

## **Proposal for a Sablefish Tier Stacking Cost Recovery Program**

In order to facilitate the scheduled scoping of the sablefish tier stacking program (Tier Program) follow-on actions from the recent program review, we provide this proposal for a cost recovery structure. We previously provided the Council an initial evaluation of potential incremental tasks ([Agenda Item E.4.a., NMFS Report, March 2022](#)). And we provided a brief breakdown of key design considerations and some pro and con input ([Agenda Item F.8.a, NMFS Report 1, March 2023](#)). The agency would only begin to recover costs after a final rule for a cost recovery program was implemented; therefore, the development of a cost recovery program or concurrent development of changes to the Tier Program would not be recoverable. However, if any of the program changes created new on-going incremental tasks, those costs would be recoverable once the cost recovery rule was effective.

### **Proposed range of alternatives:**

**No Action Alternative:** no cost recovery program for the Tier Program, not consistent with the Magnuson-Stevens Act requirements for limited access privilege programs (16 U.S.C. §§ 1853a(e) and 1854(d)(2))

### **Action Alternative 1:**

#### ***Structure***

The fishery (Tier Program) would be treated as a single sector whereby costs are calculated for the sector and the fee percentage would be calculated for the sector.

#### ***Who pays***

The owner(s) or authorized representative of the vessel that makes landings of sablefish in the Tier Program would be responsible for paying the fee.

#### ***Calculation of fishery value***

Fishery value would be calculated using the ex-vessel value of sablefish landed in the most recent complete primary season based on PacFIN electronic fish ticket information, including any post-landing value adjustments.

#### ***Calculation of direct program costs***

The direct program costs would be calculated using the actual incremental costs for the previous fiscal year directly related to the management, data collection and analysis, and enforcement of the Tier Program. Actual incremental costs means those costs that would

not have been incurred but for the implementation of the Tier Program. Incremental costs may be accrued by the West Coast Region, the Northwest Fisheries Science Center, or the Office of Law Enforcement. This is the same methodology NMFS follows for the Trawl Rationalization Program (see page 3 of the [2023 Trawl Rationalization Program Cost Recovery Report](#)). Recoverable costs include staff time (both full time employees and contractors), travel, supplies, and equipment related to incremental tasks. An initial evaluation of potential incremental tasks was provided in [Agenda Item E.4.a., NMFS Report, March 2022](#).

***How fee percentage is calculated***

Fee percentage would be calculated by taking the direct program costs from the most recent complete fiscal year and dividing that by the fishery value from the most recent complete fishery season; not to exceed three percent of the ex-vessel value of fish harvested under the Tier Program.

***When the fee percentage is announced***

NMFS would calculate and publish through the Federal Register an annual fee percentage notice in the first quarter of the calendar year, prior to the start of the primary season on April 1.

***How the fee amount is determined***

The fee amount would be calculated from the ex-vessel value of applicable landings (including post-season adjustments) multiplied by the annual fee percentage.

***How cost recovery fees are paid***

The annual cost recovery fee percentage would be applied to sablefish landings in the Tier Program during the primary season. NMFS would generate an annual bill and provide that electronically to each vessel owner that has applicable landings. For payment collection, the vessel owner or authorized representative would remit fees through pay.gov on a yearly basis.

***When fees are due***

Fees would be due 30 days after bills are issued. We are projecting bills would be due by March 1 in the calendar year following the applicable primary season.

***Penalties***

Failure to pay on time may result in a NMFS action against the vessel owner and could result in additional monetary charges, fines, and/or sanctions. Before penalties are issued, NMFS Permits and Monitoring Branch would deliver an Initial Administrative Determination (IAD), to which the vessel owner must respond within 30 days. If an account is unpaid for 30 days after the due date, administrative fees, interest, and penalties start to

accrue. If the account is not paid within the 30 days provided by the IAD, in addition to fees, interest, and penalties, the vessel may not be registered to any new permits until the fee liability is satisfied. Additional fines may also apply.

***Reporting***

NMFS would generate an annual report and present that to the Council. This annual report would include information on the fee percentage calculation, program costs, ex-vessel value for the fishery, and total fees collected by NMFS from the previous year.

**Notes on workload**

The development of a cost recovery program is expected to have administrative impacts and is not expected to have environmental impacts. As such, we expect the necessary analysis would include a regulatory impact review, a Magnuson-Stevens Act analysis (consistency with National Standards and LAPP provisions), and a Regulatory Flexibility Act analysis. We preliminarily expect that this action would qualify for a categorical exclusion from the National Environmental Policy Act. This action will require new record-keeping and reporting requirements, subject to review by the Office of Management and Budget under the Paperwork Reduction Act. This review would occur concurrent with rulemaking.