Department of Commerce $ National Oceanic & Atmospheric Administration $ National Marine Fisheries Service

NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 31-102-01 ***SEPTEMBER 1996***
Financial Management and Budget ***Management Control Review***
MANAGEMENT CONTROL REVIEW: ADMINISTRATION OF MFCMA FISHING PERMIT FEES
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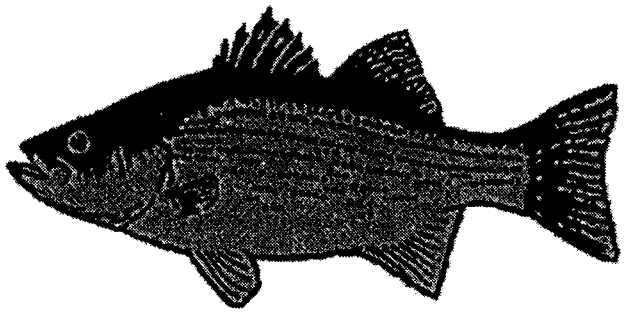
OPR: F/MB **Certified by:** F/MB **Type of Issuance:** Initial
SUMMARY OF REVISIONS: Signed _____ [Approving Authority name] Date [Approving Authority title]

MANAGEMENT CONTROL REVIEW

ADMINISTRATION OF MFCMA FISHING PERMIT FEES: NORTHWEST, SOUTHWEST, & SOUTHEAST REGIONS



U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

SEPTEMBER, 1996

97-453, 99-659, 101-627

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(B) The appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in subparagraph (A)(ii). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may implement such plan or amendment under section 305(a).

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system described in section 303(b)(6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

97-453

(d) ESTABLISHMENT OF FEES.--The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.

99-659, 101-627

(e) FISHERIES RESEARCH.--

(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall--

(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2);

(B) indicate the goals and timetables for the program described in subparagraph (A); and

(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

(2) The areas of research referred to in paragraph (1) are as follows:

(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

EXECUTIVE SUMMARY

MANAGEMENT CONTROL REVIEW (MCR)
ADMINISTRATION OF MFCMA FISHING PERMIT FEES

I. INTRODUCTION

MFCMA FISHING PERMIT FEES

The National Marine Fisheries Service (NMFS) is the federal agency with primary responsibility for conserving and managing living marine resources within the U.S. 200-mile Exclusive Economic Zone. Under the Magnuson Fishery Conservation and Management Act (MFCMA), sec. 303 (b)(1), the Secretary of Commerce (and by delegation, NMFS) may require fishing vessels or operators to obtain a permit and pay a fee to participate in any fishery having a fishery management plan. NMFS is authorized by law to charge fees that do not exceed the costs of administration. (Appendix 1)

The Northwest (NWR), Southwest (SWR), and Southeast (SER) Regions of the NMFS currently administer these fees for permits in, respectively: the Pacific Coast groundfish limited entry program; the pelagic fisheries of the Western Pacific (the Hawaii longline limited entry program); and multiple fisheries, including highly migratory species (sharks and swordfish) and others.

- NWR, Fisheries Management Division, Fisheries Permits Office. The application fee for a limited entry permit in the Pacific Coast groundfish fishery was $194. There were 971 applications, of which 351 were denied, and 153 appeals, of which 39 were granted permits. Currently, there are 540 permit holders and the annual renewal fee is $46; no fee is charged for a permit replacement, change of address, or transfer.

- SWR, Pacific Area Office, Fisheries Management/Operations. The application fee for a limited entry permit issue, transfer, or renewal in the Hawaii longline fishery has ranged from $33 to $39. There is a cap of 164 longline permits. In 1995, $6,357 was collected for permit renewals and transfers, for which the same fee applies.

- SER, Regulations and Permits Branch. There are fees for fishing vessel permits, dealer permits, the transfer of wreckfish shares, octocoral permits, live rock permits, and replacement of lost permits. Permits for almost all fisheries are processed on a single application, and the fee is determined by the number of fisheries requested ($40 for the first fishery and $10 for each additional fishery); the fee for issuing or transferring a fishing vessel permit is the same. In 1995, a total of $307,440 was collected for 2,931 fishing vessel permits, or 5,365 permits if each vessel/fishery combination is counted. (The SER also issued 417 multiple-fishery dealer permits during 1995, with an application fee of $35.)

SELECTION OF MCR TOPIC

Although these fishing permit fees are nominal, they are important to the agency's mission of fishery conservation and management, involve direct contact with the industry, have the potential for being converted to personal use, and produce revenues of several hundred thousand dollars annually.

This MCR will insure that the obligations and costs of these permits are in compliance with applicable law, that the funds are safeguarded against waste, loss, or unauthorized use, and that revenues and expenditures applicable to these permits are properly accounted for and recorded.

A coordinated self-assessment of MFCMA fishing permit fee administration is also expected to be instructive in administering other fees, both nationally and regionally. For example, earlier this year NMFS began to issue permits and charge fees to U.S. fishing vessels on the high seas as authorized by the Fisheries Act of 1995, and may introduce fees in other fisheries as authorized by the MFCMA.

SELECTION OF MCR TEAM

The Program Management Officer and Regional Directors established an MCR Team consisting of a representative of the Office of Operations, Management, and Information (F/OM) to coordinate the MCR, and subject and program specialists from the NWR, SWR, SER, and the Office of Conservation and Management (F/CM) in Headquarters. (Appendix 2) A detailed schedule to complete the MCR was then prepared. (Appendix 3)

II. METHODOLOGY

DOCUMENTATION

The MCR Team examined background material including: the NOAA Finance Handbook (Ch. 6, Cash Management Policies and Procedures, and Ch. 9, Fees for Special Products and Services); the General Accounting Office (GAO) Standards for Internal Controls in the Federal Government; various fishery management plans and implementing regulations; the current survey by the Inspector General of the limited entry program for Pacific groundfish in the NWR; recent Regional unit cost computation forms and worksheets; "fees balance sheets" prepared by the Regions; permit application forms; and related agency correspondence.

RISKS AND OBJECTIVES

The primary responsibilities of each NMFS Region associated with fee administration include:

- Maintaining reliable and accurate records of fishing permit fee transactions.
- Safeguarding the revenues until submitted to the Administrative Support Center and deposited in the U.S. Treasury.
- Verifying and reconciling all receipts and deposits using a series of checks and balances.
- Accumulating and analyzing data on the costs of providing fishing permits.
- Revalidating fees periodically to assure that current costs and conditions are reflected.

In order to evaluate the effectiveness of the NMFS's internal controls, it was necessary to describe the risks and control objectives associated with fee administration. Risks are negative events or situations that would occur if all or part of the process was not carried out as planned. Control objectives are the opposite of risks, i.e., conditions which NMFS does want to occur.

The MCR Team identified the following control objectives:

- Physical and other security safeguards are maintained where cash is stored and processed.
- Cash, permit forms, and partially prepared, mutilated or voided checks are protected from unauthorized use.
- Receipts are recorded properly and timely, and deposited promptly.
- Administrative transactions are recorded properly and timely.
- An effective cash management system is maintained.
- Fees recover the full cost of administration.

PLANNING THE MCR

The MCR was conducted concurrently in each of the three NMFS Regions, and included:

(1) Narratives (Appendix 4) and flow charts (Appendix 5) describing each sequential step within the Fee Determination event cycle (how fees are established) and the Fee Administration event cycle (how fees are received, deposited, tracked, refunded, etc..)

These narratives and flow charts first highlighted the internal controls, or safeguards, that managers in the Regions employ to ensure that plans proceed and resources are used as intended. Internal controls are the plan of organization, methods and procedures adopted by management to provide "reasonable assurance" that: obligations and costs comply with applicable law; safeguards exist to protect funds, etc., against waste, loss, unauthorized use, mismanagement or misappropriation; and personnel properly record and account for revenues and expenditures applicable to Departmental operations and functions. The narrative for each Region described the NMFS employees involved by title, the forms or written

correspondence that are prepared and their distribution, the reviews/approvals that take place, and the timing and location of the activity.

(2) Tests, in the form of a written questionnaire.

To meet GAO standards, each Region should have an internal control system that incorporates:

- Separation of duties.
- Written policies for recording and collecting receivables.
- Periodic reconciliation of accounts.
- Proper safekeeping of documents and cash.

Each Region was asked to respond to a questionnaire (Appendix 6) that might apply to any large-scale management process involving fee administration. These questions addressed some of the internal controls that the Regions had, or might have had, in place. They were intended to determine if certain internal controls were used and achieved the stated objectives in each Region. The Regions answered primarily by direct observation or, as appropriate, using standard sampling methods.

(3) An evaluation of those internal controls.

Each Region confirmed that its internal controls are in place and operating as intended, or pointed out areas where improvements (including standardization or streamlining) are needed, in the Region or nationally.

III. FINDINGS AND CONCLUSIONS

The questionnaire was helpful in raising some additional questions about internal controls, finalizing the narratives and flow charts, and identifying the different internal controls employed in each Region.

The MCR Team evaluated the internal controls to be sure that the costs (in resources expended) did not normally exceed the benefits likely to be derived (in prevention of waste, fraud, abuse, or mismanagement.) Accordingly, a few of the questions were not applicable in the Regions because they involved internal controls that would be too time-consuming and/or expensive to employ. For example, given the relatively small

staffs that administer fees in the Regions, complete separation of duties is not always possible or practical.

A subsequent analysis of the narratives and flow charts enabled the MCR Team to draw conclusions about how well the Regions' internal controls met each of the control objectives mentioned above. The following recommendations were based on these findings and conclusions, and have been arranged by control objective.

IV. RECOMMENDATIONS

Control Objective: Physical and other security safeguards are maintained where cash is stored and processed.

1. Funds are kept in a locked desk drawer in the SWR, in a locked deposit box inside a locked safe in the NWR, and in a locked file cabinet inside a locked area in the SER. The NOAA Finance Handbook (Sec. 4) requires that funds over $300 be kept in a locked cash box and stored in a U.S. government-approved safe (although a bar-locked cabinet can be provided as a temporary measure.) The NWR has such a safe, and the SWR does not normally hold funds over $300.
The SER should secure funds and permit forms in a locked cash box stored in an approved safe in accordance with the NOAA Finance Handbook.

Control Objective: Cash, permit forms, and partially prepared, mutilated or voided checks are protected from unauthorized use.

2. Cash is not accepted as payment for permit fees in the SER. Cash may occasionally be accepted in the NWR (although the permit application requires checks) and the SWR (which strongly encourages checks or money orders.) Cash transactions greatly increase the risk of loss and exposure to errors.
Cash should not be accepted as payment for permit fees.

3. The SER requires that checks or money orders be made payable to the U.S. Treasury. The NWR requires that checks or money orders be made payable to the U.S. Department of Commerce, NOAA. The SWR instructs all

applicants to make checks or money orders payable to the U.S. Department of Commerce, NOAA; however, the SWR will accept checks or money orders payable to NMFS, if received by mail. Lack of a standard payee may complicate bookkeeping and reconciliation of these accounts until the receipts are eventually deposited in the General Account of the U.S. Treasury.

Departmental operational units should instruct payers to make checks or other negotiable instruments payable to the order of the specific organizations or operating units maintaining the accounts to be originally credited (i.e., Regional Office, NMFS); however, any valid remittance should be accepted and processed without delay.

Control Objective: Receipts are recorded properly and timely, and deposited promptly.

4. The SER and the SWR use first-class U.S. mail weekly to deliver deposits to the Administrative Support Centers, while the NWR uses hand-delivery about twice a day. Because the SER delivers deposits only once a week but collects a significant amount of fees (particularly in peak weeks in the latter half of the year), it needs to recognize the time-value of money by reducing mail and collection float.

The SER should deliver deposits each week by express mail.

5. Lockboxes are usually the U.S. Treasury's preferred method of receiving funds because they minimize mail and collection float and additional handling (such as by the Administrative Support Centers.) Once a lockbox depository has been selected on the basis of competitive bids, it is eligible to serve as the depository for other agency collections. NMFS Headquarters and Regions are using a lockbox at the First National Bank of Chicago to service both marine mammal exemption permits and, since last May, high seas fishing vessel permits. A similar arrangement could be desirable for MFCMA fishing permit fees, but would have to include the internal controls and feedback now provided by the Administrative Support Centers.

The NWR should begin to establish a strategically located lockbox for fishing permit fees, (and the SWR and SER should consider doing so in cooperation with the NWR.) (When recommendation 5 is fully implemented, recommendations 8 and 9 below will be superseded.)

Control Objective: Administrative transactions are recorded properly and timely.

6. The Regions all prepare fees balance sheets using R-Base programs, but vary with respect to how and when they apply error subroutines. Provisions should be made for the detection of errors and duplicate or missing payments through the regular review and comparison of transaction records.
The Regions should use computer (R-Base) edit programs to the maximum extent possible to disclose or reduce the incidence of error in fee transactions.

7. The SER routinely calculates and reports on the number or permit transfers, replacements, new addresses, initial applications, etc.. The SWR reports on permit activities, including the amount of fees collected, to the Western Pacific Fishery Management Council (WPFMC) twice a year. This information is useful in evaluating the performance of fee administration in the Regions.
The NWR should annually report the status of permit transactions by type.

8. The Western Administrative Support Center (WASC) reviews the deposits and fees balance sheet in the NWR, and signs off on accuracy; the Central Administrative Support Center (CASC) and WASC presumably do this review in the SER and SWR respectively, but no sign off is required.
The Regions should request that the Administrative Support Centers sign off on the accuracy of the fees balance sheets that they receive.

9. The Administrative Support Centers intermittently notify the Regions about the disposition and deposit of funds received, including bounced checks.
The Regions should request that the Administrative Support Centers process deposits within prescribed intervals, and reconcile all receipts and deposits in a report to the Region each quarter.

10. It is undesirable for one individual to control all phases of fee administration because it may allow errors or irregularities to go undetected. Separation of duties in fee administration is very difficult to accomplish in the SWR because only one person is available to do this job routinely; however, this can be done in the SER, and to a lesser extent, in the NWR. For example, in the SER every week employees in the office alternately review each check and the report totals.
Wherever practical in each Region, cash-related duties such as maintenance of accounts receivable, cashiering, accounting, and collecting funds, should be segregated by personnel.

11. Processing permits annually is costly, both to the government in administration and to the industry in fees paid and other costs of compliance. Processing permits less frequently (as for high seas fishing vessel permits and Hawaii longline permits) is consistent with the Paperwork Reduction Act and can significantly reduce those costs; however, if not properly implemented, it could delay access to information urgently needed for conservation and law enforcement, in volatile and diverse fisheries (as for the single permit multi-fishery) or in limited entry fisheries with a relatively high turnover of vessel owners or operators (as for Pacific Coast groundfish.)
The SER should continue preparing to require applications for MFCMA permits biennially, and begin implemention as soon as possible. Permits should continue for a one-year period, and automatically be renewed for a second year, provided that the permit applicant has paid all fees, there are no outstanding fines or penalties connected with the permitted entity, and all required reports from or on behalf of the permitted entity have been received. If there is a deficiency in one or more of these areas, a timely opportunity should be provided for correction so that the permit can be renewed.
The NWR should consider renewing limited entry permits biennially to reduce costs, if information requirements can be met.

Control Objective: Fees recover the full cost of administration.

12. The Regions use different methods to charge fees for some types of permit transactions. The NWR does not charge a fee for transferring a permit from one vessel/owner to another; the SER charges the same fee for transferring, issuing, or renewing a permit, (but only charges $10 to replace a permit); and the SWR charges the same fee for transferring a permit as issuing, renewing, or replacing a permit. Transferring a permit is very time-consuming due to the high value of the permit and the complex analysis and paperwork required. Therefore, the fees for transferring a permit do not recover those specific processing costs. **The Regions should charge a fee for transferring a permit that fully recovers administrative costs.**

The chief of the respective Regional Permits Office is responsible for implementing each of the 12 recommendations above by September 30, 1996.