



# **Removal of fee charged to vessel operators for observers to supervise returning fish to the sea**

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# 1 Submission Information

The Ministry for Primary Industries (MPI) welcomes written submissions on the proposals contained in the Consultation Document. All written submissions must be received by MPI no later than 5pm on **18 May 2015**.

Written submissions should be sent directly to:

Deepwater Fisheries Management  
Ministry for Primary Industries  
PO Box 2526  
Wellington 6011

or emailed to [FMSubmissions@mpi.govt.nz](mailto:FMSubmissions@mpi.govt.nz)

## 1.1 OFFICIAL INFORMATION ACT 1982

All submissions are subject to the Official Information Act and can be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment under the Act.

## 2 Executive Summary

It is generally illegal to discard fish managed under the Quota Management System (QMS). There are a limited number of exceptions, one of which is when an MPI observer authorises the return or abandonment of fish, aquatic life or seaweed under section 72(5)(c) of the Fisheries Act 1996 (the Act).

Fishing vessel operators are currently charged a fee for each occasion on which an observer supervises fish being returned to, or abandoned in, the sea pursuant to section 72(5)(c) of the Act. MPI proposes that the fee, which is prescribed in Part 4 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001, is either retained (*status quo*) or removed.

MPI's initial preference is for the fee to be removed. In MPI's view this option promotes sustainable fisheries by improving the quality of information available for management purposes (it reduces the incentives for fishers to bypass the authorisation requirement). It also reduces costs to both industry and MPI through removing a redundant fee.

## 3 Purpose

The purposes of this consultation document are to;

- set out MPI's proposed options relating to the fee charged to vessel operators for returning fish managed under the QMS to the sea under observer supervision, and
- to seek views and information related to these proposals from Tangata Whenua and stakeholders.

Submissions received will be reflected in the final advice to the Minister.

MPI proposes two options:

<b>Option 1</b> ( <i>status quo</i> )	<u>Retain</u> the fee (\$28) set out in Part 4 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001 for each occasion on which fish are returned to, or abandoned in, the sea under supervision of an observer.
<b>Option 2</b>	<u>Remove</u> the fee (\$28) set out in Part 4 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001 for each occasion on which fish are returned to, or abandoned in, the sea under supervision of an observer.

Neither of the two options relate to the provision for observers being able to supervise the return of QMS species to the sea; the process provided for under section 72(5)(c) of the Act is outside the scope of this discussion document and will remain unchanged.

## 4 Objectives

The objectives of the proposal are to:

- promote sustainable fisheries management by improving the quality of information regarding the quantity of fish returned to sea under observer supervision, and
- to enhance the effectiveness and cost efficiency of the regulatory framework.

These objectives inform our analysis of this issue.

## 5 Background Information

### 5.1 STATUS QUO

Section 72(5)(c) of the Act allows MPI observers to supervise the return of fish managed under the QMS to the sea. This provision provides a means of allowing commercial fishers to deal with fish that, for whatever reason, has no value if landed. For example, fish that is damaged and no longer fit for human consumption or species that vessels are not able to process (such as crabs taken in trawl fisheries). The use of the provision still requires fishers to report all the catch that is authorised for return to the sea on Monthly Harvest Returns (MHRs) and balance it with annual catch entitlement (ACE). It is not a means for fishers to circumvent their obligations to balance catch with ACE or to take fish in excess of the commercial allowance.

Vessel operators are charged a fee (currently \$28) under the Fisheries (Commercial Fishing) Regulations 2001, for each occasion on which observers supervise returns to the sea. This fee was first introduced in 1990. At that time the Crown had not yet introduced cost recovery levies to recoup some of the costs of managing commercial fisheries, including the cost of observer coverage. The fee was introduced on a “user pays” principle; only those vessel operators using the provision for observers to supervise fish being returned to the sea under observer supervision should pay for the service.

The process of administering the authorisation involves the observer and master of the fishing vessel signing a form listing the date, species and quantities of fish concerned. Upon completion of a trip, MPI collects the fee via an invoice to the vessel operator based on the number of occasions when fish was returned to the sea.



## 5.2 RATIONALE FOR REVIEW

In 2013 MPI consulted on a proposal relating to how commercial fishers report observer authorised discards. The proposal was to introduce a new destination type code to be used on landing returns, to enable better quantification of the volume of observer authorised discards. At that time fishers were required to use one destination type code to report both observer authorised discards and accidental losses (e.g. from torn nets). This meant it was impossible for fisheries managers to differentiate between accidental losses and observer authorised discards.

As part of its submission on the 2013 proposal the Deepwater Group Ltd (DWG, the group that represents quota owners in New Zealand's major deepwater fisheries) requested that the requirement for a fee to be charged for observer authorised discards be rescinded. In subsequent advice to the Minister for Primary Industries, MPI said it would look further into the fee and determine if it was appropriate to retain or rescind it.

There are three primary issues of relevance associated with the requirement to charge the fee.

First, the majority of the costs associated with observer coverage are already paid for by the fishing industry via cost recovery levies imposed on quota holders or through transaction fees. The levies or transactions are based on the cost of an observer per day. The designated daily rate for observers is set at a level that is meant to include all observer duties, of which supervising the return of fish to the sea is a standard component. This renders the additional fee for this task redundant.

The second issue relates to costs to MPI. In response to DWG's submission on the 2013 proposal, MPI conducted an internal review on the costs to MPI associated with administering the process of collating returns and subsequent invoicing of vessel operators. MPI has concluded that the administrative costs are approximately double the sums recovered.

The third issue is that the presence of the fee is known to influence behaviour on some vessels. To avoid paying the fee, vessel crew will, for example, take fish to the galley in quantities far beyond what can reasonably be expected to be eaten. Although reported as eaten, it will have been discarded directly from the galley. Such fish must still be reported on MHRs and balanced with ACE, however reporting it as eaten distorts the information available to fisheries managers reflecting the fate of fish taken in New Zealand waters.

- Do you agree with MPI's analysis of the reasons for the review?
- Are there any other issues of relevance?

## 5.3 RELEVANT FISHERIES

The proposal is relevant to all New Zealand fisheries. However, as the fee can only be incurred when a vessel carries an observer, only vessels that carry observers will be affected. To date, the majority of records are from the deepwater trawl fleet.

## 6 Legal Considerations

The fees are set in the Fisheries (Commercial Fishing) Regulations 2001 which are made under section 297 of the Fisheries Act 1996. Any amendments to the regulations would also be made under section 297.

## 7 Proposed Options

### 7.1 OPTION 1 – STATUS QUO

Option 1 would retain the existing fee charged to vessel operators for each observer authorised discard event.

#### 7.1.1 Impacts

Option 1 will continue to impact both commercial fishers and MPI. It will continue to be inconsistent with the broader approach to charging/recovering the costs of observer services.

#### 7.1.2 Costs

Vessel operators will continue to be charged for an additional component of observers' time. MPI will continue to incur costs of administering a process that is estimated to cost double the revenue it generates.

The incentive for fishers to alter behaviour to avoid paying the fee will remain. This, in turn, could influence the accuracy of information relating to the quantities of fish returned to the sea under observer supervision.

#### 7.1.3 Benefits

There are no benefits to retaining the status quo. The fee does generate a revenue stream for MPI but it is outweighed by administrative costs. Information from MPI observers also indicates that the presence of the fee does not influence fishers' decisions to retain fish rather than disposing of it (either via observer supervision or to the galley). That is, it does not contribute to reducing perceived waste. The threshold for what vessel operators consider is unwanted or unfit for human consumption will not change regardless of whether the status quo remains.

### 7.2 OPTION 2 – REMOVAL OF FEE

Option 2 would remove the fee set out in Part 4 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001.

As already noted, the provision within the Act enabling observers to supervise the return of fish to the sea will not change. That process will remain the same with the exception of removing the fee charged to vessel operators who use the provision and consequent demands on MPI staff to collate returns and generate invoices.

#### 7.2.1 Impacts

Under this option those fishers who use the provision for returning fish to the sea under observer supervision will not be charged a fee for using that provision. The MPI staff currently involved in the subsequent invoicing process will no longer have to devote time to this process. In conjunction with the new destination type code introduced in 2013, this option will result in more accurate reporting of fish managed under the QMS that are returned to the sea because it removes incentives to informally discard catch.

#### 7.2.2 Costs

Removing the fee will result in the loss of a small revenue stream to MPI. During 2013 MPI observers supervised 480 separate instances on 25 vessels when fish were returned to the sea. This resulted in 79 invoices totalling \$13,440 (excluding GST) being issued. The funds raised are used to offset costs in the MPI observer programme, although this total represents a very

small proportion of the overall budget. As administration costs are greater than revenue generated, the difference represents a cost that is currently borne by MPI.

### 7.2.3 Benefits

#### *MPI*

The time currently devoted by MPI to administering the process would be able to be spent on more relevant work. The associated costs of administering the process would be removed.

#### *Vessel operators*

The fishing industry pays for most observer coverage via cost recovery levies or transaction costs. The industry collectively will benefit from not being charged for a specific component of observer coverage. As noted above, vessel operators paid over \$13,000 (excluding GST) during 2013. This is a small amount over the whole industry, but the benefit is more related to the removal of a redundant fee requirement for what is a routine part of an observer's tasking on a vessel.

#### *Better information*

As noted earlier, the presence of a fee for observer authorised discards is known to influence behaviour on some vessels. For example, in order to avoid incurring the fee, vessel crew will sometimes take large quantities of fish to the galley. MPI considers it highly likely that much of this is then discarded directly from the galley rather than eaten. Although such fish is still subject to reporting and catch balancing obligations, the reporting does not accurately represent the fish's fate.

Removal of the fee will reduce incentives to avoid paying it and will likely result in more accurate reporting on the fate of fish taken in New Zealand waters. This will enable more accurate monitoring of the use of the provision to return fish to the sea under observer supervision. Such information could form the basis of any analysis of options to reduce quantities of fish involved. Utilising catch rather than returning it to the sea would contribute to maximising the value of fisheries resources.

- Are the costs and benefits that are presented accurate?
- Are there costs or benefits associated with either option that have not been identified?
- Are there alternative options that have not been identified?

## 8 Other Matters

### 8.1 MONITORING AND REVIEW

In the event of the fee being removed, monitoring will be undertaken to determine whether use of the provision allowing observer authorised discards has increased. Both the number of instances of fish being returned as well as the quantities involved will be monitored. Based on this, options to reduce the quantities involved could be developed.

### 8.2 IMPLEMENTATION

Subject to approval by the Minister and Cabinet, any changes would take effect on 1 October 2015. The changes would be effected by regulatory amendment. Stakeholders would be made aware of any changes either directly or indirectly via, for example, stakeholder organisations.

## 9 Conclusion

MPI's preferred option is Option 2, removal of the fee charged for observer authorised discards. MPI's view is that this option best meets the overall objectives of:

- promoting sustainable fisheries management by improving the quality of information regarding the quantity of fish returned to the sea under observer supervision, through reducing incentives for fishers to informally dispose of catch; and
- enhancing the effectiveness and cost efficiency of the regulatory framework by reducing costs to both industry and MPI through removing a redundant fee.

Do you agree with this analysis?  
Are there other matters that should be taken into consideration?

We welcome your views and any additional information related to the proposals in this paper. Submissions will be reflected in final advice to the Minister.