

## ADVISORY PANEL Motions and Rationale April 2025 - Teleconference

### D1 Cost Recovery

The Advisory Panel appreciates NOAA's efforts to provide additional information about cost recovery. The Advisory Panel provides the following recommendations and actions for NOAA to improve transparency, emphasize accountability, and achieve greater efficiencies and cost reductions within Alaska's cost recovery programs. In responding to these requests, NOAA should do so without imposing additional costs on the directly regulated public.

The Advisory Panel recommends:

1. Consistent with NMFS recommendations, the Council should initiate a regulatory package to streamline the reporting and submission of cost recovery fees. As a starting point, focus on the challenges and potential solutions outlined in the NMFS presentation, "[Cost Recovery Process and Timing Draft Discussion Paper](#)." In addition to analyzing the solutions contained within the presentation, the AP recommends the consideration of collecting cost recovery fees at the time of each delivery, versus after the fact for applicable programs. Finally, remove any consideration of eliminating the "actual price" component in the IFQ program (slide 18).
2. The Council recommend to NMFS that they cease charging rent, lease, and utility costs consistent with non-Alaskan LAPPs. Further, task NOAA OLE with charging cost recovery programs only for investigations that are specifically required for enforcement of a LAPP or the CDQ Program and not preemptively for investigations as OLE has confirmed is currently the case. These actions should occur as soon as possible and are consistent with existing NOAA Policy Directives.
3. The Council should initiate a regulatory amendment to eliminate Economic Data Collection reports; and
4. Consistent with increasing transparency, accountability and efficiency, the Council task NMFS and management partners with providing additional clarity on the following items:
  - *Provide consistent and detailed descriptions of personnel costs by specific offices, categories, tasks, and hours consistent with NMFS West Coast Reports.*
  - *Provide clear guidance to all NOAA staff, including its management partners, on how cost recovery costs should be applied (e.g. business rules) using NMFS well-established incremental costs and "but / for" policies and procedures.*
  - *Provide a listing of regulatory projects from 2021 – 2024 that met the rationale to have cost recovery fees imposed.*

- *Describe the nature of enforcement actions requiring the imposition of cost recovery fees from 2021- 2024. NOAA OLE should provide cost recovery data (#personnel, #hours, and total costs) for each investigation and violation report they process and send to vessel owners. NOAA OLE should also detail why compliance assistance is a recoverable cost when compliance assistance has been a long-standing feature of OLE activities.*
- *Provide greater clarity on how NOAA can administer cost recovery programs outside of Alaska with lower overall costs.*
- *Request NOAA engage in efforts to minimize costs in all cost recovery programs and provide documentation of those efforts to the affected industry and the Council as part of the annual cost reports.*
- *Request that NOAA establish a clear policy that ensures that if there is uncertainty in the appropriateness in attributing costs, minimizing the burden on the directly regulated public should be the default.*

As with #2 above, the Advisory Panel requests the information requested in #4 be provided as soon as possible. Pending the review of this information, the Advisory Panel may consider recommending additional action to initiate an analysis for regulatory action to define how direct program costs and incremental costs should be calculated.

*Main Motion passed 20-0*

#### ***Rationale in Support of Motion***

- *The AP agrees that the new cost recovery report is much improved from previous reports and appreciates the agency's willingness to meet with stakeholders and their attempts to improve transparency especially during this time of great uncertainty for NMFS*
- *Transparency does provide more details and the AP recognizes that with transparency more questions are a natural result making this effort an iterative one*
- *The AP notes that over the last five years \$49,254,287 has been collected from fishermen through the various rationalization programs in Alaska. Over 1/3 of that is attributable to OLE (\$17,718,282) and this is a significant amount of money leaving the pockets of stakeholders and associated coastal communities and moving to the agency for management of these fisheries*
- *The fishing industry has been facing unprecedented challenges over the last few years and these expenses are exacerbating those real-world challenges*
- *The AP acknowledges there is inconsistency in how cost recovery programs are implemented between the different regions and would request more consistency in terms of determining what is a recoverable cost, i.e. in the North Pacific program charges for rent, lease and utility costs where other regions do not.*
- *Specific to the Office of Law Enforcement, AP members were surprised to learn that OLE is "pre-determining" charges for enforcement activities. Charging for the following year seems contrary to the guidelines for cost recovery which are supposed to be used to "reimburse" for*

*management and enforcement activities. The AP noted there is also a potential bias in where enforcement focuses its efforts to meet that “predetermined” expenditure .*

- *While the Agency is taking a step towards transparency, the AP notes that many management partners (ADFG, IPHC, and others) are not providing the same level of detail. While the costs charged by these partners may well be recoverable, without any detail at all that is difficult to determine.*
- *While the staff presentation highlighted billing cost recovery fees at every delivery similar to observer fees, specifically as a potential solution to potentially alleviate challenges with IFQ cost recovery, one AP member noted that this concept could also potentially benefit the CGOA Rockfish Program, too. There are also challenges with the timing of the RP ex-vessel value and volume report at the end of the year, when processing staff are leaving. Multiple allocated species and differing prices between processors due to market struggles have also resulted in vessels paying cost recovery at a different value than they were paid for the product; it is also a challenge for processors to determine how much to withhold.*
- *AP members noted that public comment was specific regarding maintaining a “real” price component to the program for the halibut and sablefish program*
- *The majority of the AP continues to question the efficacy of Economic Data Reporting and the value of the information collected versus the burden of the EDRs and the associated fact that not all fisheries are completing EDRs*
- *Members of the AP believe that just as the various fishing sectors are expected to be accountable, particularly in rationalization programs, so too should the agency, cooperating partners and office of law enforcement be accountable with the millions of industry dollars they are collecting.*
- *This motion is responsive to public comment.*