

sockeye, that remains unlisted. In conjunction with this, the City also wishes to remove as covered activities the interim sockeye hatchery and the planned permanent sockeye hatchery, included in the HCP.

NMFS believes that this proposed change could qualify as a minor modification, pursuant to section 12.1 of the IA, because it appears that none of the remaining operations covered by the Permit would change and the City would remain obligated to continue all of the Permit's other mitigation measures. Further, NMFS believes that removal of the sockeye and the interim and planned hatcheries from the Permit will have no effect on operation of those hatcheries. Separate agreements, namely the Landsburg Mitigation Agreement signed by the City, NMFS and the State of Washington, as well a court settlement with the Muckleshoot Tribe, require that the City continue sockeye hatchery operations with the same mitigation measures and adaptive management that would be required under the Permit.

However, NMFS wishes to ensure that the Permit, without the Cedar River sockeye as a covered species and the interim and planned hatcheries as covered activities, is still consistent with the statutory issuance criteria contained in section 10 of the ESA. Accordingly, NMFS will treat the requested change as if it were an amendment pursuant to 12.2 of the IA, including conducting any required environmental reviews. NMFS therefore seeks comment on Permit 1235 as it would operate without including the Cedar River sockeye and the interim and planned hatcheries. NMFS is particularly interested in information regarding whether this change would alter the operations that will still be covered by the Permit, and whether the mitigation measures for those remaining operations will need modification.

#### Authority

Under section 10(a)(1)(b) of the ESA, the Secretary of Commerce is authorized to issue permits for incidental take of ESA-listed species. The regulations that describe procedures for issuing these permits are found at 50 CFR 222.307.

Dated: June 14, 2007.

#### Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7-11963 Filed 6-19-07; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Notice of Indirect Cost Rates for the National Marine Sanctuary Program for Fiscal Year 2005

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of indirect cost rates for the National Marine Sanctuary Program for Fiscal Year 2005.

**SUMMARY:** The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Sanctuary Program (NMSP) is announcing the establishment of new indirect cost rates on the recovery of indirect costs for its component organizations involved in natural resource damage assessment and restoration activities for fiscal year (FY) 2005. The indirect cost rates for this fiscal year and dates of implementation are provided in this notice. More information on these rates and the NMSP policy can be obtained from the address provided below.

**FOR FURTHER INFORMATION CONTACT:** Harriet Sopher, 301-713-3125, ext. 271; (FAX: 301-713-0404; e-mail: [Harriet.Sopher@noaa.gov](mailto:Harriet.Sopher@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** The mission of the NMSP with respect to Natural Resource Damage Assessment is to restore injuries to sanctuary resources caused by releases of hazardous substances or oil under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C., 9601 *et seq.*) or the Oil Pollution Act of 1990 (OPA) (33 U.S.C., 2701 *et seq.*), or physical injuries under the National Marine Sanctuaries Act (NMSA) (16 U.S.C., 1431 *et seq.*). The NOAA NMSP consists of the following component organizations: Thirteen Marine Sanctuaries and one National Monument within NOAA's National Ocean Service. The NMSP conducts Natural Resource Damage Assessments (NRDAs) as a basis for recovering damages from responsible parties and uses the funds recovered to restore injured sanctuary resources.

When addressing NRDA incidents, the costs of the damage assessment are recoverable from responsible parties who are potentially liable for an incident. Costs include direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific output. In the context of the NMSP, outputs may be associated with damage assessment

cases, or may be represented by other program products such as damage assessment regulations. In contrast, indirect costs reflect the costs for activities that collectively support the NMSP's mission and operations. For example, indirect costs include general administrative support and traditional overheads. Although these costs may not be readily traced back to a specific direct activity indirect costs may be allocated to direct activities using an indirect cost distribution rate.

Consistent with standard Federal accounting requirements, the NMSP is required to account for and report the full costs of its programs and activities. Further, the NMSP is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA. Within the constraints of these legal provisions and their regulatory applications, the NMSP has the discretion to develop indirect cost rates for its component organizations and formulate policies on the recover of indirect cost rates subject to its requirements.

#### The NMSP's Indirect Cost Effort

In October 2002, the NMSP hired the public accounting firm Cotton & Company (C&C) to: (1) Evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and, (3) determine the indirect cost rates for the organizations that comprise the NMSP.

The NMSP requested an analysis of its indirect costs for fiscal year 2002. The goal was to develop the most appropriate indirect cost rate allocation methodology and rates for the NMSP component organizations. C&C has continued its assessment of the NMSP's indirect cost rate system and structure from FY2002 to present.

C&C concluded that the cost accounting system and allocation practices of the NMSP component organizations are consistent with Federal accounting requirements. C&C also determined that the most appropriate indirect allocation method was the Direct Labor Cost Base for all NMSP component organizations. The Direct Labor Cost Base is computed by allocating total indirect costs over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. The indirect cost rates that C&C has computed for the NMSP component organizations were further assessed as being fair and equitable. A report on C&C's effort, their assessment of the NMSP's cost accounting system and

practice, and their determination respecting the most appropriate indirect cost methodology and rates can be obtained from: Harriet Sopher, NMSP 1305 East West Highway, Silver Spring, MD 20910.

C&C reaffirmed that the Direct Labor Cost Base is the most appropriate indirect allocation method for the development of the FY 2005 indirect cost rates.

### The NMSP's Indirect Cost Rates and Policies

The NMSP will apply the indirect cost rates for FY 2005 as recommended by C&C for each of the NMSP component organizations as provided in the following table:

NMSP component organization	FY 2004 indirect rate (percent)
National Marine Sanctuary Program (NMSP) .....	247.63
NMSP Florida Keys National Marine Sanctuary (FKNMS) .....	408.76

The FY 2005 rates identified in this policy will be applied to all damage assessment and restoration case costs incurred between October 1, 2004 and September 30, 2005, using the Direct Labor Cost base allocation methodology. For cases that have settled and for costs claims paid prior to the effective date of the fiscal year in question, the NMSP will not re-open any resolved matters for the purpose of applying the rates in this policy. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, costs will be recalculated using the rates in this policy. The NMSP will use the FY 2005 rates for future fiscal years until year-specific rates can be developed.

Dated: June 11, 2007.

**Daniel J. Basta,**

*Director, National Marine Sanctuary Program.*

[FR Doc. 07-3017 Filed 06-19-07; 8:45 am]

BILLING CODE 3510-NK-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Notice of Indirect Cost Rates for the National Marine Sanctuary Program for Fiscal Year 2004

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**ACTION:** Notice of indirect cost rates for the National Marine Sanctuary Program for fiscal year 2004.

**SUMMARY:** The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Sanctuary Program (NMSP) is announcing the establishment of new indirect cost rates on the recovery of indirect costs for its component organizations involved in natural resource damage assessment and restoration activities for fiscal year (FY) 2004. The indirect cost rates for this fiscal year and dates of implementation are provided in this notice. More information on these rates and the NMSP policy can be obtained from the address provided below.

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When addressing NRDA incidents, the costs of the damage assessment are recoverable from responsible parties who are potentially liable for an incident. Costs include direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific output. In the context of the NMSP, outputs may be associated with damage assessment cases, or may be represented by other program products such as damage assessment regulations. In contrast, indirect costs reflect the costs for activities that collectively support the NMSP's mission and operations. For example, indirect costs include general administrative support and traditional overheads. Although these costs may not be readily traced back to a specific direct activity indirect costs may be

allocated to direct activities using an indirect cost distribution rate.

Consistent with standard Federal accounting requirements, the NMSP is required to account for and report the full costs of its programs and activities. Further, the NMSP is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA. Within the constraints of these legal provisions and their regulatory applications, the NMSP has the discretion to develop indirect cost rates for its component organizations and formulate policies on the recovery of indirect cost rates subject to its requirements.

### The NMSP's Indirect Cost Effort

In October 2002, the NMSP hired the public accounting firm Cotton & Company (C&C) to: (1) Evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and, (3) determine the indirect cost rates for the organizations that comprise the NMSP.

The NMSP requested an analysis of its indirect costs for fiscal year 2002. The goal was to develop the most appropriate indirect cost rate allocation methodology and rates for the NMSP component organizations. C&C has continued its assessment of the NMSP's indirect cost rate system and structure from FY2002 to present.

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C&C reaffirmed that the Direct Labor Cost Base is the most appropriate indirect allocation method for the development of the FY 2004 indirect cost rates.