



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

Decision Document

MPI Decision Paper No: 2015/032.

Prepared for the Minister for Primary Industries
by the Ministry for Primary Industries

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1 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 that an observer supervises fish being returned to, or abandoned in, the sea pursuant to section 72(5)(c) of the Act. MPI undertook consultation on whether to retain the fee, which is prescribed in Part 4 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001, or remove it. The options set out in this Decision Document are the same as those consulted on, and are set out in the table below.

Option 1 (<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.
Option 2 (recommended option)	<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.

This decision document recommends that you agree to remove the fee. This will reduce costs to both the fishing industry and MPI through removing a redundant fee that costs MPI approximately double the sum that is charged to administer the process. It will also contribute to sustainable fisheries management by improving the quality of information available for management purposes (it reduces the incentives for fishers to by-pass the authorisation requirement).

2 Purpose

2.1 BACKGROUND

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 deepwater 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.

2.2 RATIONALE FOR MANAGEMENT INTERVENTION

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 code¹ 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 you, 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 comprehensive recovery of the costs of observer coverage now renders the additional fee for this one 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.

3 Consultation

Between 22 April and 18 May 2015, MPI consulted on your behalf on the proposal to remove the fee for observers to supervise fish returned to the sea. MPI followed its standard consultation process of posting a Consultation Document on the MPI website and alerting stakeholders to this.

¹ A destination type code is used on landing returns to describe the fate of fish

3.1 SUBMISSIONS RECEIVED

Submissions were received from:

- a) Independent Fisheries Ltd (IFL);
- b) Te Mana o Ngati Rangitihi Trust;
- c) Southern Inshore Fisheries Management Company Ltd (SIFMC);
- d) Fisheries Inshore New Zealand.

3.2 SUMMARY OF SUBMISSIONS

All submissions supported the proposal to remove the fee. In their submission, IFL noted that they regard the fee as an unnecessary compliance cost. SIFMC noted the increasing rate of observer coverage on inshore vessels and that the fee should be removed for these vessels as well as the deepwater fleet.

Full copies of submissions are available in Appendix 1.

4 Legal Considerations

The fee for observer authorised discards is contained in the Fisheries (Commercial Fishing) Regulations 2001, which are made under section 297 of the Act. Any amendments to the regulations would also be made under section 297.

4.1 SECTION 8 – PURPOSE OF THE ACT

The purpose of the Act is to provide for utilisation of fisheries resources while ensuring sustainability. Removing the fee for observers to authorise the return of fish to the sea is consistent with the purpose of the Act. It will remove the incentive for fishers to alter behaviour to avoid paying the fee. This improves the quality of the information on which management decisions are based.

5 Management Options

The final options are the same as those consulted on. Under both options, the provision within the Act enabling observers to supervise the return of fish to the sea will not change and neither will the process by which the observer and vessel master complete the necessary documentation.

5.1 OPTION 1 – RETAIN FEE (STATUS QUO)

Option 1 would retain the existing fee charged to vessel operators for each observer authorised discard event. It would continue to impact both commercial fishers and MPI and be inconsistent with the broader approach to charging/recovering the costs of observer services.

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.

This option was not supported by any submitters. It is also not supported by MPI, which considers there are no benefits to retaining the status quo.

5.2 OPTION 2 – REMOVAL OF FEE (MPI RECOMMENDED OPTION)

Option 2 would remove the fee charged to vessel operators for observers to supervise the return of fish to the sea. The provision will remain the same with the exception of the subsequent fee for vessel operators that use it.

The MPI staff currently involved in the subsequent invoicing process will no longer have to devote time to this process. That additional time will be able to be spent on their other work. 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.

Removing the fee will result in the loss of a small revenue stream to MPI. During 2013 and 2014 invoices totalling \$13,440 and \$21,672 respectively (excluding GST) were issued. However, as administration costs are greater than the revenue generated, the difference represents a cost that is currently borne by MPI.

This option was supported by all submitters. Three of the submissions noted their agreement with MPI's analysis and rationale for removing the fee.

Removing the fee is MPI's recommended option. As noted earlier, the majority of 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. Retaining an additional fee is anomalous in this context.

The presence of the fee 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 as it is reported. 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 future 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.

6 Other Matters

In the event of the fee being removed, monitoring will be undertaken to determine whether use of the provision providing for 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.

7 Conclusion

MPI's preferred option is Option 2, removal of the fee charged to fishing vessel operators for observers to supervise the return of fish to the sea. MPI's view is that this option best meets the overall objectives of:

- enhancing the effectiveness and cost efficiency of the regulatory framework by reducing costs to both industry and MPI through removing a redundant fee; and
- 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

Appendix 1: Submissions

- 1) Independent Fisheries Ltd
- 2) Te Mana o Ngati Rangitihi Trust
- 3) Southern Inshore Fisheries Management Company Ltd
- 4) Fisheries Inshore New Zealand

1) Independent Fisheries Ltd

From: Stephen Bishop [mailto:stephen.bishop@indfish.co.nz]

Sent: Wednesday, 22 April 2015 3:56 p.m.

To: David Foster (David)

Subject: FW: Proposal to remove observer authorised discard fee removal

Hi David

Totally agree with the removal of this fee which we have always regarded as an unnecessary compliance cost.

Regards

Stephen

2) Te Mana o Ngāti Rangitīhi Trust



Deepwater Fisheries Management
Ministry for Primary Industries
P.O. Box 2526
Wellington 6011

5 May 2015

Tena koe

RE: REMOVAL OF FEE CHARGED TO VESSEL OPERATORS FOR OBSERVERS TO SUPERVISE
RETURNING FISH TO THE SEA

1. INTRODUCTION

- 1(a) This submission to the Ministry for Primary Industries (MPI) on the *removal of fee charged to vessel operators for observers to supervise returning fish to the sea* has been prepared by the Environmental Officer for Te Mana o Ngāti Rangitīhi Trust (TMONRT).

2. MANDATE AND STRATEGIC OBJECTIVES

- 2(a) Te Mana o Ngāti Rangitīhi Trust is a Post Settlement Governance Entity (PSGE) established as a Common Law Trust to administer assets derived via the Central North Island Collective Settlement (CNI). TMONRT is governed by elected members onto the Board of Trustees established in September 2009.
- 2(b) The Trust Deed Mandate for TMONRT (in addition to exercising stewardship over the CNI settlement seeks to ensure that:
- Ngāti Rangitīhi is enabled to flourish in perpetuity, supported by their unique self-determining capabilities
 - The mana of the iwi is upheld, developed and organised
 - The iwi resource are identified and optimised
 - The survival and growth of the iwi is enabled (including: cultural, economic, social, spiritual, environmental and political survival and growth)
 - The iwi whanau support networks which are developed and maintained; and
 - The iwi members capacity to be self-reliant is enhanced

www.ngatirangitihiiwi.nz

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3 Onewairere Place, Mahāta | PO Box 831, Whakatāne 3158

2(c) TMoNRT regularly works alongside its neighbour iwi and local, regional and central authorities in social, cultural, environmental and economic matters.

3. IWI ENVIRONMENTAL MANAGEMENT PLAN

3(a) Te Mahere ā Rohe mō Ngāti Rangitihi – Ngāti Rangitihi Iwi Environmental Management Plan (IEMP) was lodged with Whakatāne District Council (9 February 2012), Bay of Plenty Regional Council (23 February 2012), Rotorua District Council (April 2013) and the Western Bay of Plenty District Council (February 2014).

3(b) The New Zealand Planning Institute awarded TMoNRT the Nancy Northcroft Planning Practice Award: Supreme Practice Award for TMoNRT – Iwi Environmental Management Plan, May 2013.

3(c) TMoNRT was also the recipient of the Best Practice Award: Non-Statutory Planning for the Iwi Environmental Management Plan, May 2013.

3(d) The Plan can be viewed at www.ngatirangitihi.iwi.nz

4. GENERAL

4(a) Thank you for providing an opportunity for TMoNRT to make a submission to the MPI on the 'removal of fee charged to vessel operators for observers to supervise returning fish to the sea'. TMoNRT has read the MPI Discussion Paper No: 2015/09 outlining the proposal from MPI to remove the fee for observers on fishing vessels when observers supervise fish being returned to, or abandoned in, the sea pursuant to section 72(5)(c) of the Fisheries Act 1996.

5. SUBMISSION

5(a) TMoNRT supports option 2 – The removal of the fee prescribed in Part 4 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001.

5(b) TMoNRT agree with MPI analysis of the reasons for the review.

6. CONCLUSION

TMoNRT supports the MPI in their proposal to remove the observers fee.


Please feel free to contact me if you have any questions.

Ngā mihi



Christopher Clarke
Environmental Officer
Te Mana o Ngāti Rangitihi Trust
Matatā

3) Southern Inshore Fisheries Management Company Ltd



**SOUTHERN INSHORE
FISHERIES**
MANAGEMENT COMPANY LIMITED

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SUBMISSION ON

Removal of Fee Charged to Vessel Operators for Observers to Supervise Returning Fish to the Sea

MPI Discussion Paper No. 2015/09

1. Thank you for this opportunity to submit on the Ministry for Primary Industry's (MPI) consultation for the Removal of Observer Fees for Supervising Return of Fish to Sea.
2. Southern Inshore Fisheries (SIF) represents 104 inshore fishstocks throughout fisheries management areas 3, 5, 7, and 8.
3. SIF is a member of Fisheries Inshore New Zealand (FINZ) and work collaboratively on national and regional issues on behalf of company shareholders and associated fishers.
4. We agree with the MPI rationale that the Observer cost recovery process accounts for associated costs for the supervision of return to the sea as a normal component of the observers duties. The additional collection of the \$28 fee for service is therefore redundant.
5. Whilst the majority of observer services relate to the deepwater vessels there is an increasing prevalence of observers on inshore vessels and therefore the fee should be removed for these operators as well.
6. We support the proposal to remove the service fee of \$28 to observer return of fish to the sea.
7. We also support the submission made by Fisheries Inshore New Zealand.

Contact:
Carol Scott
Chief Executive

www.southerninshore.co.nz

4) Fisheries Inshore New Zealand

FISHERIES INSHORE NEW ZEALAND

Committed to Healthy Oceans; Sustainable Fisheries

Deepwater Fisheries Management
Ministry for Primary Industries
PO Box 2526
Wellington
18 May 2015

Dear Vicky

Removal of Observer Fees for Supervising Return of Fish to Sea MPI Discussion Paper No:2015/09

1. You have asked for comments on the proposal "Removal of Observer Fees for Supervising Return of Fish to Sea".

Fisheries Inshore New Zealand

2. Fisheries Inshore Limited (FINZ) represents the inshore finfish, pelagic and tuna fisheries of New Zealand. It was formed in November 2012 as part of the restructuring of industry organisations. Its role is to deal with national issues on behalf of the sector and to work directly with and behalf of its quota owners, fishers and affiliated Commercial Stakeholder Organisations (CSOs). As part of that work, it will also work collaboratively with other industry organisations and SREs, Seafood New Zealand, Ministry for Primary Industries (MPI) and Department of Conservation.
3. Its key outputs are the development of, and agreement to appropriate policy frameworks, processes and tools to assist the sector to more effectively manage inshore, pelagic and tuna fishstocks, to minimise their interactions with the associated ecosystems and work positively with other fishers and users of marine space where we carry out our harvesting activities.
4. While this proposal has been circulated in the name of the deepwater team, it has application to the inshore sector.

Proposal

5. The proposal is to remove any observer fees for the supervision of returning QMS fish to the sea under section 72(5)(c) of the Fisheries Act. At present, MPI charges a \$28 fee for the service. The fee is invoiced directly to the company requesting the service.
6. MPI considers the fee to be redundant on the basis that:
 - a. The costs are already included in the charges for observer services;
 - b. The costs do not cover the administration costs of the fees;
 - c. The fees are believed to adversely impact on fisher behaviour.
7. We support the proposal.



Tom Clark
Policy Manager
Fisheries Inshore Limited