

Standard Operating Procedure

Southeast Regional Office (SERO)
NOAA Fisheries
SERO-LAPP-2013-07

Effective Date: On Approval

Subject: Management of Individual Fishing Quota Cost Recovery Fees

References

- a. Magnuson Stevens Fishery Conservation and Management Act (MSFCMA) as amended through January 12, 2007. May 2007. U.S. Department of Commerce, National Marine Fisheries Service, Silver Spring, MD.
- b. 50 CFR 622.21 and 622.22.
- c. NMFS 2007. *The Design and Use of Limited Access Privilege Programs*. Editors: L.G. Anderson and M.C. Holliday. NOAA Technical Memorandum NMFS-F/SPO-86 November 2007, U.S. Department of Commerce, National Marine Fisheries Service, Silver Spring, MD.

Definitions

Cost Recovery Fee (CRF) – A fee collected as mandated by MSFCMA 304(d)(2)(A) to recover the actual costs directly related to management, data collection, and enforcement of a Limited Access Privilege Program (LAPP), but not to exceed 3% of the ex-vessel value of fish harvested under such program.

Individual Fishing Quota (IFQ) – A Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i) of the MSFCMA.

Limited Access Privilege – A Federal permit, issued as part of a limited access system under section 303A of the MSFCMA to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person, and includes an individual fishing quota, but does not include community development quotas as described in section 305(i) of the MSFCMA.

Purpose

The intent of this Standard Operating Procedure (SOP) is to ensure coordinated activities for the management of IFQ CRF. CRF management requires the coordinated activities of the Sustainable Fisheries (SF) Division and the Operations, Management and Information

(OMI) Division as well as review by the Regional Administrator (RA) and Deputy Regional Administrator (DRA) on an annual basis or as needed.

Background

Cost recovery fees for the IFQ programs are currently set at 3% of the ex-vessel value as reported by the commercial IFQ dealer and fisherman at the time of each landing of IFQ species. According to 50 CFR 622.21 and 622.22, the IFQ allocation holder specified in the documented IFQ landing transaction report is responsible for payment of the applicable CRF, and the IFQ dealer who receives IFQ species subject to the IFQ programs is responsible for collecting the applicable CRF for each IFQ landing. Submittals of payment are accomplished through the IFQ online system via pay.gov utilities provided by the Department of Treasury with limited exceptions. Payment by check is authorized only if the RA has determined that the geographical area or an individual(s) is affected by catastrophic conditions (see 50 CFR 622.21(b)(4)(iii) and 622.22(b)(4)(iii)). All moneys are first deposited in the Limited Access System Administrative Fund (LASAF). NOAA Finance retrieves these funds by account definition for both Automated Clearing House and credit card transactions (also known as the plastic card network by the Department of Treasury). Once retrieved, the funds are parsed into accounts defined by the Southeast Regional Office (SERO) Management and Budget Branch and available for expenditure.

The IFQ dealer is required to submit the CRF no later than 30 days after the end of each calendar year quarter (i.e., by Jan 30, Apr 30, Jul 30, and Oct 30). On the 1st day after the end of each calendar year quarter, an e-mail is sent to dealers notifying them cost recovery is due. A second e-mail reminder is sent during the 3rd to 4th week after the end of each calendar year quarter. On or about the 31st day after the end of each calendar year quarter, a dealer who falls in arrears on this payment is prevented from making additional landing transactions until the payment of the previous quarter CRF is processed. The regulations at 50 CFR 622.21(b)(4)(iv)(A) and 622.22(b)(4)(iv)(A) require the RA to send the dealer an electronic message via the IFQ web site and an official notice via mail indicating the applicable fees are delinquent (See Appendix A for this form letter). Limited Access Privilege Program/Database Management (LAPP/DM) Branch staff also contact dealers via e-mail and phone letting them know fees are delinquent.

On or about the 91st day after the end of each calendar year quarter, unpaid CRF may be referred to NOAA Finance for collection (see 50 CFR 622.21(b)(4)(iv)(B) and 622.22(b)(4)(iv)(B)). At this time, the fee payment is no longer considered a CRF and collections are placed in the general treasury rather than the LASAF.

Responsibilities

All Employees

All employees are responsible for using appropriate project codes to record time and attendance, travel orders or other purchases when work is directly related to the management, data collection, and enforcement of the IFQ programs. This information will be used annually to review operating expenses and justify the IFQ CRF, which is not to exceed 3% of the ex-vessel value of the fishery.

Regional Administrator (RA)

On an annual basis, the RA shall review the CRF program to ensure:

1. The CRF rate is appropriate; and
2. Accountability and use of the fee is properly managed.

Deputy Regional Administrator (DRA)

The DRA shall review this SOP annually to ensure that it defines the proper level of management controls over the cost recovery program including, but not limited to:

1. Quarterly reconciliation of all payments;
2. Adequate distribution of responsibilities among the Divisions;
3. Proper understanding of responsibilities; and
4. Appropriate use of the collected funds.

Assistant Regional Administrator for OMI (ARA OMI)

The ARA for OMI shall ensure that sufficient resources and staff are made available to complete the responsibilities defined.

Assistant Regional Administrator for SF (ARA SF)

The ARA for SF shall ensure that sufficient resources and staff are made available to complete the responsibilities defined.

Information Technology (IT) Branch

For each IFQ dealer, IT staff shall:

1. Post an end-of-quarter statement in each dealer's account of CRF that are due;
2. Send dealers an e-mail on the 1st day of each quarter notifying them that CRF are due;
3. Send dealers who have not paid CRF a reminder e-mail on or around the 21st day of each quarter notifying them CRF are due;
4. Periodically e-mail LAPP/DM staff updates of CRF payments after the end of each calendar year quarter until all payments are completed; and
5. Create a report during October and April each year for the Management and Budget Branch of all successfully completed CRF payments, including the total amount of CRF paid.

LAPP/DM Branch

Starting approximately one business week after the end of the calendar year quarter, LAPP/DM Branch staff shall:

1. Monitor the payments of CRF for successful transactions by logging onto the online IFQ system's Manager Cost Recovery page and selecting View Cost Recovery Detail Report;
2. Monitor pending and unsuccessful attempts for payments of CRF transactions logging onto the online IFQ system's Manager Cost Recovery page and selecting Check Settlement Status. If a payment attempt remains in a pending status for more than 72 hours, the payment will be considered an error and reported to IT staff; and
3. Provide a report during October and April each year to the Management and Budget Branch of all successfully completed CRF payments, including the total amount of CRF paid as reported on the View Cost Recovery Detail page of the IFQ online system.

On or about the 24th day after the end of the calendar year quarter, LAPP/DM Branch staff shall contact dealers via phone who have not yet paid CRF reminding them to submit CRF prior to the 31st day after the end of the calendar year quarter.

On the 31st day after the end of the calendar year quarter, LAPP/DM Branch staff shall send a letter via certified returned receipt to each dealer who has not paid CRF for the previous calendar year quarter.

Management and Budget Branch

On or about the 31st day, after the end of the calendar year quarter, Management and Budget staff shall:

1. Reconcile CRF payments through the Commerce Business System with the report supplied by IT and LAPP/DM Branch staff; and
2. Report to the DRA and RA, all expenditures including items, amounts, and totals charged against the CRF for the previous fiscal year within the first calendar year quarter.

Disbursement of Funds

Funds collected under a CRF program are disbursed according to the following criteria:

- a) Full time employee (FTE) or partial FTE salaries and benefits directly related to the management of the program, data collections, and/or enforcement;
- b) Contract or partial contract expenses for personnel related to the management of the program, data collections and/or enforcement;
- c) Data line recurring costs dedicated in total or in part to the public access of the data collection computer systems;
- d) Recurring cost of software necessary to maintain public access for data collection computer systems;
- e) Replacement of computer systems, portions of a computer system, or ancillary supporting components of a computer system dedicated to data collections;
- f) Addition of such computer or networking devices as necessary to establish the public trust and/or ensure data collections systems availability;

- g) Cost or partial cost associated with travel when such travel is for the purposes of program management, better understanding the needs of the fishing community, and/or assisting the fishing community;
- h) Cost or partial costs of materials and the handling of materials by FTE or contract that promote or in some fashion ease the public burden of compliance; and
- i) Cost or partial cost of training directly associated with the support of IFQ programs.

Funds collected under a CRF program are not disbursed according to the following criteria:

- a) Costs associated for facilities;
- b) Costs associated with initially developing a program; and
- c) Any costs that would be required whether the program was in place or not.

Incurring costs, which are of a general nature to all LAPPs and qualify under this SOP, are to be apportioned to the IFQ programs based on the value of landings from each program during the prior fishing year.

Approved:

Miles M. Croom
Miles Croom, Deputy Regional Administrator

Date: 8/2/2013

Appendix A
31st Day Cost Recovery Fee
Summary Letter Boiler Plate



UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office

263 13th Avenue South

St. Petersburg, Florida 33701-5505

<http://sero.nmfs.noaa.gov>

<Date of letter>

<Dealer name>

<Dealer address>

<Dealer address>

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

RE: DELINQUENT FEES - NOTICE OF INTENT TO ANNUL INDIVIDUAL FISHING
QUOTA (IFQ) COMMERCIAL DEALER ENDORSEMENT

<Dealer name>:

This letter serves as notification that your IFQ Dealer's account <Dealer account name> has been suspended on <Date of 31st day>, because you are delinquent in paying \$<CRF amount due> in cost recovery fees. 50 C.F.R. § 622.21(b)(4)(iv)(A) and 622.22(b)(4)(iv)(A). Your IFQ Dealer's account <Dealer account name> will remain active but online functions will be limited to paying this cost recovery fee. <Dealer name> will not be able to process a landing for IFQ species under this suspension. Once the payment is paid in full, your IFQ Dealer's account <Dealer account name> will again have full capabilities.

Title 5 U.S.C. § 558(c) requires notice and opportunity to respond prior to the withdrawal or annulment of a federal license. If you wish to retain your Dealer's endorsement, you must pay the cost recovery fee by <Date of 91st day>, or your Dealer's endorsement will be annulled effective <Date of 91st day> (50 C.F.R. § 622.21(b)(4)(iv)(B) and 622.22(b)(4)(iv)(B)).

For payment instruction, see Summary of Payment Instructions below. If you have additional questions or need assistance in the payment procedures, you may call the IFQ support line at 866-425-7627 (option #2) from 8:00 a.m. until 4:30 p.m. eastern standard time Monday through Friday (except Federal Holidays).

Sincerely,

A handwritten signature in cursive script that reads "Phil Steele".

Phil Steele
Assistant Regional Administrator



Summary of payment instructions:

1. Login to the IFQ Web site (ifq.sero.nmfs.noaa.gov) using your Dealer's UserID and PIN
2. Select "Cost Recovery" from the task bar and you will see a summary of your cost recovery fees
3. Select "Pay Fees"

