

## **Council Final Cost Recovery Program Recommendations (September 2011)**

The Council supports the limited access privilege program (LAPP) guidelines, as described in Appendix B of the September 2011 Cost Recovery Committee (CRC) Report ([Agenda Item G.6.b, Cost Recovery Committee Report, September 2011](#)) and the framework provided in Appendix C of the same report. The Council recommends implementation of a cost recovery program by January 1, 2013; with the structure, cost estimation methods, and cost recovery rates specified below. Retroactive payment requirements should not be part of the program. Fees should be collected from the date the cost recovery provisions are implemented forward and not for time prior to its implementation.

### **Structure for Cost Recovery Program**

**Sector-specific programs** - Separate cost recovery programs should be developed, one for each of the three sectors (shorebased individual fishing quota (IFQ), mothership, and catcher processor). Costs will be calculated for each sector and each sector will be assessed a fee based on the sector-specific cost calculation (see Determination of Sector Costs and Fees, below).

**Catcher processors** - Each vessel should be charged based on value of whiting harvested<sup>a/</sup> by that vessel, with billing to occur and fees to be remitted to the National Marine Fisheries Service (NMFS) in last quarter of the calendar year. For this sector, value will be determined using mothership pricing (prices motherships pay catcher vessels) and at-sea tonnage caught.

**Motherships** - Each catcher vessel should be charged based on the value of whiting delivered<sup>a/</sup> by that vessel; the mothership should bill and collect from the catcher vessel at time of delivery; and collected fees should be remitted to NMFS in coordination with any buyback fees. For this sector, value will be determined using mothership pricing and at-sea tonnage delivered.

**Shorebased IFQ** - Each catcher vessel should be charged based on the value of IFQ species delivered by that vessel; the first receiver should bill and collect fees from vessels at the time of landing; and collected fees should be remitted monthly to NMFS in coordination with any buyback fees. For this sector, value will be determined from information on buyback forms.

**Fee Remittance Linked To Permit/License Renewal** - Failure to remit assessed fees should be linked to renewal of the permit or IFQ first receiver site license of the entity responsible for remitting payment to NMFS (i.e., catcher-processor vessel, mothership, and first receiver). However, proof of fee payment would not be a required part of a

a/ At its September 2012 meeting, the Council agreed that to create consistency across the sectors the fee calculation for the at-sea sectors would be applied to all retained groundfish .

renewal application. Potential for enforcement action would apply to entities that fail to remit fees in a timely fashion.<sup>1</sup>

**Determination of Sector Costs and Fees:** Incremental costs will be determined for each sector. “Incremental Costs” means “*the net costs that would not have been incurred but for the implementation of the Individual Fishing Quota program*” (Amendment 20)—see Appendix B to Agenda Item E.6.b, Cost Recovery Committee Report, September 2011. Each sector (shorebased IFQ, mothership, and catcher/processor) will pay an appropriate percentage (not to exceed three percent, see following paragraph for additional constraint on initial fees ). The program should include between year accounting and adjustment such that under collection or over collection in one year could lead to an adjustment to fees for a following year, but never to exceed the three percent maximum. Such overages and underages might be the result either of collection in excess of the amount expected or program costs that are higher or lower than initially estimated.

The appropriate percentage of the cost would be based on the latest available information relative to actual costs incurred by NMFS and the states at the time the rule package needs to be drafted for implementation for January 1, 2013, provided that the initial percentages do not exceed three percent for the shoreside sector, two percent for the mothership sector, and one percent for the catcher-processor sector. NMFS should use that latest available information relative to actual costs to make the yearly projections to determine fee percentage at the beginning of each fishing year.

**Ongoing Council Role:** The Council should have an ongoing, periodic role in the cost recovery program, including reviewing cost recovery levels, after the cost recovery program becomes established.

### **Other Council Requests and Actions Related to Cost Recovery**

The Council asks that NMFS consult with NOAA General Counsel (GC) and provide, as soon as available, clarity on the eligibility of state costs recoverable as a portion of the three percent maximum fee with regard to MSA section 303A(e) and 304(d).

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<sup>1</sup> As described by NMFS ([Agenda Item G.6.b, NMFS Supplemental Report 2, September 2011](#)), this linkage provision would work as follows: The primary compliance incentive would be an administrative link between failure to pay the appropriate cost recovery fee and permit/license renewal. If upon initial review of fee payment NMFS determines that the full amount has not been paid, NMFS would notify the individual, and provide an opportunity to respond and to resolve any discrepancies. If full fee payment is not received subsequent to NMFS final administrative determination, the amount would be referred to collections, and if it has not been paid prior to permit or license renewal, NMFS would not renew the MS permit, catcher-processor permit or IFQ first receiver site license until payment is received. The potential for enforcement action would remain in some cases.

The Pacific States Marine Fisheries Commission (PSMFC) has developed a draft framework for reporting costs (Appendix D to the September 2011 CRC report, ([Agenda Item G.6.b, Cost Recovery Committee Report, September 2011](#))). The Council asked that the PSMFC, coastal states, and NMFS continue to work to fill out the framework, modifying it as necessary.

The Council will convene meetings of the CRC in the future to address opportunities for identifying long term efficiencies.

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