

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver *DS*
Executive Director *for*
DATE: September 22, 2009
SUBJECT: Permit Fees

ESTIMATED TIME
2 HOURS

ACTION REQUIRED

Final action on permit fees

BACKGROUND

Establish permit fees

In December 2004, NMFS Policy Directive 30-120 called for the establishment of a uniform national policy of charging applicants for the cost of processing permit applications. Except for cost recovery implemented under the halibut and sablefish IFQ program and the Crab Rationalization Program, the fishery management plans for Alaska groundfish, crab, scallops, and salmon do not authorize the collection of fees to reimburse the federal government for the cost of issuing permits. Thus, NMFS prepared an analysis of the required FMP amendments and associated regulations so that agency policy is extended more fully to the North Pacific fisheries.

Alternative 2 would exempt permits for subsistence halibut harvest, and other options would exempt permits for the prohibited species donation programs, and/or exempted fishing permits from new fees. These exemptions are considered because without them, the potential exists that program objectives designed around these permits could be compromised. Section 1.76 of the public review draft addresses issues raised in the Council's July 2008 letter to NMFS (C-6 Supplemental).

The Council approved the release of the analysis to the public for review in June 2009. The public review draft was distributed on September 1, 2009, and the executive summary is attached (**Item C-6 (a)(1)**). Alternatives are:

Alternative 1: Status quo

Alternative 2: Amend FMPs to require cost recovery for all permits and registrations except those already covered under a program to recover the costs of a limited access privilege program and except those required under the halibut subsistence program.

Option 1: Amend FMPs to require cost recovery for processing applications for all permits that are not already issued in cost-recovered programs such as IFQ halibut and sablefish, and crab rationalization, or that are issued under the halibut subsistence or CDQ programs.

Option 2: Exempt exempted fishery permits from Option 1.

Option 3: Exempt prohibited species donation permits from Option 1.

Option 4: Charge for all permits described in Option 1, except those exempted under Options 2 and 3.

Executive Summary

This document analyzes a proposal to amend the fishery management plans (FMPs) of the North Pacific Fishery Management Council to include language authorizing the Secretary of Commerce to charge fees to recover the administrative costs of processing applications for permits required by those plans. This document includes a Regulatory Impact Review (RIR) which evaluates the costs and benefits of this action, and an Initial Regulatory Flexibility Analysis (IRFA) which evaluates the impacts of the action on small businesses.

Regulatory Impact Review

The Magnuson Act authorizes regional councils and NOAA Fisheries to amend fishery management plans to allow NOAA Fisheries to recover the costs of processing permit applications. Historically, each regional council decided whether or not to use this authority; the result is inconsistent permit fee policies around the country.

In December 2004, NMFS Policy Directive 30-120 called for the establishment of a uniform national policy of charging applicants for the costs of processing permit applications. Cost recovery for processing permit applications has been implemented under the FMPs governing federal fisheries in the Northwest, Pacific Island, Southwest, and Southeast Regions.

The purpose of this action is to amend the North Pacific FMPs to authorize regulations that recover the costs of processing applications for permits issued by NMFS in the Alaska Region. This action is not required for administrative costs already recovered under the Limited Access Privilege Program cost-recovery programs, to the extent allowed by law. Without this action the Federal Government would continue to subsidize the processing of permit applications in North Pacific fisheries, and there would be a lack of consistency in cost recovery policy in different regions of the United States. Without this action, fishermen in some regions would inequitably be required to pay for services which were provided at no charge to fishermen in other regions. Fees collected under this action would accrue to the general funds of the U.S. Treasury, and without legislation, would not be dedicated to fisheries management in the North Pacific.

The analysis examines status quo and an action alternative. The action alternative has four options:

1. Alternative 1: Status quo
2. Alternative 2: Action alternative.
 - Option 1: Amend FMPs to require cost recovery for processing applications for all permits that are not already issued in cost-recovered programs such as IFQ halibut and sablefish, and crab rationalization, or that are issued under the halibut subsistence or CDQ programs.
 - Option 2: Exempt exempted fishery permits (EFPs) from Option 1.
 - Option 3: Exempt prohibited species donation (PSD) permits from Option 1.
 - Option 4: Charge for all permits described in Option 1, except those exempted under Options 2 and 3.

Cost recovery for halibut subsistence registrations and permits was considered and rejected without being subjected to further analysis because of the potential to compromise important program objectives. Subsistence halibut fishing is a traditional, ongoing, and culturally important practice for Alaska Natives in many parts of the state, and particularly in Southeast Alaska. Halibut subsistence registrations and

permits were instituted in order to collect information about the scale and scope of traditional subsistence halibut fishing while interfering with that activity as little as possible. Simplicity and ease of application for registrations and permits are important to the success of this program. Recovering the full costs of processing permit applications would undercut this program design. CDQ program permits are not included: CDQ halibut hired skipper permits are not authorized under an FMP, and NMFS believes permit cost recovery for CDQ permits should be considered when action is taken to implement cost recovery in the CDQ program pursuant to the mandate in the Magnuson-Stevens Act.

The alternative and its options offer potential efficiency benefits if the program eliminates applications for permits from persons when the cost of processing the application is greater than the value of the permit to the applicant. The alternative changes the distribution of permit processing costs from the general public to the fishermen who benefit directly from the permit. Permit program administration becomes consistent with programs elsewhere in the country. The equity benefits cannot be added to the efficiency benefits; their relative importance is a policy decision.

The costs of this program include the costs of setting up its administrative structure and the annual costs of collecting and processing the payments. It is possible that increased administrative responsibilities associated with the program would slow NMFS permit processing, imposing some additional application costs on the public. The application processing fee payments themselves are a transfer from one group of U.S. citizens (permit applicants) to another (the taxpaying public) and are not themselves considered a cost of the program.

Costs and benefits are summarized in the following table.

Costs and benefits of the Alternatives and Options.

	Alternative 1: no action	Alternative 2 (cost recovery excluding LAPPs and halibut subsistence programs)			
		Option 1: Charge for permits not issued in cost-recovered programs	Option 2: exempt exempted fishing permits	Option 3: exempt prohibited species donation permits	Option 4: incorporate Options 2 and 3.
Does the alternative accomplish the objectives for this action? Objectives are listed in Section 1.3. Note that objectives may conflict.	This alternative does not meet the objective of recovering costs, of charging fees equal to the incremental cost of processing applications, of compliance with federal guidelines for cost recovery, or of consistency with methods in existing cost-recovered programs. It meets the objective of minimizing costs and of avoiding fees that compromise program objectives.	This alternative partially meets the objective of recovering program costs and the objective of avoiding fees that compromise program objectives.	This alternative partially meets the objective of recovering program costs and the objective of avoiding fees that compromise program objectives.	This alternative partially meets the objective of recovering program costs and the objective of avoiding fees that compromise program objectives.	This alternative partially meets the objective of recovering program costs and meets the objectives of avoiding fees that compromise program objectives and of minimizing costs.
		All four options meet the objectives of charging fees equal to the incremental cost of processing permit applications, of compliance with Federal guidelines for cost recovery, of consistency with methods used in other programs, and of minimizing costs.			
Costs of the alternative	No change - Baseline.	Regional Administrative costs of charging for permits are \$10,000 to \$20,000.	Regional Administrative costs of charging for permits are \$10,000 to \$20,000.	Regional Administrative costs of charging for permits are \$10,000 to \$20,000.	Regional administrative costs of charging for permits are \$10,000 to \$20,000.
		Minor setup costs (~\$5,000). Potential increase in elapsed time for processing permit applications may create costs for fishermen. Some additional Treasury costs for processing funds.			
Benefits of the alternative	No change - Baseline.	Cost recovers about \$70,000 plus costs of cost recovery program	Cost recovers about \$65,000 plus costs of cost recovery program	Cost recovers about \$70,000 plus costs of cost recovery program	Cost recovers about \$65,000 plus costs of cost recovery program
		Programs may have efficiency benefits if permit holders who value the permit less than the costs of processing the application are discouraged from applying. Program helps achieve the action's purpose of consistent and equitable application of permitting requirements across U.S. fishermen.			
Net benefit to the Nation of the alternative	No change - Baseline.	These programs use labor and capital resources to change the distribution of application processing costs reducing taxpayer subsidies and providing a more uniform application of permit cost recovery across all U.S. fishermen. Evaluation of the net social benefit requires a policy judgment about the relative value of the distributional benefit in comparison to the costs incurred.			
Note: Dollar values for 2008 if program had been adopted. Value estimates rounded to the nearest \$5,000. Program costs and costs recovered will be lower if certain programs are designated as LAPPs (see Table 4). This table is based on Table 6 in the analysis.					