

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



DATE: September 19, 1989

SUBJECT: Cost Recovery Programs

**ACTION REQUIRED**

Receive status report on proposed legislation and review several cost recovery approaches. Provide additional guidance if necessary.

**BACKGROUND**

A mandatory federal cost recovery system designed for the purpose of funding data gathering programs will require changes to the Magnuson Act. The Council has prepared such an amendment and Congressman Young introduced legislation which would allow for cost recovery programs as a discretionary measure in FMPs. The House Merchant Marine and Fisheries Committee has recently marked up proposed amendments and submitted them to the rest of Congress for approval. Under the amendments, a new section of the Act is to be created entitled "Section 313, North Pacific Fisheries Research Plan." It authorizes the North Pacific Council to request the Secretary to prepare a fisheries research plan which would require observers on vessels as well as permit the implementation of a cost recovery system to fund the observer program.

In anticipation of changes to legislation and the Council's desire to have the opportunity to develop and implement a cost recovery program as quickly as possible, the staff has prepared a discussion paper which explores three cost recovery approaches (Item C-6(a)). A cost recovery system designed to fund the groundfish data gathering program could be included in the 1990 amendment package if work begins now. One way for the Council to move ahead on this issue while legislation is progressing, is to assign a workgroup or technical team to flesh out a particular approach for review at your January 1990 meeting. If the Magnuson Act is amended to allow for such a cost recovery system, the Council could approve the fee proposal for analysis along with the other proposed amendments. It could go out for public review after the April meeting and be given final consideration in June. It could then be forwarded to the Secretary, trailing the implementing regulations for the Magnuson Act amendments. If approved by the Secretary, the cost recovery program would be in place for January 1991.

SEVERAL COST RECOVERY APPROACHES  
FOR USE IN FUNDING A DOMESTIC OBSERVER PROGRAM

Prepared by Council Staff  
August 1989

I. INTRODUCTION

In June the Council approved a comprehensive data gathering program as one of its amendments to the groundfish FMPs. This program which includes a domestic observer program is intended to help the Council and NOAA Fisheries fulfill their management obligations as described in the Magnuson Act. An essential element of this amendment is funding of the observer program. For at least 1990, the Council has stated that the fishing industry will fund the program if federal funds are not available. The industry is currently developing voluntary methods for contributing to the observer program.

A mandatory federal cost recovery system designed for the purpose of funding data gathering programs will require changes to the Magnuson Act. The Council has proposed such an amendment and Congressman Young has introduced H.R. 1554 which would allow for cost recovery programs as a discretionary measure in FMPs. Other draft legislation is also undergoing review. If approved by Congress it could be signed into law by mid-November, with corresponding federal implementing regulations going into effect by mid-1990.

The purpose of this discussion is to explore several cost recovery approaches which would eventually be pursued by the Council should the Magnuson Act be amended to authorize such programs. A Council designed funding system could be included in the 1990 amendment cycle and could dovetail nicely with new Magnuson Act legislation.

II. REVIEW OF OTHER FEDERAL COST RECOVERY SYSTEMS

Several federal cost recovery systems associated with domestic fisheries have recently been developed and are undergoing review. Their overall objective is to provide a source of funds to specific programs at a time of reduced appropriations. The source of the funds are those individuals who directly benefit from the service.

A. NOAA Fisheries Marine License Program

This system is intended to recover funds from those who directly benefit from the federal marine fishery conservation program. The agency proposes a \$20 annual access fee which all recreational and commercial fishermen between the ages of 16 and 65 would pay if they choose to fish in the Exclusive Economic Zone (EEZ). An additional ad valorem fee, in the amount of 1.75% of the exvessel value of the first delivery for commercial purposes, is also proposed for fish that are actually managed under federal conservation programs. The agency estimates that this program will net about \$60 million in the first year, with recreational and commercial fishermen each contributing about half of the funds.

The funds would be dedicated exclusively to conservation efforts including research, domestic observer programs, monitoring and enhancing of marine habitat, and improvement to existing enforcement programs. The access fee was modeled after the highly successful migration bird stamp program and shares much in common with access fees for national parks. The ad valorem fee is similar to programs which recover federal conservation expenses from commercial users of the national forests and offshore oil and gas fields.

There has been general support for the government's legitimate right to exact economic rent for the harvest of the nation's marine fish resources, due to the expectations that it would provide better fisheries conservation and management. NOAA believes that providing a stable and guaranteed source of funding for conservation and management of these resources is in the best interest of the nation in the long term. However, this support is limited due to the industry's perception that license revenues will be used only to perpetuate what many believe is an unsatisfactory status quo, as opposed to the desired objective of enhancement of fishery management programs. Other criticisms include the belief that recreational fisheries have not benefited from federal management programs and yet this sector of the industry is expected to contribute half of the funds.

#### B. Coast Guard User Fees

The Department of Transportation is currently developing a plan that calls for the establishment of a fee schedule for specific Coast Guard services and the creation of a Coast Guard stamp that will permit purchasers to receive services without additional charge. The system will collect direct user fees for vessel documentation, vessel inspections, and the licensing of individuals when required by other federal law. Indirect user fees will also be collected for such services as search and rescue, aids to navigation, and environmental protection. The cost recovery system is intended to collect \$50 million.

This proposal has also received criticism from the fishing industry. While fees for direct services to individuals may be justified, many believe that indirect fees for services that benefit the public as a whole should not be borne by just the industry. Some sectors of the fishing industry view the proposed fee system as "another tax" and therefore are opposed to it.

### III. IDENTIFICATION AND DISCUSSION OF OBSERVER FUNDING SYSTEMS

The previous two examples of federal cost recovery programs show that the Council is not alone in attempting to recover costs from domestic users to fund programs. The difficulties experienced in implementing the proposals also indicate the controversy surrounding these funding approaches. The Council should anticipate similar problems. Already we have heard testimony to the House Subcommittee on Fisheries and Wildlife Conservation and the Environment that a mandatory observer program, funded in part or in whole by the fishing industry, does not have total support of the industry and some view the proposed method of funding as another tax. Efforts should be made to assure the public that information collected through a data gathering program will be used for management, research, and made available to industry for their use, and that both the application of the program upon the industry and the funding system will be fair and equitable.

The analysis for Amendment 18/13 to the Gulf of Alaska and Bering Sea/Aleutian Islands Groundfish FMPs states that the cost of fielding an observer is estimated at \$7,500 per month and

that the cost of fielding observers at 20% and 100% fleet coverage levels are approximately \$2 million and \$12 million, respectively. The Council's proposed levels of observer coverage for 1990 will require about \$10 million. Any funding system developed by the Council should use these figures as goals.

A. Fixed Rate System

Observer coverage will cost \$250 per day. Vessels and processors selected to host observers as a condition to their operation must submit funds to NOAA Fisheries Observer Fund. A check-in/check-out system will be used where the host vessel, processor, or observer contacts the observer program coordinator the day the pre-arranged observer arrives at the location. The program coordinator is again contacted the day the observer officially leaves the vessel or processor and the observer is checked-out from that location. Calendar days accrued between the check-in and check-out will be used in calculating the observer fee and a billing statement will be sent for remittance. All observer accounts must be balanced prior to the vessel or processor being issued a federal fishing permit for the next calendar year.

Advantages:

- Simplicity.
- All hosts of observers pay the same rate.
- Easy to enforce.

Disadvantages:

- Small vessels or processing operations may have more difficulty paying the observer fee than larger operations.
- Vessels or processors prosecuting fisheries on low valued species may have more difficulty paying the observer fee than fisheries targeting on high valued species.

B. Sliding Scale System

Several individuals have suggested that a sliding scale fee system be considered by the Council. The system would work by determining the desired amount of funds needed for the observer program with participant categories contributing various percentages toward the desired total amount. The idea is to spread out the costs of the observer program in such a way so that the observer fee is not overly burdensome to the small operator. Inherent with this concept is the fact that large operators will be making up the difference.

Participant categories can be designed to reflect the characteristics of the users. For example, the Council has recommended that for 1990 observers be deployed following designated percentages according to vessel size. Similarly, these same vessel size categories could be used for setting a sliding fee scale. One example:

IF:

Observer Program Amount = Funding Goal = \$10 million  
Number of Observer Days = 180

**THEN:**

<b>Vessel Size Category</b>	<b>No. of Vessels</b>	<b>Percent Observer Coverage</b>	<b>Estimated Observer Fee/Day</b>	<b>Funds Generated</b>
125' and over	142	100	\$275/day	\$ 7.0 million
101' to 124'	76	30	\$200/day	\$ 0.8 million
76' to 100'	165	30	\$150/day	\$ 1.3 million
50' to 75'	413	30	\$ 75/day	\$ 1.1 million
			<b>Total</b>	<b>\$10.2 million</b>

Other examples could be developed by modifying the fees, observer coverage percentages, or participant categories. Participant categories could be identified based on quantities of fish caught or processed. The larger producers would be assessed a higher observer fee on the scale compared to the small harvester or processor.

As with the fixed rate system, an observer check-in/check-out method could be used for accounting purposes and a requirement that all fees be paid before obtaining a new federal fishing permit will ease enforcement.

**Advantages:**

- Costs of observer program are not overly burdensome.
- Easy to enforce.

**Disadvantages:**

- More complicated. Observer fees have to be calculated annually as program costs fluctuate.
- Controversy over assigned observer fees likely.

**C. Foreign Fee System**

NOAA has developed and implemented a fee system designed to recover government costs incurred in managing the foreign vessels in the U.S. EEZ. This cost recovery system is authorized under Section 204(b)(10) of the Magnuson Act and consists basically of poundage fees for designated species of fish and shellfish, and a flat permit fee. For 1989 the goal of the program was to generate over \$6 million in funds. In past years this program has generated as much as \$100 million.

Poundage fees are determined by applying a fixed percentage to the estimated exvessel value of species targeted by foreign vessels. For instance, in 1988 NOAA assessed foreign vessels at a rate of 44.4% of exvessel value and published the following fee table for Alaskan species:

Species	Exvessel Value (\$/mt)	Estimated Foreign Catch (mt)	Estimated Foreign Catch Value (\$)	Species (\$fee/mt)	Species (\$fee/lb)	Recovered Costs (\$)
Pollock	214	540	115,560	95.09	0.04	51,349
Atka mackerel	267	1	267	118.64	0.05	119
Pacific cod	324	30,000	9,720,000	143.97	0.07	4,319,079
Flatfish	187	105	19,635	83.09	0.04	8,725
POP	441	1	441	195.96	0.09	196
Other rockfish	734	1	734	326.15	0.15	326
Squid	169	1	169	75.10	0.03	75
Sablefish	473	3	1,419	210.18	0.10	631
Other species	240	1,200	288,000	106.64	0.05	127,973
<b>Total</b>		<b>31,852</b>	<b>10,146,225</b>			<b>4,508,473</b>

The foreign fee system requires that proposed fees be published in the Federal Register for public review prior to finalization and implementation. A similar system could be designed for the Council's observer program. Publication of proposed fees could accompany the initial TAC/PSC specifications currently released to public review in September with the final fees schedule being approved in December.

As with the two previous systems, payment of the fees would be required prior to receiving a federal permit in the following year.

**Advantages:**

- System already in effect for foreign vessels.
- All users pay similar poundage fees. No sliding scale needed.
- Amount of fees paid dependent on quantities of fish landed or processed.
- Fees are based on value of species not quantities; users harvesting or processing high valued species will pay more than those utilizing low valued species.
- No observer check-in/check-out necessary. Fees are prorated on Council's anticipated observer program requirements.
- Easy to monitor and enforce. Reporting requirements, observers, and logbooks all track quantities of fish caught or processed.

**Disadvantages:**

- Requires economic valuation of designated species a priori of season.
- Could require Council time to review valuation estimates and set poundage fees.