

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT ON COST RECOVERY
ITEMS ON THE OMNIBUS LIST

On March 20, 2014, NMFS published a Public Notice discussing two clarifications to the Pacific coast groundfish trawl rationalization (trawl rationalization) cost recovery program ([NMFS-SEA-14-12](#)). NMFS suggests removing the clarifications from the omnibus list and addressing these housekeeping changings in an upcoming rulemaking (e.g., the upcoming trawl follow-on action).

Credit Cards and Principal Deposit

The first issue highlighted in the Public Notice was a clarification that deposit principal, which are the fees collected and held in the required cost recovery bank account, could be used to refund cost recovery payments made by credit card. Regulations at §660.115(d)(1)(ii), state that the principal in the deposit account must be paid directly to NMFS each month through *Pay.gov*. This language is not clear that deposit principal can also be used to refund credit card payments to *Pay.gov*. NMFS recommends updating the regulations, as outlined below in the underlined text, to specify that deposit principal may be used to refund cost recovery payments made by credit card.

B) *Fee collection deposits.* Each fish buyer, no less frequently than at the end of each month, shall deposit, in the deposit account established under paragraph (d)(1)(ii)(A) of this section, all fees collected, not previously deposited, that the fish buyer collects through a date not more than two calendar days before the date of deposit. The deposit principal may not be pledged, assigned, or used for any purpose other than aggregating collected fee revenue for disbursement to the Fund in accordance with paragraph (d)(1)(ii)(C) of this section. The fish buyer is entitled, at any time, to withdraw deposit interest, if any, but never deposit principal, from the deposit account for the fish buyer's own use and purposes. **If the fish buyer has used a credit card to pay the cost recovery fee, the deposit principal may be used to reimburse the credit card in the same amount as the fee payment.**

(C) *Deposit principal disbursement.* Not later than the 14th calendar day after the last calendar day of each month, or more frequently if the amount in the account exceeds the account limit for insurance purposes, the fish buyer shall disburse to NMFS the full deposit principal then in the deposit account. The fish buyer shall disburse deposit principal by electronic payment to the Fund subaccount to which the deposit principal relates. **If the fish buyer has used a credit card to pay the cost recovery fee, the deposit principal may be used to reimburse the credit card in the same amount as the fee payment.** NMFS will announce information about how to make an electronic payment to the Fund subaccount in the notification on fee percentage specified in paragraph (b)(2) of this section. Each disbursement must be accompanied by a cost

recovery form provided by NMFS. Recordkeeping and reporting requirements are specified in paragraph (d)(4) of this section and at §660.113(b)(5) for the Shorebased IFQ Program and §660.113(c)(5) for the MS Coop Program. The cost recovery form will be available on the pay.gov Web site.

Catcher-Processor Program Clarification: Harvested vs. Retained

The second issue highlighted in the Public Notice was that the cost recovery regulations for the Catcher-Processor Program refer to ex-vessel revenue calculations being established on the groundfish harvested. The Public Notice clarified that cost recovery fees are to be collected only on retained fish and not on discards, consistent with Council recommendations and the final rule implementing the cost recovery program ([78 FR 75268](#)). This issue was discussed in a response to a comment (9) and NMFS clarified that only retained catch and not discards should be considered when calculating cost recovery fees.

NMFS recommends updating the regulations, where appropriate, to specify that only retained fish, and not discards, should be used in calculating ex-vessel revenue as it relates to cost recovery. For example, definitions at §660.111 would be updated as follows:

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) ~~harvested~~ **retained** 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).