Detailed Information on NMFS Cost Recovery Programs

Council request for information

At the February 2017 North Pacific Fishery Management Council meeting, the Council requested a comparison of Alaska Region cost recovery programs, with figures that would review individual line-item costs and highlight differences between programs. In making the request, the Council cited differences in the Office of Law Enforcement (OLE) costs and rent costs between the IFQ Program and three of the four newest cost recovery programs (for AFA, A80, and CDQ). The Council requested additional information on the methods NMFS uses to attribute costs to cost recovery programs. The first few sections of this report provide background information on how NMFS administers the cost recovery programs for fisheries off Alaska. The remaining sections provide specific details on line-item costs between programs.

General background on cost recovery procedures

Section 304(d)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes and requires NMFS "to recover the actual costs directly related to the management, data collection, and enforcement" of any limited access privilege (LAP) program and the Western Alaska Community Development Quota (CDQ) Program. The Magnuson-Stevens Act also defines the fisheries that meet the definition of a LAP and the CDQ Program, and describes the methods required to assess and collect the cost recovery fees. The Magnuson-Stevens Act also limits the maximum amount of annual cost recovery fees to be no more than 3% of the ex-vessel value of fish harvested under a LAP program or the CDQ Program. NMFS currently has seven cost recovery programs:

- Halibut/Sablefish Individual Fishing Quota (IFQ) (effective March 15, 2000, 65 FR 14919)
- Bering Sea and Aleutian Islands Crab Rationalization (CR Program) (effective April 1, 2005, 70 FR 10174)
- Central Gulf of Alaska Rockfish (effective December 27, 2011, 76 FR 81248)
- American Fisheries Act (AFA) (effective February 4, 2016, 81 FR 150)
- Aleutian Islands pollock (AIP) (effective February 4, 2016, 81 FR 150)
- Amendment 80 (effective February 4, 2016, 81 FR 150)
- CDQ Groundfish and Halibut (effective February 4, 2016, 81 FR 150)

Funds collected from cost recovery fees are deposited in the Limited Access System Administrative Fund (LASAF). Funds in this account are available only to the Secretary of Commerce and must be spent on LAP program and CDQ Program management, data collection, and enforcement.

Calculation of fees

Total fishery value. The fee liability for LAP programs and the CDQ Program is based on the ex-vessel value of fish harvested in each program. To determine the value, NMFS calculates a standard ex-vessel price (standard price) for each species. Standard prices are calculated using information on landings with purchases (volume) and ex-vessel value paid (value). The standard prices are described in U.S. dollars per pound for landings made during the year. The total pounds for each species landed under each LAP program and the CDQ Program is multiplied by its respective standard price to arrive at an ex-vessel value for that landing. The values of individual landings are summed to arrive at the total ex-vessel value of each program (total fishery value).

Direct program costs. The other part of determining the cost recovery fee is to calculate the direct program costs needed to manage, collect data from, and conduct enforcement for LAP program and CDQ Program fisheries. According to the NOAA Catch Share Policy,[1] NOAA applies a conservative method for determining direct costs. NOAA policies compute costs and recover fees from participants only for the "incremental" costs associated with LAP and CDQ programs. **Incremental costs are those that would not have been incurred but for the LAP program or the CDQ Program.** Measuring these costs involves a "with and without" comparison of the cost of implementing the management program for the specified fishery under the non-LAP program regime, relative to the costs attributable to implementing the LAP program. Costs to manage, collect data from, and conduct enforcement for LAP program fisheries that are directly attributable to the LAP program or the CDQ Program are charged to cost recovery for that program. Costs that are not attributable to a LAP program or the CDQ Program are charged to the general fund. For example, a fishery stock assessment would be required whether or not a LAP program or the CDQ Program existed, and therefore would not be included as a direct program cost. If specific permits, monitoring provisions, catch accounting provisions, or enforcement requirements are needed to manage, collect data, or enforce a LAP program or CDQ Program, NMFS recovers these direct program costs through cost recovery.

Cost recovery fees do not increase agency budgets or expenditures. Instead, the fee offsets funds that would otherwise have been appropriated, except International Pacific Halibut Commission (IPHC) and Alaska Department of Fish and Game (ADF&G) expenditures, for which there is no direct appropriation.

NMFS has established specific annual periods for tracking the direct program costs related to each of the cost recovery programs. The annual periods vary, depending on the specific fishing patterns in the fisheries and other administrative requirements. For most cost recovery programs, the tracking period is the fiscal year, from October through September. NMFS captures direct program costs through an established accounting system that allows the agency to track labor, travel, and procurement. At the end of the annual period for each cost recovery program, a NMFS review board examines all submitted costs prior to calculation of the fee percentage. **Only those costs that are direct program costs for the LAP or CDQ program are submitted for cost recovery.**

Fees collected under cost recovery programs are used to reimburse agencies and programs for the direct program costs they incurred in the previous fiscal year. The amount of fees collected may not exceed 3 percent of the ex-vessel value of the fishery. If incremental costs exceed the 3 percent maximum, the agencies and programs will be reimbursed proportionally. For example, if NMFS recovers fees that cover only 50 percent of the incremental costs incurred for a fishery, each program that tracked and submitted costs will be reimbursed for 50 percent of their program's costs. The NMFS divisions and external partners that collect costs are different for each cost recovery program, depending on how the fishery is managed and enforced. The following list are the NMFS divisions and external partners that may be reimbursed for direct program costs:

[1] http://www.nmfs.noaa.gov/sfa/management/catch_shares/about/documents/noaa_cs_policy.pdf

- NMFS Operations and Management Division (OMD)
- NMFS Restricted Access Management Division (RAM)
- NMFS Regional Administrator (RA)
- NMFS Sustainable Fisheries Division (SFD)
- NMFS Information Services Division (ISD)
- NMFS Financial Services Division (FSD)
- NMFS Office of Law Enforcement (OLE)
- International Pacific Halibut Commission (IPHC)
- Alaska Department of Fish and Game (ADFG)
- NMFS Alaska Fisheries Science Center (AFSC)
- Pacific States Marine Fisheries Commission (PSFMC)

Categories of direct program costs that may be eligible for cost recovery include, but are not limited to, the following:

Cost category	Method of Calculation
Personnel/overhead	- Labor: tracked in 15 minute increments on a timesheet - Employee overhead and benefits: apportioned based on labor for each employee based on employee time spent on each LAP program in the previous fiscal year
Travel	Apportioned on a percentage basis based on the purpose of the travel
Transportation	Apportioned on a percentage basis based on the purpose
Printing	Apportioned on a percentage basis based on the purpose
Training	Apportioned on a percentage basis based on the purpose of the training
Contracts	Apportioned on a percentage basis based on the purpose of the contract
Supplies	Apportioned on a percentage basis based on the purpose
Equipment	Apportioned on a percentage basis based on the purpose
Other	As needed for costs that do not fit in other categories

Tables 1 and 2 below show which NMFS divisions and external partners had direct program costs for each of Alaska's LAP programs and the CDQ Program for Fiscal Year (FY) 2016 (October 1, 2015 through September 30, 2016).

Note that 2016 was the first year of the cost recovery programs for the American Fisheries Act (AFA), Aleutian Islands pollock, Amendment 80, and CDQ Program fisheries. As a result, program rules did not become effective until the middle of the fiscal year on February 4, 2016, and costs were not tracked for those fisheries until after that date.

Also note that the Aleutian Islands pollock fishery was not prosecuted in FY2016. Although there were some cost recovery activities attributable to the program, fees were not collected.

Table 1. NMFS divisions and external partners with direct program costs in FY 2016 for Alaska's LAP programs and the CDQ Program.

	NMFS SF	NMFS ISD	NMFS OMD	NMFS RAM	NMFS RA	NMFS OLE	NMFS FSD	AFSC	PSMFC	ADF&G	IPHC
AFA	X	X	X	X				X		X	
A80	X	X	X	X	X			X		X	
AIP	X	X	X	X	X			X		X	
CR Program	X	X	X	X	X	X	X	X	X	X	
IFQ	X	X	X	X	X	X	X			X	X
CDQ	X	X	X	X	X			X		X	
Rockfish Program	X	X	X	X	X			X		X	

Table 2. Direct program costs for FY 2016 for Alaska LAP programs and the CDQ Program (expressed in dollars).

	IFQ	Rockfish	Crab	A80	CDQ	AFA CP	AFA inshore	AFA Mothership
OMD	91,800	15,400	38,878	3,300	4,400	1,200	1,200	1,200
RAM	487,283	4,300	154,251	700	200	-	2,800	--
RA	73,600	12,500	40,621	700	200	-	--	-
SFD	457,489	160,015	114,424	12,000	27,700	7,700	6,367	5,600
ISD	475,676	99,896	282,000	72,594	84,894	27,664	27,664	27,664
FSD	133,547	-	2,998	-	-	-	-	-
OLE	3,567,920	-	869,816	-	-	-	-	-
IPHC	452,397	-	-	-	-	-	-	-
ADFG	162,784	8,166	1,872,635	10,654	57,987	6,662	6,662	6,662
AFSC	-	4,407	124,705	232,210	28,003	97,014	121,462	19,169
PSFMC	-	-	149,850	-	-	-	-	-
Direct program costs	5,902,497	304,684	3,650,178	332,158	203,384	140,239	166,154	60,295
Fishery value	189,455,394	12,009,975	227,733,902	88,822,278	68,979,512	145,566,573	171,629,168	35,950,227
Fee %	3.12%	2.54%	1.60%	0.37%	0.29%	0.10%	0.10%	0.17%

Council Request for Information

Some IFQ permit holders have expressed concern to the Council that their cost recovery fee percentage is higher than other programs. There are three main reasons why the cost recovery fee for the IFQ and CR Program tend to be higher than those of the A80, AFA, CDQ, and Rockfish Programs: (1) the mid-year implementation of cost recovery fees for the A80, AFA, and CDQ Programs in 2016; (2) the increased management requirements in the CR and IFQ Programs; and (3) cost recovery fees from NMFS' external partners for the management of the CR and IFQ Programs.

Mid-year implementation of cost recovery fees for the A80, AFA, and CDQ Programs. As noted previously, FY 2016 was the first year of the cost recovery programs for the A80, AFA, and CDQ fisheries, and NMFS implemented the programs mid-way into the fiscal year. Due to the mid-year implementation, NMFS and ADF&G calculated management costs only for the period from February 4 to September 30, 2016 for those particular programs. Additionally, for the first year of implementation, NMFS did not charge employee overhead to the A80, AFA, and CDQ cost recovery programs because those costs are primarily based on employee labor, and in a partial year scenario it was challenging to determine relevant and accurate costs in that category. As noted in the cost category table above, employee overhead is apportioned between individual cost recovery programs and the general fund based on a percentage of labor in each program from the previous fiscal year. Without a previous fiscal year from which to calculate, NMFS was unable to accurately determine the overhead share for the new programs. For FY 2017 and beyond, NMFS will charge AFA, A80, and CDQ proportional employee overhead costs using the same formula applied to the existing cost recovery programs.

Another important consideration is that for the first year of the new programs, NOAA OLE did not have an effective timekeeping system that would allow for tracking of enforcement costs associated with A80, AFA, and CDQ. NMFS anticipates that beginning in FY 2018, OLE will track costs for these new programs.

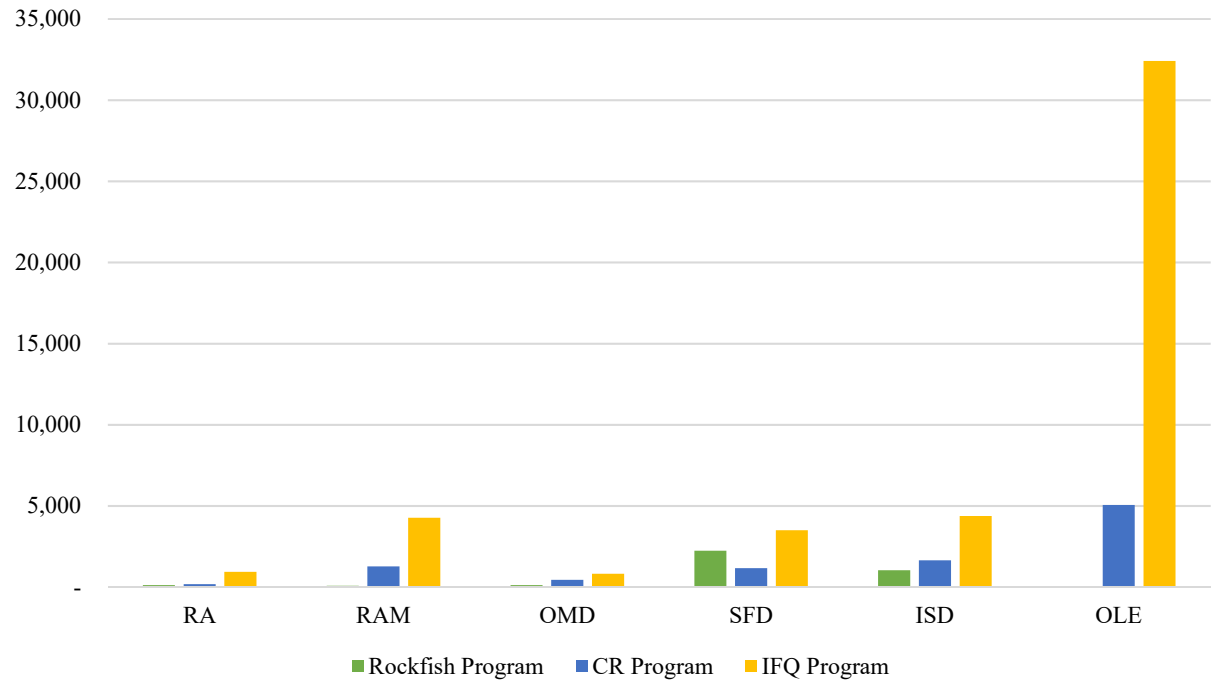
The items cited above account for part of the difference for FY 2016. NMFS anticipates that the implementation of tracking procedures and other administrative processes that are effective for the entire fiscal year will result in improved cost estimates for the A80, AFA, and CDQ Programs.

Increased management requirements in the CR and IFQ Programs. Another source of increased costs for the IFQ Program (and to a lesser extent the CR Program) is the nature of the fishery management systems for those fisheries. Specifically, the IFQ program has higher management needs, and therefore greater costs, for almost all of the NMFS divisions. Figure 1 illustrates some of the differences, and shows the total labor hours for FY 2016 by NMFS division for the IFQ Program, the CR Program, and the Rockfish Program. Data from the other cost recovery programs is not shown because fees were not assessed throughout 2016.

Figure 1 illustrates higher RAM labor hours for the IFQ Program than the other two programs. This can be attributed primarily to the significantly higher number of participants, as well as the regulatory structure of the IFQ program, compared to the CR and Rockfish Programs. For example, in FY2016, there were approximately 2,600 QS holders and 200 Registered Buyers in the IFQ Program, all of which require an annual permit to be issued by RAM. Additionally, RAM processed over 950 transfers of QS in the IFQ Program in FY2016, and issued nearly 1,200 hired master permits and 223 Guided Angler Fish applications. The sum of these transactions means that RAM responds to thousands of IFQ-related telephone and email inquiries over the course of a year. This contrasts with the Rockfish Program, which

during the FY2016 period had 55 QS holders organized into 9 co-ops. Nearly all the QS transactions are handled solely by the cooperatives as inter-coop transfers, and are processed online using NMFS eFish accounts. The CR Program has a similar regulatory construct, again with co-ops that handle the majority of the QS transfers; however, this program involves approximately 500 QS holders organized into 39 co-ops, hence the somewhat higher costs illustrated in Figure 1. The majority of RAM's work in both the Rockfish and CR Programs is to annually input the respective Rockfish or CR license databases with the appropriate co-op designation. Typically, less than three Rockfish and/or CR Program licenses (LLP) are transferred and processed by RAM each year.

Figure 1. FY 2016 labor hours by NMFS division and cost recovery program.



An additional source of higher management costs for the IFQ Program can be attributed to ISD. Part of this difference relates to how the costs associated with maintaining the electronic landings system (eLandings) are distributed between LAP programs. Because eLandings is used for multiple fisheries, ISD has developed a formula for tracking the time spent by computer programmers to maintain the eLandings system. The formula includes weighting factors for the degree of complexity, amount of integration, time sensitivity, etc., for eLandings maintenance tasks, then it calculates the proportion of eLandings tasks that can be attributed to each of the fishery management programs. This formula is reevaluated every year. For 2016, the formula resulted in the following proportions of ISD eLandings work:

- 6.26% Amendment 80
- 6.26% AFA catcher/processor sector
- 3.22% AFA inshore sector
- 3.81% AFA mothership sector
- 0.69% Aleutian Islands pollock

- 21.26% Crab Rationalization Program
- 36.45% IFQ
- 6.25% Rockfish
- 12.94% CDQ
- Remaining portion is not subject to cost recovery

These proportions indicate that revising and maintaining eLandings for the CR and IFQ Program requires substantially more programming time compared to the other cost recovery programs. Additionally, the CR and IFQ Programs include a number of complex quota holding and use limits and transfer restrictions compared to the other programs. These features must be reflected in the RAM quota databases that support the programs, which in turn requires substantially more programming personnel and costs, compared to the quota databases for the other programs. In particular, the IFQ and CR Program databases require a significant amount of programming time to implement regulatory changes recommended by the Council. As with many businesses, IT expenditures in RAM and ISD to ensure quality database management and programming can represent a significant cost.

Another cost that is greater for the CR Program and IFQ Programs are revisions to regulations. In general, the Council has recommended more regulatory revisions to the IFQ and CR Programs than it has for the other programs. For example, the CR Program implemented Amendments 18 and 19 to the Fishery Management Plan for King and Tanner Crab in the Bering Sea and Aleutian Islands (FMP). Since then, NMFS has modified the FMP over 30 times, and issued several regulatory amendments, most of which are directly modifying the CR Program and are direct costs. Recently, the Council has undertaken, or is in the process of undertaking, numerous revisions to the IFQ Program. The development of analyses, rulemaking, and implementation of regulations that modify the IFQ and the CR Program are incremental costs. Those efforts impose costs on SF, as well as other divisions (e.g., OLE) that are engaged in the development of analyses and regulations.

OLE also has higher direct program costs for IFQ than it does for other LAP programs. To manage and enforce the IFQ program, OLE assumes many tasks that are not required in other LAP programs. OLE is responsible for shoreside enforcement and provides after-hours surveillance. The US Coast Guard (USCG) also refers labor costs to OLE by engaging in at-sea enforcement; when the USCG documents at-sea violations, it refers the offence to OLE for final action. Additionally, the IFQ Program does not require the use of vessel monitoring systems when fishing for halibut, which contributes to higher enforcement costs. Because there is no universal requirement for fishing vessels targeting IFQ fish to be equipped with a VMS on board, there is no centralized means of assessing fishing activity in the IFQ regulatory areas.

OLE employs a multifaceted strategy to maximize compliance in the IFQ fisheries. This strategy includes educational outreach, partnerships, patrols, inspections, and investigations. OLE spends thousands of hours annually providing marine resource users with compliance assistance, including staffing booths at organized events, daily contacts in communities, ports, harbors, and at-sea to ensure that the most current and accurate regulatory information is widely distributed and understood. OLE also spends thousands of hours annually conducting patrols to provide a visible deterrence to potential violators, to monitor fishing and other marine activities, to detect violations, to conduct compliance inspections, and to provide compliance assistance. OLE personnel investigate reports or complaints of IFQ violations as well as regularly analyze IFQ data that may lead to investigations of abnormal activity and missing or questionable information.

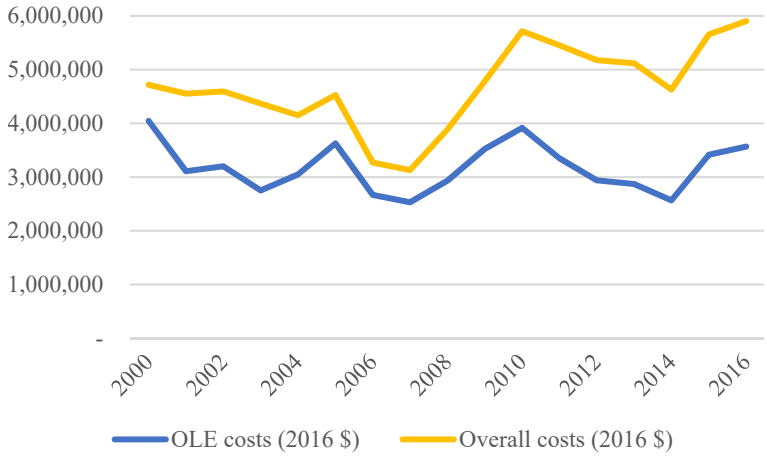
The major tasks of OLE in the IFQ program that are recoverable under the IFQ program are:

- Investigations and surveillance
- At-sea and dockside vessel boardings
- Vessel offload audits
- Database/document audits
- Electronic monitoring

Additionally, due to the significant difference in the number of participating vessels in the IFQ Program, many of the OLE tasks require much more employee-hours for the division. When adjusted for inflation (an appropriate metric given the long time frame involved), direct program costs for the IFQ program have increased approximately 20 percent since 2000 (Table 3). OLE costs have remained relatively flat overall from 2000 to 2016. The other contributions to the direct program cost increase since 2000 were additional NMFS divisions collecting for direct program costs that did not collect in previous years, such as ISD, FSD, OMD, and to a lesser extent increased costs from ADF&G.

Table 3 and Figure 2. Direct program costs for the IFQ program, adjusted for inflation.

Year	Overall costs (2016 $)	OLE costs (2016 $)
2000	4,717,053	4,045,728
2001	4,553,932	3,108,116
2002	4,594,200	3,201,059
2003	4,367,629	2,750,601
2004	4,150,439	3,050,449
2005	4,525,159	3,627,464
2006	3,270,773	2,667,312
2007	3,129,349	2,531,437
2008	3,887,053	2,931,897
2009	4,783,337	3,522,798
2010	5,715,497	3,914,579
2011	5,451,725	3,351,011
2012	5,173,943	2,939,210
2013	5,117,374	2,871,354
2014	4,628,395	2,568,626
2015	5,654,065	3,416,073
2016	5,902,497	3,567,920



Cost recovery fees from NMFS' external partners. Another component that adds significantly to the direct program costs are NMFS' reliance on external partners for management of the IFQ and CR Programs. In particular, the work of ADFG in both the IFQ and CR Programs and contributions of IPHC for the IFQ Program go beyond the eLandings support mentioned above, and include other direct program costs related to fisheries monitoring, data collection, and fisheries reporting as required for the

rationalized fisheries. This includes staff contributions to the respective NPFMC Plan Teams and preparation of the required Stock Assessment and Fishery Evaluation (SAFE) documents.

An additional cost component comes from NMFS Financial Services Division in Silver Spring, MD. Among other things, the Fisheries Finance Program provides long term financing for purchases of quota shares in the IFQ and CR Programs.