


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: January 27, 1997

SUBJECT: Magnuson-Stevens Act Mandates

ESTIMATED TIME 2 HOURS

ACTION REQUIRED

- (a) Review development of central title registry.
- (b) Receive status report, and provide input as necessary, on IFQ/CDQ fee system and North Pacific Loan Program.
- (c) Receive report on National Academy of Science (NAS) studies of IFQ and CDQ programs.

BACKGROUND

(a) Central Lien Registry

Among the provisions of the recently reauthorized Magnuson-Stevens Act was a requirement for the establishment, by April 1997, of a central title registry for limited access/IFQ permits, a program requested previously by the North Pacific Council. It may be administered regionally, would apply to both IFQ and license limitation systems, and would collect up to a one-half percent fee upon registration and transfer of such permits/IFQs. Fees would be deposited in the Limited Access System Administration Fund and could be used only for administering the central registry system for the fishery from which the fees are collected. Phil Smith from the NMFS RAM Division will report to the Council on development of the central registry system.

(b) IFQ/CDQ fee programs and North Pacific Loan Program

Another provision of the Act is the establishment of fee programs (up to 3% of exvessel value of fish harvested under the program) for both the IFQ and CDQ programs in the North Pacific. These fees would also be deposited in the Limited Access System Administration Fund (LASAF), except for the amount (up to 25%) which is set aside for the North Pacific Loan Program. Up to 33% of the CDQ fees deposited in the LASAF may be used by the State to recover costs directly incurred in the administration of the CDQ program.

Though the Act does not specify a 'time certain' for the IFQ/CDQ fee program, it does call for establishment of the North Pacific Loan Program (though not codified) by October 1, 1997. The purpose of the North Pacific Loan Program is to issue obligations that aid in financing the purchase of IFQs by small vessel fishermen and entry level fishermen. Assuming that the Loan Program is dependent upon the overall fee program, and assuming development of such Loan Program by October of 1997, a very short time frame is available for the agency and

the Council to comply with these provisions. While the fee program development is occurring on a national level, the Loan Program is specific to the North Pacific. Coordination between the agency, the Council, and the State of Alaska will be necessary to accomplish this task. Jay Ginter, from the NMFS Alaska Regional Office is available to report on development of these initiatives, as well as the National Academy of Science studies described below.

(c) National Academy of Science IFQ/CDQ studies

The Act also calls for the National Academy of Science (NAS) to prepare comprehensive reports on both the IFQ and CDQ programs. Specifically, the Act states:

(1) *“Not later than October 1, 1998 the NAS, in consultation with the SOC and the Regional Councils, shall submit to Congress a comprehensive final report on IFQs, which shall include recommendations to implement a national policy with respect to IFQs”*...the language goes on to describe the specifics of the report, and dictates the establishment of an IFQ review group to represent Alaska, Hawaii, and other Pacific coastal states. It also calls for public hearings in each Council region to obtain comments on IFQ programs.

(2) *“Not later than October 1, 1998, the NAS, in consultation with the SOC, the North Pacific and Western Pacific Councils, communities and organization participating in the program, participants in affected fisheries, and the affected States, shall submit to the SOC and Congress a comprehensive report on the performance and effectiveness of the CDQ programs under authority of the North Pacific and Western Pacific Councils”*... the language goes on to describe the specific focus of the NAS study.

The nature and timing of Council involvement in these studies need to be determined.

**IFQ/CDQ Fee Collections
Under the Magnuson-Stevens Act**

Alaska Region, National Marine Fisheries Service

February 1997

Background

The Magnuson Fishery Conservation and Management Act was amended by a law, the Sustainable Fisheries Act, signed by the President on October 11, 1996. The amended Magnuson Act is called the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The basic authority to require a permit and collect fees is provided at sec. 303(b)(1). This section says that any FMP may require a permit from, and fees to be paid to, the Secretary with respect to:

- any fishing vessel,
- the operator of any fishing vessel, or
- any US fish processor who first receives fish subject to the FMP.

But section 304(d) of the old Magnuson Act limited the amount of such fees to the level of administrative costs in issuing the permits. The Alaska Region decide long ago that the costs of issuing a piece of paper and keeping records of it were not sufficient to warrant the expense of creating a fee collection accounting system.

Changes under Magnuson-Stevens

The new Magnuson-Stevens Act provides two exceptions to the limitation on permit fees under sec 304(d)(1):

1. sec. 304(d)(2) requires the Secretary to collect a fee on the exvessel value of fish harvested under any IFQ or CDQ program "...to recover the actual costs directly related to the management and enforcement of any [such] program that allocates a percentage of the TAC of a fishery...."

and

2. sec. 305(h)(5) requires the Secretary to collect a reasonable fee on the value of a limited access system permit "...upon registration of the title to such permit with the central registry system and upon the transfer of such registered title." The purpose of this fee is for:

- (a) Administering the Central Registry System; and
- (b) Administering and implementing the Magnuson-Stevens Act in the fishery in which the fees were collected.

Revenues from both of these fees or taxes are to be deposited in the Limited Access System Administration Fund (LASAF).

Limitations on Fee Collections

Fees collected under the landings tax "...shall not exceed 3 percent (.03) of the exvessel value of fish harvested under..." any IFQ and CDQ program.

Exception: Under the Alaska and Western Pacific Community Development Programs authority, sec. 305(i)(3), the Secretary is required to deduct from the CDQ landings tax "...costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other [non-CDQ] participants in the fishery...."

Fees collected under the permit registry tax shall be "...no more than one-half of one percent (.005) of the value of a limited access system permit.

Note 1: The law does not limit these fees to FMP species only, so landings of IFQ halibut and registration of halibut IFQ permits would be subject to these taxes.

Note 2: While the exvessel value taxes apply only to landings under the IFQ and CDQ programs, the permit registry tax applies to the registry of all limited access permits.

Disbursements from the LASAF

Revenues from three sources (IFQ exvessel value tax, CDQ exvessel value tax, and the permit registry tax) are deposited in the LASAF, but they do not lose their identities because disbursements from the LASAF are specified:

1. Up to 33 percent of the exvessel value tax revenues on CDQ landings are required to be transferred to a State to reimburse that State "...for the actual costs directly incurred in the management and enforcement of [the CDQ] program."

2. Under sec. 303(d)(4), a Council may submit and the Secretary may approve a program which reserves up to 25 percent of the money collected from the IFQ and remaining CDQ exvessel value taxes combined may be used to "...issue obligations that aid in financing the:

- purchase of [IFQs...] by fishermen who fish from small vessels; and
- first-time purchase of [IFQs...] by entry level fishermen."

The Council is specifically required by the Act to submit a loan program proposal--the North Pacific Loan Program--to make use of the full 25 percent amount of this authority. Note that this is mandatory on the North Pacific Council only, and approval of the program is still discretionary for the Secretary.

3. The remainder of the IFQ and CDQ exvessel value taxes may be used by the Secretary for the basic purpose of the fee collection, that is to recover the actual costs directly related to the management and enforcement of the IFQ and CDQ programs.

4. Money collected from the permit registry tax is limited to use by the Secretary for administration of the Central Registry System and general administration of the Act in limited access fisheries.

Estimated Collection

Rough estimates of the taxable value of IFQ and CDQ landings can be made from total landings and assumed exvessel values. Based on landings and value data from 1995, halibut and sablefish IFQ landings combined were worth about \$125.4 million, exvessel and CDQ landings of those species were about \$ 2.8 million, exvessel. The exvessel value of CDQ pollock is probably in the range of \$15 to \$20 million per year. A liberal estimate of the total exvessel value of deliveries in these fisheries is about \$148 million. Without calculating the CDQ observer and reporting costs deduction, tax revenues on this amount at 3 percent would be about \$4.4 million. This would be roughly the maximum that could be collected from IFQ and CDQ landings under the Act, unless management and enforcement costs for these programs were less. However, NMFS costs in administering and enforcing these programs are estimated at \$2.0 million and \$2.75 million, respectively, or a total of \$4.75 million annually.

The CDQ deduction, reimbursement to the State for CDQ costs, and providing for the North Pacific Loan Program are expected to substantially reduce the amount of revenues available for management and enforcement costs.

No estimate is made of Central Registry revenues due to insufficient knowledge of the value of all limited access permits.

Implementation of Fee Collections

A work group has been created including NMFS, Council, and NOAA General Counsel staff. We have met once and plan to meet again two weeks after the Council meeting. Additional familiarization meetings have occurred with NOAA finance personnel. We intend to draw on the experience of other fee collection programs, and to make the program as simple and easy to understand as possible.

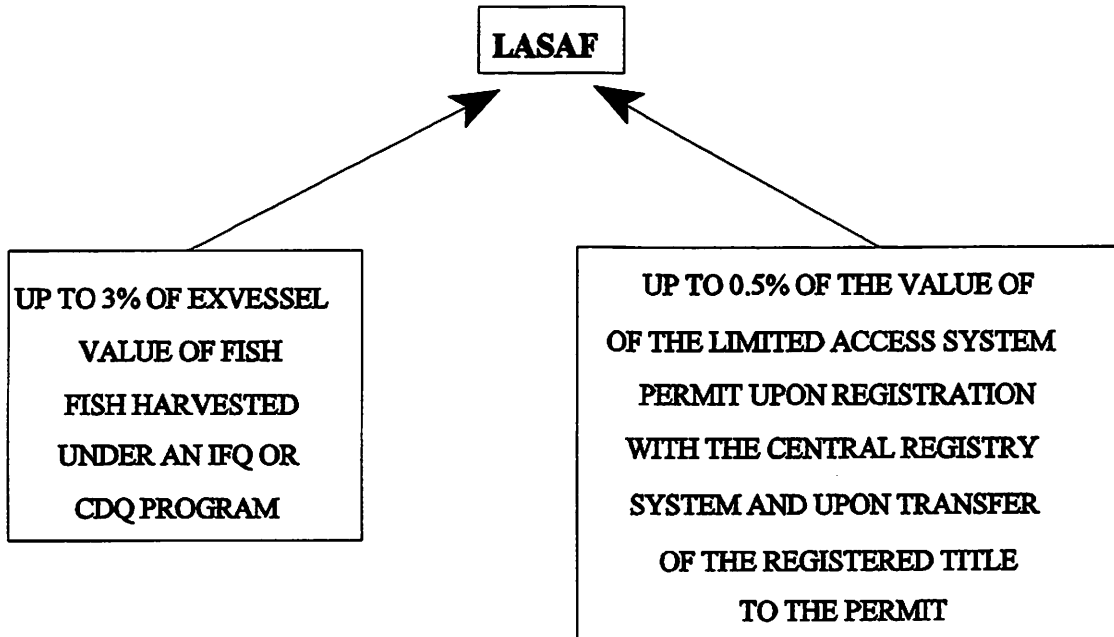
Timing

A practicable schedule would have a fee collection final rule published within a year--by January 1998; but full implementation with actual collection of fees probably would not begin until January 1999.

The Council's statutory requirement to submit a loan program proposal by October 1, 1997, would not be constrained by establishment of the fee collection program. Secretarial review and approval of it also could occur before the actual collection of fees. If it's approved, however, the first available financing of IFQ permits using LASAF funds may have to wait for a sufficient accumulation of funds through tax revenues.

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**DEPOSITS TO THE LIMITED ACCESS SYSTEM
ADMINISTRATION FUND (LASAF)**



**DISPURSEMENTS FROM
THE LIMITED ACCESS SYSTEM ADMINISTRATION FUND**

