allocation of 1,254 mt) rather than actual landings.

^^ Low estimate from PacFIN longline and pot 2014 ex-vessel value

*** Fee percentage = the lower of 3% or (DPC/V) x 100

There are several factors to consider in determining whether NMFS should implement cost recovery for the Permit Stacking Program at this time. First, the Permit Stacking Program experiences regulatory changes in bursts. The Program has not had regulatory changes in almost 10 years. When it does, as is happening right now, there will be a couple of years of higher NMFS costs, mostly from the WCR staff time (and for electronic fish tickets, PSMFC costs). However, NMFS expects the Agency costs to then drop back down for several years, likely until after the next program review. Second, part of the current WCR incremental costs are for permit transfers during the year due to the regulatory restrictions. NMFS is in the process of considering implementation of “joint registration” which would allow a limited entry trawl permit and a limited entry fixed gear permit to be registered to a vessel at the same time. Joint registration is expected to reduce the number of permit transfers per year. Third, as previously mentioned, there is a cost to NMFS of running a cost recovery program which would involve more staff, additional infrastructure for time tracking, and more time for those staff tracking their tasks. NMFS estimates that it would cost several thousands of dollars to implement cost recovery for the Permit Stacking Program when a high year’s estimate of NMFS incremental costs is only \$30,000. In addition, without additional staff being added, it could take some staff time away from other issues in the groundfish fishery.

Conclusion

Review of the sablefish Permit Stacking Program shows that most of the divisions within NMFS that work on the program generate no incremental costs. The WCR does generate costs through incremental tasks, but a large part of these are recovered through the current sablefish permit

fees. There are some additional recoverable costs within the WCR but these are minimal at this time.

It is clear that future Council actions could make changes to the Permit Stacking Program that would require significant time in regulatory process and implementation. This, in turn, would generate additional costs that could be recoverable.

Therefore, implementation of a cost recovery program for the sablefish Permit Stacking Program does not seem to be appropriate at this time but it would be important to revisit this decision in the future when and if future Council action seems likely to generate additional recoverable costs.