

EXCERPT FROM: GROUND FISH ADVISORY SUBPANEL REPORT ON TRAWL CATCH SHARES, INTERSECTOR ALLOCATION PROGRESS REPORTS AND COST RECOVERY REPORT (AGENDA ITEM F.4.B, SUPPLEMENTAL GAP REPORT, APRIL 2017)

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Cost Recovery

Mr. Chris Biegel presented the GAP with the NMFS Annual Cost Recovery Report ([Agenda Item F.4.a, NMFS report](#)), noting when the agency was required to re-determine cost recovery fees for the C/P Coop Program for 2014, it also recalculated the recovery fees for all sectors and all years.

The GAP notes the Magnuson-Stevens Fisheries Conservation and Management Act (MSA) tasks the Councils with developing cost recovery methodology and NMFS can only accept or reject that methodology; NMFS does not have authority to develop a CR methodology. With that in mind, the GAP refers to Cost Recovery Committee Report recommendations to the Council in September 2011 for clarification on Council specific guidance and intent for cost recovery. Two particular items are of note:

- The Council requested the draft framework in [CR Committee Report Appendix D](#) (included here on the last pages) be used and developed for reporting costs; the framework includes costs broken out in detail as well as pre-catch shares estimates to achieve incremental cost data by task.
- Council guidance referred to a [November 2010 motion No. 32 directing](#) a “great degree of transparency” and that NMFS include “costs of current (2010) management in as much detail as possible (i.e., sectors, observers, rulemaking, enforcement, etc.) as well as expected costs and cost savings as this program comes on line.

It is apparent NMFS is not following Council directives on:

- Providing cost reporting framework broken down to task detail;
- Providing pre-catch shares cost estimates in detail;
- Providing a great deal of transparency; and
- Providing details on cost savings as this program comes on line.

Therefore, the GAP recommends the Council provide more detail and guidance to NMFS in order to bring the cost recovery process in line with the original 2011 directives.

The GAP notes the cost recovery report shows a total of \$2.25 million in program incremental costs. That translates to more than 20 people above 2003 staffing levels just to operate the catch shares program. The GAP finds this not credible, as there is no detailed data to review to match up to this claim. For example, how many hours were charged to cost recovery for gear regulations, widow reallocation, or economic data collection (EDC)? Where are the data on cost savings? These are details the GAP would like to see as directed and intended by the Council September 2011 Recommendations. The GAP notes it is not enough to use all the right phrases like “transparency”

and “incremental costs” and “detail”; the actual meaning of the words have to be put into practice at some point.

Court case impact

The GAP also briefly reviewed some of the language from the court’s decision in *Glacier Fish v. Pritzker*. The Court’s findings about NMFS’ process in determining costs associated with the trawl program reflected what industry’s concerns have been since the inception of the program.

Specifically, the Court stated:

“NMFS was obliged to develop a reasonable method for determining the actual additional costs of the trawl rationalization program (over and above existing costs related to groundfish fishery management) as well as a reasonable method for determining which of these additional costs was directly attributable to each of the three sectors.”

“ ... Moreover, the regulations required NMFS to develop a method to evaluate whether it has gained any “efficiencies” and reduced costs as a result of implementing the coop permit program. A review of the record discloses that NMFS did not develop or apply such reasonable methods. ...

“First, NMFS did not have a systematic method for determining the number of employee hours that were spent on the trawl rationalization program over and above the amount that had previously been spent on the groundfish fishery ...

“Nor did NMFS develop a reasonable system for separating time spent on the trawl rationalization program from time spent on other projects.”

(The court then listed specific instances of improper methods of calculating costs.)

“ ... Again, such a haphazard approach to estimating the number of employee hours actually spent on the trawl rationalization program is inconsistent with NMFS’s regulatory obligation to calculate the actual incremental costs directly related to the program. ...

“Finally, NMFS apparently made no attempt to calculate the “reduced trawl sector related costs resulting from efficiencies” in the program as it was required to do under 50 C.F.R. § 660.115(b)(1)(i). ...

“Based on our review of the record, NMFS did not properly determine the ‘actual incremental costs’ that were ‘directly related to the management, data collection, and enforcement of each sector.’ ”

The GAP would like to reiterate that in two prior statements to the Council and in multiple public testimonies, we have requested more transparency in the cost recovery process. We have twice requested an outside review or audit of the NMFS cost recovery calculations, all to no avail.

APPENDIX D: Draft structure for estimating costs

(Reprinted from [Cost Recovery Committee Report, September 2011](#) to show the level of detail the Council expected but NMFS has not produced.)

		Cost Estimates					
		Pre-catch shares		(Jan 1–Dec 31 2011)		2014	
Management Activities		State	Federal	State	Federal	State	Federal
1	Council meeting process (best guess of staff time devoted to day to day council meetings and prep.)						
2	Catch share development (best guess at time devoted to developing the program)						
3	Groundfish in-season management						
4	Licensing (licensing of plants feds.)						
5	Permits (fed time permitting)						
6	Stock assessments (pre/post changes—list stocks)						
7	Age reading (pre/post changes—list stocks)						
8	State compliance with fed. rules (pre/post what changes)						
9	Observer training (pre/post numbers)						
10	C M training (pre/post numbers)						
11	Debriefers (numbers)						
Accounting Activities							
1	Fish tickets (state numbers staff and time ground fish only)						
2	Log books (state numbers staff and time ground fish only)						
3	CM reports (state fed staff and time)						
4	Observer reports (fed staff and time)						

5	Fishermen's balance reports (fed staff and time)						
6	Economic Data reports (fed staff and time)						
Compliance/Field Activities							
1	Observers (number)						
2	CM observers (number)						
3	Law enforcement (number						
4	Port samplers (number and location)						

PFMC
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