Ministry for Primary Industries
Manatū Ahu Matua

Review of Chatham Island deemed value rates for bluenose (BNS 3) for 1 October 2013

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Requests for further copies should be directed to:

Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz
Telephone: 0800 00 83 33
Facsimile: 04-894 0300

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INTRODUCTION

1. The purpose of this paper is to outline proposed changes to Chatham Island deemed value rates for BNS 3, an inshore stock managed under the Quota Management System (QMS). The Ministry for Primary Industries (MPI) seeks your written feedback on these proposals and any additional information of relevance **by 5pm Wednesday 4 September 2013**. This short time frame is necessary due to the urgency of the issue and to ensure the Minister for Primary Industries (the Minister) can make his decisions in time for changes to apply to the 1 October 2013 fishing year. MPI will compile a Final Advice Paper for the Minister, outlining recommendations and submitters' views on the issues under review.

SUMMARY

2. In July and August 2013, MPI undertook consultation on catch limits for BNS 1, 2, 3, 7 and 8 for the 1 October 2013 fishing year. At that time, MPI was not proposing any changes to deemed value rates which had last been adjusted in 2011. However, information from the current fishing year suggests that there will be a significant over catch in BNS 3. MPI considers the over catch is likely due to targeting of bluenose in order to land it on the Chatham Islands.

3. Bluenose (BNS 3) landed on the Chatham Islands is subject to significantly lower deemed value rates than that landed to other locations. Commercial sector submitters on the bluenose catch limit paper have highlighted this as a matter they consider needs urgent consideration for the 1 October 2013 year. MPI agrees that over catch needs to be constrained to protect the rebuild of bluenose stocks which are considered to be at low levels of abundance.

4. This paper outlines MPI's initial proposals on the Chatham Island deemed value rate changes for BNS 3 to apply from 1 October 2013. Tangata whenua and stakeholders are invited to provide their views on these proposals and any additional information that the Minister should consider when setting Chatham Island deemed value rates for BNS 3. Tangata whenua and stakeholder views and information will then be included in final advice to the Minister for Primary Industries.

5. The deemed value framework is set out in s 75 of the Fisheries Act 1996 (the Act). The purpose of the framework is to encourage commercial fishers to balance their catch with Annual Catch Entitlement (ACE), while not discouraging them from landing and accurately reporting catch. The incentives provided by the framework are aimed at protecting the long term value of the resource and are consistent with kaitiakitanga. The application of this framework is explained in detail in MPI's Deemed Value Guidelines (the Guidelines).[1]

6. The proposed Chatham Island deemed value rate changes for BNS 3 from 1 October 2013, having regard to the Act and to the Guidelines, are summarised in Table 1. One of the guidelines states that interim deemed value rates should generally be set at 90% of the annual deemed value rates to encourage fishers to balance catch with ACE throughout the year.

[1] A copy of the Guidelines is available at http://www.mpi.govt.nz/news-resources/publications.aspx

Table 1: Current and proposed deemed value rates (per kilo) for bluenose (BNS 3)

	Landed in:	Interim	Annual	Differential						
Current	Chatham Islands		*0-20%*			>20%	>40%	>60%	>80%	>100%
		$0.53	$1.05			$1.26	$1.47	$1.68	$1.89	$2.10
	All other locations		*0-5%*	*>5%*	*>10%*	*>20%*	*>30%*	*>40%*	*>50%*	*>60%*
		$2.70	$3.00	$4.00	$5.00	$6.00	$7.00	$8.00	$9.00	$10.00
Proposed	Chatham Islands		*0-20%*			*>20%*	*>40%*	*>60%*		
		$0.53	$1.05			$1.26	$1.47	$10.00		
	All other locations		*0-5%*	*>5%*	*>10%*	*>20%*	*>30%*	*>40%*	*>50%*	*>60%*
		$2.70	$3.00	$4.00	$5.00	$6.00	$7.00	$8.00	$9.00	$10.00

CONTEXT

The deemed value framework

7. The purpose of the deemed value framework is to encourage commercial fishers to balance their catch with ACE while not discouraging them from landing and accurately reporting catch. The intent is to protect the long term value of stocks and to support kaitiakitanga by encouraging the overall commercial catch for each QMS stock not to exceed the total available ACE and/or the Total Allowable Commercial Catch (TACC). The effectiveness of this incentive is dependent on individual fishers' compliance with landing and reporting requirements, their responses to the incentives provided and on the impact of other incentives such as those created by market conditions.

8. The catch balancing regime is a key fisheries management tool contributing to both sustainability and utilisation objectives. Sustainability objectives are achieved as deemed value rates encourage fishers to balance catch with ACE and, in doing so, encourage harvesting to remain within the TACC. Incorrectly set deemed value rates may lead to catches in excess of the TACC (i.e. if set too low), which may have negative implications for sustainability and the long-term value of the resource. Likewise, incorrectly set deemed value rates may also discourage landing and accurate reporting (i.e. if set too high). These types of behaviour undermine sustainability and utilisation objectives.

9. Utilisation objectives are achieved by providing flexibility for commercial operators to manage unexpected and small amounts of catch in excess of ACE through periodic catch balancing. In the long-term, the sustainability implications that may result from over catching could eventually

result in TACC reductions, which may also impact on utilisation objectives, the long term value of the resource and kaitiakitanga.[2]

10. A common criticism of the deemed value framework is that some TACCs are not set correctly (e.g. too low or mismatch between target and key bycatch species) and that for some species bycatch is unavoidable, and therefore that deemed values mainly create incentives to illegally discard fish. Sustainability concerns and use opportunities or constraints, including issues with TACCs, are identified through MPI's annual fisheries planning process, in discussion with tangata whenua and stakeholders.

11. Nonetheless, setting of deemed value rates is a separate process from setting TACCs and the adequacy of the TACC is not a matter that the Minister should consider when setting deemed value rates.[3] Every year MPI reviews TACCs, prioritising stocks based on available information and tangata whenua and stakeholder input. The deemed value rate changes proposed in this paper are aimed at protecting the TACC, regardless of the level at which it is set, by encouraging balancing of catch with ACE while avoiding creating incentives to dump and misreport. Furthermore, the proposed changes to deemed value rates are intended to provide stronger incentives for fishers to report catch correctly.

The Act and the deemed value guidelines

12. Section 75(1) of the Act requires the Minister to set deemed value rates for all stocks managed under the QMS. Section 75(2)(a) requires the Minister, when setting deemed value rates, to take into account the need to provide an incentive for every commercial fisher to acquire or maintain ACE that is not less than the fisher's total catch of each stock taken.

13. Section 75(2)(b) allows the Minister, when setting deemed value rates, to have regard to:
    - the desirability of commercial fishers landing catch for which they do not have ACE,
    - the market value of ACE,
    - the market value of the stock,
    - the economic benefits obtained by the most efficient fisher, licensed fish receiver, retailer or any other person from the taking, processing or sale of the fish or associated with the fish,
    - the extent to which the catch of that stock has exceeded or is likely to exceed the TACC for the stock in any year; and

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[2] Interim deemed value rates are charged each month to commercial fishers for every kilogram of fish landed in excess of ACE. If the fisher sources enough ACE to cover his or her catch, the interim rates paid are reimbursed. If the fisher does not source enough ACE by the end of the fishing year, the difference between the interim and annual deemed value rates is charged for all catch in excess of ACE. Therefore, the annual rate applies at the end of the fishing year only.

Differential deemed value rates, if applicable, are also charged at the end of the fishing year if the fisher harvested well in excess of his or her ACE holdings. For example, differential deemed value rates are charged for catch of more than 20% in excess of ACE, when the standard differential deemed value rate schedule (standard schedule) applies. Differential rates reflect the increasingly detrimental impact of higher levels of over catch on sustainability and on the long term value of the resource, providing stronger incentives to avoid over catch. For vulnerable or rebuilding stocks, a more stringent differential deemed value schedule (e.g. applying from 5% or 10% over catch) may be more appropriate than the standard schedule.

[3] *Pacific Trawling Limited & Independent Fisheries Limited v Minister of Fisheries, High Court, Napier Registry, 29 August 2008, CIV 2007-441-1016, Priestley J.*

- any other matters that the Minister considers relevant.

14. The practical application of these statutory criteria is set out in the Guidelines, which are summarised below:
    - deemed value rates must generally be set between the ACE price and the port price,
    - deemed value rates must generally exceed the ACE price by transaction costs,
    - deemed value rates must avoid creating incentives to misreport,
    - deemed value rates for constraining bycatch species may be higher,
    - deemed value rates must generally be set at twice the port price for high value single species fisheries and species subject to international catch limits,
    - deemed value rates for Chatham Island landings may be lower,
    - interim deemed value rates must generally be set at 90% of the annual deemed value rate; and
    - differential deemed value rates must generally be set.

ANALYSIS

15. Clause 7 of the Fisheries (interim and Annual Deemed Values) Notice 2003 (the Notice) provides for specific interim and annual deemed value rates for a number of stocks where these are landed in the Chatham Islands and received by a licensed fish receiver located there. One of those stocks is bluenose (BNS 3). The Notice specifies an interim Chatham Islands deeded value rate per kilo of $0.53 and an annual rate of $1.05 per kilo. The standard BNS 3 deemed value rates are $2.70 (interim) and $3.00 (final). The differential paid as over catches increase also varies between BNS 3 landed in the Chatham Islands and BNS 3 landed elsewhere. The maximum payable for BNS 3 landed on the Chatham Islands is $2.10. The maximum for BNS 3 landed elsewhere is $10.00.

16. As at 31 July 2013, reported catches are 27% higher than the TACC for BNS 3 for the 2012/13 fishing year. Base on the interim deemed value bill for BNS 3, around 83 tonnes of catches to the end of July are currently not covered by ACE. This includes 66 tonnes (equivalent to 39% of the BNS 3 TACC) attributable to a single company. This represents a significant increase in over catch compared to previous years and does not align with catch levels compared to TACCs in other bluenose quota management areas (see Table 2).

17. All bluenose stocks (BNS 1, 2, 3, 7 and 8) are currently subject to a rebuild plan. This is based on a stock assessment in 2011 that suggested current abundance is low. Under the rebuild plan, catch limits were reduced in 2011 and again in 2012. The total allowable commercial catch (TACC) for BNS 3 was reduced by 77 tonnes (around 30% of the previous TACC) from 1 October 2012 as part of that plan. MPI notes that if the trend in over catch continues to the end of the fishing year, it will exceed the most recent reductions. MPI considers that over catch at these levels pose a serious threat to the success of, and timeframe required, for the rebuild.

18. MPI proposes an increase to the differential for BNS 3 landed on the Chatham Islands once catches exceed ACE by more than 60%. MPI proposes that the maximum rate should apply to BNS 3 landed in the Chatham Islands at this point and that maximum should be equivalent to the rate for BNS 3 landed elsewhere; $10.00 per kilo. Currently, the differentials see the deemed value rate increase gradually to a maximum of 200% of the annual rate once catches exceed ACE by 100%. So the maximum payable is $2.10 per kilo.

19. The purpose of the proposed increase to the differential is to ensure that catches are constrained as much as possible. This will help ensure the success of the rebuild of bluenose stocks. However, bluenose is a bycatch in other important fisheries. It is also important to ensure accurate reporting of bluenose catches, particularly to monitor the impact of reductions on catch rates. So, to balance the interests of fishers and ensuring sustainability, MPI is not proposing to change the base Chatham Island rate or other rates at catches up to 60% in excess of ACE.

20. The deemed value framework that applies in the Chatham Islands presents some complex issues. Due to the urgency of responding to current, significant over catches, MPI considers there is insufficient time to fully consider all potential issues. Therefore, MPI proposes to undertake a further review of BNS 3 in 2014.

21. Bluenose is caught by bottom longline, and bottom and mid-water trawl as both bycatch and target species. Fisheries where BNS 3 is a bycatch include ling, hapuku and alfonsino.

Table 2: Information that informed the proposed deemed value rate

Stock	Catch > TACC 11/12	Catch > Total ACE 11/12	Catch > TACC 12/13 to end July	2013 reported port price/kg[4]	11/12 ACE price/kg	11/12 deemed value invoices	12/13 interim deemed value invoices to end July
BNS 1				$6.04	$1.94	$1,781.18	$28,245.60
BNS 2				$5.72	$2.36	$0.00	$83,055.60
BNS 3	3.1%	2.8%	27.43%	$2.94	$1.22	$33,732.72	$225,171.90
BNS 7	5.6%			$2.90	$1.37	$2,724.47	$1,023.30
BNS 8				$6.30	$1.23	$0.00	$10,634.40

[4] Reported port prices are the average price for green weight fish of each stock reported to be paid to independent fishers by licensed fish receivers (LFRs). These values ignore differences in size, quality and state of fish landed (i.e. fishing method), location of landings, seasonal price variations, deductions that fishers may pay to LFRs from time to time and price differentials for vertically integrated fishing companies. Reported port prices are therefore an indicator of limited reliability. In general, real port prices for average size and quality fish landed in the main ports by independent fishers would tend to be higher than the average prices reported by LFRs.