

REGULATORY IMPACT STATEMENT
Regulatory amendment to support introduction of attached bladder kelp
stocks in Fishery Management Areas 3 and 4 into the Quota Management
System

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Fisheries (the Ministry).

It provides an analysis of options to ensure the regulatory framework is in place when attached bladder kelp stocks (KBB3G and KBB4G) enter the Quota Management System (QMS) on 1 October 2010.

The analyses undertaken to determine the options proposed in the regulatory framework are considered standard for new stocks entering into the QMS. There are no gaps, assumptions, dependencies, or any significant constraints, caveats or uncertainties concerning the analyses of the regulatory proposals.

The preferred options are unlikely to have any of the effects the government is concerned about. It will not impair private property rights, market competition or the incentives on businesses to innovate and invest.



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Status Quo and Problem Definition

Attached bladder kelp stocks (KBB3G and KBB4G) will enter the QMS on 1 October 2010. Attached bladder kelp refers to kelp still attached to the seabed and not free-floating or beach-cast. The reporting codes for these stocks to be used by commercial fishers will be different from those currently in use (i.e. KBB3 and KBB4, code formed by combining the species code with the relevant quota management area reference number). Reporting codes are specified in the Reporting Regulations, including the reporting codes for all QMS species and need to be updated for when attached bladder kelp enters the QMS. The reporting codes must be consistent with other QMS species, enable collection of catch information, and provide for differentiation among stages in the species' life history that are not a part of the QMS.

The Act requires all commercial catch of QMS stocks be landed and reported. Exceptions to this rule exist for stocks listed on the Act's Sixth Schedule. Commercial fishers targeting other species may inevitably take attached bladder kelp as a direct consequence of certain harvesting methods within the vicinity of kelp beds. A requirement to land this seaweed and balance catches with annual catch entitlement (ACE, a default requirement under the QMS) will impose an unnecessary cost on these fishers. Additionally, differentiation of previously attached bladder kelp versus bladder kelp that was already free-floating would be extremely difficult for both fishers and fishery officers, further compounding unnecessary costs.

Objectives

The general objectives that both proposals are measured against are that:

- The sustainable utilisation of the resource is ensured; and
- The value of the resource is maximised.

The additional objective for the proposed changes to the Reporting Regulations is to ensure the regulatory framework is consistent with all other QMS species and enable accurate catch information of the stocks to be collected for management purposes.

The additional objectives for the proposed addition of KBB3G and KBB4G to the Sixth Schedule is to enable quota holders to maximise the value of attached bladder kelp ACE and reduce monitoring costs (for both fishers and fishery officers) associated with differentiating among life-history stages in catches.

Regulatory Impact Analysis

Reporting Regulations

The Ministry's preferred option is that the codes for bladder kelp are specified in the Reporting Regulations. It is necessary for the reporting codes to be consistent with other QMS species so that accurate catch data is collected, which is used in management decision-making processes and aids in the monitoring of the health of the stocks. Amending the Reporting Regulations will also enable differentiation among bladder kelp stages that are not a part of the QMS (i.e. free-floating and beach-cast).

There is no alternative option presented regarding the proposed amendments to Reporting Regulations.

There are no additional compliance costs associated with this proposal and no existing rules that become redundant.

Sixth Schedule

The Ministry's preferred option is that KBB3G and KBB4G are added to the Sixth Schedule. The requirement to land incidental harvest of bladder kelp taken as by-catch would impose an unnecessary cost to fishers. Additionally, identification of free-floating versus previously attached bladder kelp would be difficult for both fishers and Fishery Officers.

Bladder kelp provides a variety of important ecological functions in all three of its physical states (beach-cast, free-floating, and attached). The setting of Total Allowable Catches (TACs) is the primary measure the Ministry uses to ensure sustainability of the KBB3G and KBB4G stocks; the addition of these stocks to the Sixth Schedule will not undermine that process. The ability to return to sea previously attached bladder kelp will enable the species, in its free-floating stage, to potentially reproduce, provide for dispersal of the species, and/or act as refuge areas for juvenile and larval fish.

The alternative option is to not add the stocks to the Sixth Schedule, which would impose unnecessary costs to fishers and Fishery Officers, as catch would be difficult to identify as previously attached or free-floating. Additionally, unnecessarily removing bladder kelp from the ecosystem disrupts the important ecological functions it subsequently provides when free-floating and/or beach-cast (e.g. food, shelter, and driving primary production and energy cycling).

Consultation

The Ministry released an Initial Position Paper (IPP) on these regulatory measures, as well as TAC setting, for public consultation on 4 March 2010. The IPP was published on the Ministry's external website and sent to persons and organisations with an interest in reviews of fisheries' sustainability measures, and those having an interest in bladder kelp specifically; including tangata whenua, and environmental, recreational and commercial sector stakeholders.

Of the 32 submissions the Ministry received on the IPP, only four commented on one or more of the proposed regulatory measures. The remainder of submissions commented only on TAC setting. One submission supported the proposal to amend the Reporting Regulations to include reporting codes for bladder kelp stocks. Three submissions indicated support for adding KBB3G and KBB4G to the Sixth Schedule of the Act to allow a commercial fisher to return bladder kelp to sea.

Conclusions

Having considered best available information and information in the submissions, MFish recommends that:

- The Fisheries (Reporting) Regulations 2001 are amended to outline the fishstock codes to be used by commercial fishers when completing their statutory catch returns; and
- KBB3G and KBB4G are added to the Sixth Schedule of the Fisheries Act 1996.

This is because:

- The reporting codes for all other QMS species are specified in the Reporting Regulations and it would be inconsistent if attached bladder kelp reporting codes were not added. If they were not added the Ministry would be unable to collect information on catches of QMS stocks that is used to make management decisions. Revised reporting codes for the differentiation among stages in their life history that are not a part of the QMS would provide useful information on their different harvest yields for future management purposes; and
- Allowing fishers to return previously attached bladder kelp to sea by listing it on the Sixth Schedule enables quota holders to maximise the value of attached bladder kelp annual catch entitlement (ACE), and reduce complications associated with monitoring and compliance, without undermining the sustainability of bladder kelp fisheries.

Implementation

The Ministry proposes that both regulatory amendments come into effect at the same time as bladder kelp stocks enter the QMS on 1 October 2010. Stakeholders will be informed on the outcome of these proposals once decisions have been made by Cabinet.

Monitoring, evaluation and review

Review of the Reporting Regulations in relation to reporting codes for bladder kelp will only be necessary if the quota management areas for bladder kelp change at some point in the future, or if coastal areas are opened to allow for the commercial harvest of beach-cast seaweed in FMA 4.

Once listed on the Sixth Schedule of the Act it is possible to review whether retaining a species on that Schedule is appropriate. This would be dependent upon receipt of new information that suggests inclusion of attached bladder kelp on the Sixth Schedule undermines the sustainable utilisation of the resource and/or imposes unnecessary costs. In both cases this is considered unlikely.