

Trawl Rationalization Program Cost Recovery Annual Report

Fee Calculation for 2017 and Fishing Year 2016 Payments



April 2017



Overview

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires NOAA's National Marine Fisheries Service (NMFS) to collect fees to recover the costs directly related to the management, data collection, and enforcement of a limited access privilege program (LAPP) (16 U.S.C. 1854(d)(2)), also called "cost recovery." The Pacific coast groundfish trawl rationalization program is a LAPP and consists of three sectors: the Shorebased Individual Fishing Quota (IFQ) Program, the Mothership (MS) Coop Program, and the Catcher/Processor (C/P) Coop Program.

In accordance with the Magnuson-Stevens Act and based on a recommended structure and methodology developed in coordination with the Council, NMFS collects mandatory fees of up to three percent of the ex-vessel value of groundfish by sector (Shorebased IFQ Program, MS Coop Program, and C/P Coop Program). NMFS collects the fees to cover the incremental costs of management, data collection, and enforcement of the trawl rationalization program.

Cost recovery for the trawl rationalization program was implemented in January 2014. The details of cost recovery for the trawl rationalization program are in regulation at 50 CFR 660.115.

What's in this annual report?

NMFS is committed to transparent cost accounting practices, including publishing this annual report detailing recoverable costs. This annual report includes information on the fee percentage calculation, program costs, ex-vessel value by sector, and total fees collected by NMFS from previous years.

Cost recovery reports from other Regions can be found online using the links below.

- Alaska Crab Rationalization - <http://www.fakr.noaa.gov/sustainablefisheries/crab/crfaq.htm>
- Alaska Halibut/Sablefish IFQ - <https://alaskafisheries.noaa.gov/fisheries/ifq>
- Greater Atlantic Golden Tilefish IFQ - <https://www.greateratlantic.fisheries.noaa.gov/sustainable/species/tilefish/>
- Greater Atlantic Scallop IFQ - <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scallop/quotas/2013scallopifqfeannualreport.pdf>

Details on Cost Recovery Calculations

For cost recovery, NMFS must make two calculations during the last quarter of every calendar year after each fiscal year ends and announce those values in a *Federal Register* notice before they would go in to effect on January 1 of the following year. The calculations for these values and the data used are described further in this report. The two calculations are:

1. Fee Percentage Calculation by Sector
2. MS Pricing for the C/P Coop Program

Fee Percentage Calculation by Sector

For the trawl rationalization program, NMFS calculates the fee percentage by sector using the best available information, not to exceed the Magnuson-Stevens Act three percent cap. To calculate the fee percentage by sector, NMFS uses 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) and includes the total ex-vessel value for all groundfish species.

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.

(1) For the Shorebased IFQ Program, the value of all groundfish species (as defined in § 660.11) from IFQ landings.

(2) For the MS Coop Program, the value of all groundfish species (as defined in § 660.11) delivered by a catcher vessel to an MS-permitted vessel.

(3) For the C/P Coop Program, the value as determined by the aggregate pounds of all groundfish species (as defined in § 660.11) harvested¹ by the vessel registered to a C/P-endorsed limited entry trawl permit, multiplied by the MS Coop Program average price per pound as announced pursuant to § 660.115(b)(2).

“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

¹ While the regulations say “harvested,” NMFS has clarified through a public notice that the C/P ex-vessel value and fee amount due is based on retained catch.

accordingly for calculation of the fee percentage in the following year. The 2017 fee percentages, accounting for adjustments, are displayed below.

For 2017 -

Fee percentages are:

- Shorebased IFQ Program: 3.0%
- MS Coop Program: 0.0%
- C/P Coop Program: 0.0%

(announced in 80 FR 81808, 12/31/2015)

Cost of Management, Data Collection, and Enforcement (DPC)

As described earlier, DPC in the calculation are the actual incremental costs for the previous fiscal year directly related to the management, data collection, and enforcement of each sector. In other words, they are costs that would not have been incurred but for the implementation of the trawl rationalization program.

Since 2014, the first year of cost recovery, NMFS has only recovered the costs of employees’ time (salary and benefits) spent working on the program in the calculation of DPC rather than all incremental costs of management, data collection, and enforcement. Because NMFS is continuing this policy and only including some costs, the DPC for 2017 fee percentage calculations is likely an underestimate of costs compared to all incremental costs of management, data collection, and enforcement.

NMFS has only included the costs of employees’ time in the calculation because of limited agency resources and time to calculate additional incremental costs. While employees’ time spent working on the trawl rationalization program has been coded and tracked since 2011, not all additional categories of incremental costs have been tracked in a manner that can be quickly compiled. For example, the incremental costs of travel, rent, and equipment will require additional research and documentation before they can be adequately accounted for. In addition, NMFS **has not included any federal costs resulting from duties performed by the states of Washington, Oregon, or California in the calculation of DPC.**

The recoverable costs of employees’ time spent working on the trawl rationalization program are the incremental costs of those employees’ time. In other words, it is the cost of employees’ time that would not have been incurred but for the implementation of the trawl rationalization program. NMFS employees have coded and tracked their time card for time spent on the trawl rationalization program by sector (IFQ, MS, C/P) since 2011.

NMFS has determined the incremental cost of employees’ time by using those recoverable costs directly attributable to management, data collection, and enforcement of the trawl rationalization program (e.g., employee time spent working on tasks that would not have been necessary but for the trawl rationalization program). The majority of employees included in this estimate are either new employees directly hired to work on the trawl rationalization program or are existing employees whose time has been directed away

from other agency duties to work on the trawl rationalization program (e.g. less time spent on grant work, recreational fisheries issues, and open access issues).

Table 1 provides a summary of the incremental costs from FY 2016 used to determine the DPC for each sector used in calculation of the 2017 fee percentages.

Table 1. Incremental costs (DPC) associated with management, data collection, and enforcement of all sectors of the Trawl Rationalization Program, FY 2016 (October 1, 2015 to September 30, 2016).

Cost Category	WCR	NWFSC	OLE	Total (before adjustment)
Personnel ^a	\$809,045.13	\$1,199,580.07	\$243,863.70	\$2,252,488.90
<i>IFQ</i>	\$748,088.11	\$1,059,396.20	\$214,006.24	\$2,021,490.55
<i>MS</i>	\$41,160.08	\$96,597.97	\$29,791.46	\$167,549.51
<i>C/P</i>	\$19,796.95	\$43,585.90	\$66.00	\$63,448.85
Travel ^b /Transportation ^c	\$ -	\$ -	\$ -	\$ -
Printing	\$ -	\$ -	\$ -	\$ -
Contracts/Training	\$ -	\$ -	\$ -	\$ -
Supplies	\$ -	\$ -	\$ -	\$ -
Equipment	\$ -	\$ -	\$ -	\$ -
Rent/Utilities/Overhead ^d	\$ -	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -	\$ -
Total	\$809,045.13	\$1,199,580.07	\$243,863.70	\$2,252,488.90

a Personnel costs include salary and benefits. Federal grant covering Pacific States Marine Fisheries Commission (PSMFC) personnel costs is included in the WCR.

b Travel includes per diem payments.

c Transportation includes shipment of items.

d Rent/Utilities/Overhead includes costs of space and utilities and shared common space and services.

Details of the incremental costs for management, data collection, and enforcement of the trawl rationalization program by sector are described below. The details are grouped by division within NMFS: West Coast Region, Northwest Fisheries Science Center, and Office of Law Enforcement.

West Coast Region (WCR)

The West Coast Region (WCR) manages the trawl rationalization program by working on policy issues, drafting and implementing regulations, tracking the fishery, and issuing permits. This includes work done by WCR Groundfish Branch and Fisheries Permits Office. It also includes WCR costs for work done by the Northwest Fisheries Science Center's Scientific Data Management (SDM) and Information Technology (IT) groups for work on the online IFQ system, and for work done by the Pacific States Marine Fisheries Commission for the catch monitor program. WCR employees track their time in timecards for work done on the trawl rationalization program with project and task codes by sector. For many employees, only part of their time is for trawl rationalization. The costs of employee time that were already included in the unit cost computation for the permit fees for first receiver site licenses (FRSL) and MS permits are not included in DPC. SDM/IT was provided \$400,000 from the WCR for tasks in FY 2016, applied toward seven contract employees (this cost is only for the Shorebased IFQ Program). The

PSMFC was provided \$152,214 from the WCR in FY 2016 for salaries and benefits for two catch monitor program coordinators (this cost is only for the Shorebased IFQ Program).

For FY 2016, the following contributed to the DPC for the WCR:

Total cost from salaries + benefits = \$ 809,045.13

(Contractors included in these totals)

IFQ - \$ 748,088.11

MS - \$ 41,160.08

C/P - \$ 19,796.95

The SDM team at the NWFSC provides the user interface and database architecture that allows IFQ quota share and vessel account owners to manage quota share (QS) and quota pounds (QP) through transfers and balance reporting of fish landings and discards. The SDM team has developed and maintained the IFQ Catch Share web application since the initial launch on January 11, 2011 and continues to provide enhancements as user needs and regulations have warranted. The SDM team provides a data reporting interface available to key NMFS and state law enforcement agents, NMFS WCR Permits Office, NMFS economists, and PSMFC staff.

The SDM team also developed and maintains a web application that allows the NMFS WCR Permits office to manage required permits to participate in the West Coast trawl and mothership fisheries, as well as first receiver site licenses. This system allows the permits office to process requests for new QS permits and QS and vessel accounts.

Examples of WCR and SDM incremental tasks considered recoverable include:

- 1) **Rulemakings & Council Participation:** Developed rulemakings and participated in policy development at the Council level for the trawl rationalization program and worked on associated implementation and analytical requirements, including:
 - Process for divestiture of excess quota shares - published a proposed and final rule to clarify divestiture and revocation of quota shares in excess of the control limits, and establish procedures for the future if divestiture becomes necessary
 - Widow rockfish reallocation - prepared briefing book documents and analysis for Council consideration (rulemaking work started in 2016)
 - Cost recovery fee percentage calculation & notice
 - IFQ to mothership sector quota pound allocation request - relayed implementation questions and issues to Council staff and advisory bodies
- 2) **Permits and Licenses:** Reviewed new applications and renewals for QS permits/accounts, vessel accounts, first receiver site licenses, and coop permits; worked with applicants to complete and submit required forms, entered data to database, issued permits, and established new accounts. Maintained paper and electronic files associated with permits, licenses, and accounts.
- 3) **Program Support & Compliance:** Provided support to constituents to understand and comply with program requirements.
 - Clarified trawl rationalization program regulations
 - Entered and tracked compliance with IFQ and MS control limits

- Provided significant outreach (letters, emails, and phone calls) on divestiture deadlines
 - Contacted constituents with an upcoming renewal, application, or quota pound transfer deadline
 - Reset passwords
 - Trained new entrants on how to use IFQ account system
 - Completed administrative transfers for deceased permit owners and worked with families to understand requirements
 - Reconciled data errors found in the IFQ account system
 - Updated catch monitor plan guidelines and template for first receivers
 - Posted messages on the IFQ website
- 4) **Data Requests:** Prepared trawl rationalization program data reports in response to various constituents (i.e., council staff, industry, Congressional) and NMFS requests.
 - 5) **Vessel Account/Quota Share Database Enhancements:** Designed and developed enhancements for the online IFQ and permit systems; revised user interface; prepared business rules and use cases for programming staff to code system enhancements/revisions; worked with programming staff to test new functionality of systems before release; on ongoing basis carry out quality assurance/quality control (QA/QC) of system and fix bugs. This includes:
 - Designed, built, tested, and implemented functionality to allow electronic monitoring data (logbook and video review data) to directly debit from vessel accounts
 - Development of an ownership interest tracking database to the individual level, across quota share (QS) permits, for compliance with QS and individual bycatch quota (IBQ) control limits
 - Entered and QA/QC'ed all ownership interest data
 - Updated quota share and vessel account renewal interface, including ownership interest forms pulled directly from permit database
 - 6) **Quota Pound Allocations:** Calculated and allocated quota pounds to QS accounts and carryover quota pounds to vessel accounts in 2016. Prepared a preliminary carryover calculation with total issuance amounts for the Groundfish Management Team (GMT)/Council. Briefed GMT staff on carryover calculation and preliminary issuance amounts. Prepared memos documenting QP allocation and carryover actions.
 - 7) **PSMFC Funding for Compliance Monitoring Management and E-Tickets support**
 - 8) **PRA and Unit Cost Computations:** Prepared and reviewed Paperwork Reduction Act (PRA) packages and unit cost computations related to catch shares collections and fees, which includes development of new forms, revision of existing forms, and calculation of fees for first receiver site licenses.
 - 9) **Year-End IFQ Account Catch Data QA/QC:** Managed and error checked trawl catch data annually with PSMFC, West Coast Groundfish Observer Program (WCGOP), and OLE.
 - 10) **5-Year Review:** Planned for the trawl rationalization 5-year review.

Website Updates: Prepared and updated information for the [West Coast Groundfish Trawl Catch Share Program website](#)

Northwest Fisheries Science Center (NWFSC)

NWFSC collects and analyzes data on the trawl rationalization program through observers on vessels and through economic and social surveys. This includes work done by the NWFSC Fishery Resource

Assessment and Monitoring Program (FRAM) and additional employees paid through PSMFC contracts and grants. The values included in the NWFSC DPC do not include any of the costs paid by NMFS to PSMFC for reimbursing industry for part of the industry cost for observers.

For FRAM employees, timecards were coded with project and task codes by sector in the same manner as those from the WCR. Some employee time was deducted as not incremental. Because the mothership (processing vessels not the mothership catcher vessels) and C/P vessels had mandatory observers and corresponding ASHOP debriefers before the trawl rationalization program, ASHOP debriefer costs were not included. "ASHOP" is the observer program for the at-sea whiting processors, the motherships (not the catcher vessels) and the C/Ps. The WCGOP is the observer program for the shorebased catcher vessels (IFQ) and the catcher vessels fishing for and delivering to motherships. 25% of the costs attributed to the WCGOP for the Shorebased IFQ Program were deducted as well to account for coverage of the limited entry trawl program by the WCGOP prior to the implementation of the trawl rationalization program. This percentage was determined by using observer sea days from 2010 (pre catch shares) and observer sea days from 2013 (post catch shares) as representative years, resulting in 1658 and 6909 sea days respectively.

The PSMFC observer grant cost is only for the catch shares portion of the grant. The grant is only split catch shares and non-catch shares, however, the bulk of the catch shares portion of the grant is for the Shorebased IFQ Program. The PSMFC observer grant is for the salary and benefits (no gear) for PSMFC staff working off the West coast. The values for the PSMFC observer grant only cover staff time for observers' program activities, not catch monitor program activities or any other PSMFC activities. In addition to the IFQ fishery, some of the cost is also attributable to the MS fishery for observers on MS/CVs. To determine how much of that money should be counted as a cost to the MS fishery, NMFS looked at the sea days spent on MS/CVs in 2013. Approximately 8% of observer sea days were spent on MS/CVs, so this value was used to split the cost between the IFQ and MS fisheries. As with the NWFSC estimates, 25% of the hours and costs were deducted from the IFQ amounts to account for the coverage levels of the limited entry trawl fishery prior to the implementation of catch shares. Additional observer scales, salmon genetics, and other non-labor were also removed as non-labor costs are not considered recoverable.

For FY 2016, the following contributed to the DPC for the NWFSC:

Total cost from salaries + benefits = \$1,199,580.07

- IFQ: \$1,059,396.20
- MS: \$96,597.97
- C/P: \$43,585.90

Examples of NWFSC incremental tasks considered recoverable include:

- 1) Support to constituents with their vessel accounts in regards to observer discards.
- 2) Managed and error checked trawl catch data with PSMFC, WCGOP, and OLE.
- 3) Cost recovery planning, data analysis and reporting.
- 4) Trawl rationalization 5-year review planning.
- 5) Database improvements to facilitate bycatch reporting in an accurate and timely manner to vessel accounts.
- 6) Development of a set of economic metrics to describe the performance of the WCR trawl catch share program, which will be included in the five year review.
- 7) Catch share observer trainings and briefings (WCGOP only, not A-SHOP).

- 8) Catch share data review, reporting and observer debriefings. (WCGOP only, not A-SHOP).
- 9) EDC form administration and mailings.
- 10) EDC development and maintenance of web-based forms.
- 11) EDC database and data QA/QC.
- 12) EDC reports and data analysis.
- 13) EDC communications and outreach to better understand data and improve reporting of results.

NOAA's Office of Law Enforcement (OLE)

OLE enforces the requirements of the trawl rationalization program. OLE labor costs are tracked by one project/task code, but employees track their daily hours by activity codes on their timecards (1 for each sector – IFQ, MS, C/P).

Trawl rationalization enforcement technicians' time was included in the 2017 fee calculation. Enforcement technicians activities include, but are not limited to, tracking QS and vessel account balances, contacting vessel owners if an account is negative, assisting with fishery declarations, and tracking fishing status through the vessel monitoring system.

For FY 2016, the following contributed to DPC for OLE:

Total cost from salaries + benefits = \$243,863.70

- IFQ: \$214,006.24
- MS: \$29,791.46
- C/P: \$66.00

Examples of OLE incremental tasks considered recoverable include:

- 1) Evaluate enforcement issues related to permit renewals and new applications (e.g. coop permits, QS and vessel accounts, FRSL).
- 2) Monitor QS and vessel accounts for regulatory compliance.
- 3) Monitor regulatory compliance of ownership interest for the trawl fleet across permits and vessels.
- 4) Participate in designing programming updates for the online IFQ system to improve monitoring and investigative capabilities.
- 5) Evaluate related enforcement implications in regards to new rulemaking.
- 6) Monitor trawl catch data on a daily basis to ensure compliance with regulations. Take enforcement action where appropriate to include verbal communication, correction letters, summary settlements, and formal investigation leading to the issuance of written warnings and Notice of Violation Assessments (NOVA) by General Counsel Enforcement Section (GCES).
- 7) Develop procedures and processes of monitoring, analyzing, and investigating alleged excessive Quota Share (QS) holdings.
- 8) Analysis and evaluation of Economic Data Collection (EDC) report submittals for regulation compliance, inclusive of issuing compliance correction letters, and conducting investigations leading to the issuance of written warning and NOVAs by GCES.
- 9) Ongoing monitoring and subsequent investigations of alleged violations of Trawl Rationalization (IFQ) regulations by vessels owners, operators, processors, and First Receivers (FRs)
- 10) Investigation of alleged Observer and Compliance Monitoring harassment violations.
- 11) Actively engaged in the evaluation of numerous regulation complexities specific to IFQ midwater and bottom trawl fishing activity that have emerged because of the implementation of the IFQ program.

- 12) Participate in the analysis, creation, and QA/QC of IFQ program outreach materials, i.e. compliance guides.
- 13) Engaged in Trawl Rationalization 5-year review planning.

Northwest Section of General Counsel

NMFS did 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 includes General Counsel in recoverable costs. The Alaska Region did recover their General Counsel costs in the past, but has stopped doing so.

Redetermination of Past DPCs

On August 10, 2016, the U.S. Court of Appeals for the Ninth Circuit issued its opinion in *Glacier Fish Co. LLC v. Pritzker*, 832 F.3d 1113 (9th Cir. 2016), a case involving a challenge to NMFS' authority to recover cost recovery fees from members of the C/P Coop Program and the reasonableness of NMFS' calculation of the C/P Coop Program's 2014 fee percentage. The court held that the calculation of the 2014 CP Coop Program fee was inconsistent with NMFS' cost recovery regulations and the court remanded to NMFS to re-determine the 2014 fee.

In response, NMFS has reevaluated and modified the methodology used to determine the C/P Coop Program's DPC for the 2014 fee calculation. NMFS elected to apply a similar revised methodology for all sectors for all years, resulting in a reduction in each sector's DPCs. However, the shorebased IFQ program DPC remained above the 3 percent cap.

These recalculations resulted in the adjustments to the 2017 DPCs shown below:

- Shorebased IFQ Program: No adjustment
- MS Coop Program: -\$428,609.51
- C/P Coop Program -\$251,888.09

Details of the recalculations can be found in attachment 1 and the spreadsheet titled "All Sector Recalculation final."

Determining the Value of the Fishery (V)

The cost recovery program regulations define ex-vessel value slightly differently for each sector (IFQ, MS, and C/P). This results in slightly different methods to calculate "V" for each sector. For the Shorebased IFQ program NMFS used the ex-vessel value (defined at §660.111 and above in this report under "fee percentage calculation by sector") for calendar year 2015 as reported in Pacific Fisheries Information Network (PacFIN) from electronic fish tickets to determine "V." The electronic fish ticket data in PacFIN is for the Shorebased IFQ Program. The MS Coop Program and the C/P Coop Program values are calculated using the average price of whiting derived from those reported on the MS Coop Program cost recovery form from calendar year 2015. This average price (\$0.08) and the retained catch estimates (weight) from the observer data (as reported in PacFIN from NORPAC) were used to calculate the "V" for the MS and C/P Coop Programs.

The DPC is calculated on the fiscal year, “V” is calculated on the calendar year. NMFS considered calculating “V” on the fiscal year, but had concerns that the data available right after the fiscal year ends may not be accurate. Ex-vessel value for the Shorebased IFQ Program is reported in PacFIN from fish ticket data. PacFIN reports often have a time delay, with data continuing to update in the PacFIN system for several months. Therefore, pulling data based on a fiscal year, right after the fiscal year has closed, may not result in the best available data. NMFS will continue to calculate “V” using the previous calendar year’s ex-vessel value. There is no concern with calculating DPC on the fiscal year and “V” on the calendar year as long as it remains consistent between years (i.e., “V” doesn’t switch between 2 years from calendar year to fiscal year).

To determine “V” by sector for calendar year 2015, NMFS queried the PacFIN database on October 28, 2016. Shorebased IFQ landings and revenue estimates (including all groundfish species) were taken from the Vessel Daily RockFish Distributed (VDRFD) table where nominal ticket species categories are distributed to individual rockfish species at the daily level (using area and species composition proportions supplied by the state sampling programs). For the MS and C/P fisheries, retained catch estimates and corresponding values (whiting only) were taken from the NORPAC 4900 Species Composition table within PacFIN. Values for non-whiting species are not calculated for the MS and C/P fisheries, since the vast majority of them do not result in revenue. While all groundfish species are included in the Shorebased IFQ ex-vessel value, only whiting is included in "value" for the at-sea sectors, as other species are predominantly discarded or used for fish meal, with little to no revenue and specific information

Table 2. Retained catch estimates by month and sector. IFQ includes all landed species; at-sea sectors include only hake. Hake value estimates for at-sea sectors were queried from the NORPAC 4900 species comp. table in PacFIN.

2015	IFQ lbs	IFQ value	CP lbs	CP value	MS lbs	MS value
Jan	4,182,420.43	\$2,932,074.80	0.00	\$0.00	0.00	\$0.00
Feb	4,555,835.51	\$3,315,458.96	0.00	\$0.00	0.00	\$0.00
Mar	5,261,594.59	\$3,650,312.21	0.00	\$0.00	0.00	\$0.00
Apr	2,617,316.10	\$1,819,025.62	0.00	\$0.00	0.00	\$0.00
May	5,394,360.60	\$2,169,541.15	72317622.32	\$4,808,390.80	32123862.31	\$2,115,221.85
Jun	21,050,736.97	\$3,762,181.99	21409830.27	\$1,684,734.45	21595135.96	\$1,698,208.86
Jul	40,780,163.90	\$5,202,560.41	0.00	\$0.00	0.00	\$0.00
Aug	38,721,974.30	\$5,002,937.90	0.00	\$0.00	0.00	\$0.00
Sep	23,842,693.79	\$4,731,272.69	15464033.92	\$1,233,389.09	5398434.42	\$430,713.27
Oct	14,420,291.07	\$4,345,932.16	26813690.82	\$2,181,252.55	1599576.95	\$129,778.37
Nov	6,333,444.49	\$3,184,148.10	14865147.17	\$1,213,036.18	0.00	\$0.00
Dec	1,805,637.16	\$1,489,566.43	0.00	\$0.00	0.00	\$0.00
Sum	168,966,468.90	\$41,605,012.42	150870324.49	\$11,120,803.07	60717009.63	\$4,373,922.34

Calculating the Fee as a Percentage of Total Fishery Value

Using the formula described above in “Fee Percentage Calculation by Sector” and the values for V and adjusted DPC, the fee percentage by sector is as follows:

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

- Shorebased IFQ Program: 3.0% = the lower of 3% or $(\$2,021,490.55/\$41,605,012.42) \times 100$
- MS Coop Program: -6.0% = the lower of 3% or $(-\$261,060.01 / \$4,373,922.34) \times 100$
- C/P Coop Program: -1.7% = the lower of 3% or $(-\$188,439.24 / \$11,120,803.07) \times 100$.

As a fee cannot be set using a negative percentage, the 2017 fee percentages for the MS Coop Program and the C/P Coop Program will be set at 0.0%.

Table 3. 2017 fee percentage based on NMFS's costs for Pacific coast groundfish trawl catch share program by sector.
(cost of employees' time (salary + benefits) from FY 2016 attributable to trawl rationalization; ex-vessel value from calendar 2015)

Trawl Sector	WCR*	NWFSC	OLE	Total by sector	2016 Fee Adjustment	Final Sector Totals	ex-vessel value	fee percentage by sector	fee percentage by sector (max 3%)
Shorebased IFQ Program	\$748,088.11	\$1,059,396.20	\$214,006.24	\$2,021,490.55	na	\$2,021,490.55	\$41,605,012.42	4.9%	3.0%
MS Coop Program	\$41,160.08	\$96,597.97	\$29,791.46	\$167,549.51	-\$428,609.51	-\$261,060.01	\$4,373,922.34	-6.0%	0.0%
C/P Coop Program	\$19,796.95	\$43,585.90	\$66.00	\$63,448.85	-\$251,888.09	-\$188,439.24	\$11,120,803.07	-1.7%	0.0%
Total	\$809,045.13	\$1,199,580.07	\$243,863.70	\$2,252,488.90		\$1,571,991.30	\$57,099,737.83		

The 2016 fee adjustment column has been added to the “total by sector” to give the “final sector totals.” The “final sector totals” column of the table is divided by the values in the “ex-vessel value” column to determine the “fee percentage by sector.” Additionally, the fee percentage must not be greater than 3% as shown in the “fee percentage by sector (max 3%)” column. Finally, the fee percentage cannot be less than 0.0% so the 2017 fee percentages for the MS and CP sectors have been set at 0.0%

MS Pricing for the C/P Coop Program

For 2017, the MS pricing for the C/P Coop Program to use as a proxy is \$ 0.08/lb for Pacific whiting.

NMFS uses the best information available from other sectors to estimate the ex-vessel value of whiting in the C/P Coop Program. In regulation, this is called “MS pricing,” and is the MS Coop Program’s average price. The MS pricing will be used by the C/ P Coop Program to determine their fee amount due (MS pricing multiplied by the value of the aggregate pounds of all groundfish species harvested by the vessel registered to a C/P-endorsed limited entry trawl permit, multiplied by the C/P fee percentage, equals the fee amount due). In past years, MS pricing for cost recovery was based on the average price per pound of Pacific whiting as reported in PacFIN from the Shorebased IFQ Program. In other words, data from the IFQ fishery was used as a proxy for the MS average price per pound to determine the “MS pricing” used in the calculation for the C/P sector’s fee amount due. For 2017 MS pricing, NMFS used values derived from those reported on the MS Coop Program cost recovery form from calendar year 2015 as this was determined to be the best information available. NMFS has calculated the 2017 MS pricing to be used as a proxy by the C/P Coop Program as: \$0.08/lb for Pacific whiting.

Fees Collected during Fishing Year 2016

As of March 2017, the following sector-specific fees have been paid through pay.gov for 2016 catch. Because the MS sector’s 2016 fee percentage was recalculated to 0.0%, all MS sector funds collected in 2016 will be subtracted from their 2017 DPC calculation. Some payments were submitted by C/P sector vessels. These payments were made after the recalculation was published which changed the C/P sector’s 2016 fee percentage to 0.0%. These payments are being refunded and will not be subtracted from the C/P sector’s 2017 DPC calculation.

	2016 Fees collected
Shorebased IFQ Program	\$1,470,306.06
MS Coop Program	\$298,210.31
C/P Coop Program	\$0.00
Total	\$1,705,516.37

Use of Funds

Payments received by NMFS as a result of cost recovery are deposited in the Limited Access System Administrative Fund as required by the Magnuson-Stevens Act. Funds deposited in this account are available only to the Secretary of Commerce and may only be used to administer and implement the Magnuson-Stevens Act in the fishery in which the fees were collected. Therefore, all cost recovery fees collected by the WCR to date will be used for current and future management, data collection, and enforcement of the trawl rationalization program similar to as described in the fee calculation section of this report.

Attachment 1

Redetermination of Past DPCs

On August 10, 2016, the U.S. Court of Appeals for the Ninth Circuit issued its opinion in *Glacier Fish Co. LLC v. Pritzker*, 832 F.3d 1113 (9th Cir. 2016), a case involving a challenge to NMFS' authority to recover cost recovery fees from members of the C/P Coop Program and the reasonableness of NMFS' calculation of the C/P Coop Program's 2014 fee percentage. The court upheld NMFS' authority to recover cost recovery fees from members of the C/P Coop Program because the C/P coop permit is a limited access privilege and Glacier Fish Co. and other C/P coop members are reasonably considered a "holder" of that privilege. The court also concluded that NMFS' cost recovery regulations were consistent with statutory requirements. However, the court held that the calculation of the 2014 CP Coop Program fee was inconsistent with NMFS' cost recovery regulations and the court remanded to NMFS to re-determine the 2014 fee.

In response, NMFS has revaluated and modified the methodology used to determine the C/P Coop Program's DPC for the 2014 fee calculation. The redetermination of the C/P Coop Program's 2014 fee also took into consideration discussions with Glacier Fish Co. and other representatives of C/P Coop members with respect to what costs should be considered actual incremental costs. One key change to the C/P Coop program's 2014 fee is the elimination of all time that was originally coded as "general" time and split evenly among the three sectors. Additional costs that NMFS determined to be more appropriately categorized as non-incremental were also removed. NMFS also made some adjustments to ensure contractor and employee time was appropriately distributed among the sectors to reflect the actual incremental costs. Finally, NMFS elected to apply a similar revised methodology for all sectors for all years, resulting in a reduction in each sector's DPCs. However, the shorebased IFQ program DPC remained above the 3 percent cap.

NMFS' internal process for categorizing and tracking employee time in the trawl rationalization program has been refined over the years. For example, the use of the "general" time coding option was phased out by the West Coast Region and, with the exception of limited use by the Northwest Fisheries Science Center, was no longer used as of fiscal year 2015. NMFS will continue its efforts to ensure that employee time is only tracked for time spent on tasks that that would not have been incurred but for the implementation of the trawl rationalization program, taking into account reduced costs resulting from any program efficiencies. A comparison of the original DPCs and the recalculated DPCs is below.

	Initial DPC (excluding adjustments)	Redetermined DPC (excluding adjustments)
Shorebased IFQ Program		
2014	\$1,877,752.00	\$1,599,610.25
2015	\$2,028,859.04	\$1,936,907.83
2016	\$2,339,529.95	\$1,887,535.24
2017	\$2,021,490.55	N/A*
MS Coop Program		
2014	\$274,936.05	\$77,659.47
2015	\$233,300.78	\$129,565.98
2016	\$291,144.05	\$185,814.34
2017	\$167,549.51	N/A*
C/P Coop Program		
2014	\$176,460.05	\$12,931.29
2015	\$158,631.88	\$40,487.70
2016	\$184,267.26	\$45,080.17
2017	\$63,448.85	N/A*

* The DPC's used in the 2017 fee calculations were determined during the recalculation efforts using the new methodology. As such, there was no need to recalculate them.

The DPC values used to determine the 2017 fee percentages reflect the redetermined DPCs and any adjustments for past over or under payment. The adjustments can be seen here:

	2014		
	DPC	Fees	Adjustment
IFQ	\$1,599,610.25	\$1,356,285.28	na
MS	\$77,659.47	\$347,450.65	-\$269,791.18
CP	\$12,931.29	\$350,387.25	-\$337,455.96

	2015			
	DPC	DPC w/ adjustment	Fees	Adjustment
IFQ	\$1,936,907.83	na	\$1,260,450.63	Na
MS	\$129,565.98	-\$140,225.20	\$94,467.65	-\$234,692.85
CP	\$40,487.70	-\$296,968.26	\$0.00	-\$296,968.26

	2016			
	DPC	DPC w/ adjustment	Fees (est)	Adjustment (est)
IFQ	\$1,887,535.24	na	\$1,561,574.00	Na
MS	\$185,814.34	-\$48,878.51	\$379,731.00	-\$428,609.51
CP	\$45,080.17	-\$251,888.09	\$0.00	-\$251,888.09

	2017	
	DPC	DPC w/ adjustment
IFQ	\$2,021,490.55	na
MS	\$167,549.51	-\$261,060.01
CP	\$63,448.85	-\$188,439.24