

INITIAL POSITION PAPER - CONTAINER TYPE REPORTING FOR SCHEDULE SIX DISCARDS

Executive Summary

- 1 On 1 October 2006, the Minister of Fisheries clarified reporting requirements for fish discarded in accordance with Schedule Six of the Fisheries Act 1996 (the Act). The Minister amended the Fisheries (Reporting) Regulations 2001 (the reporting regulations) to require commercial fishers to report Sixth Schedule and introduced a new destination type code, “X” (destination X) for application to most Schedule Six discards.¹
- 2 After introduction of the new reporting requirements, a technical problem with implementation was identified²: discarded fish are frequently returned to sea without being placed in a container but, under the new reporting requirements, fishers are required to complete “container type” information (number, type and content weight) on the landing sections of Catch Effort Landing Returns (CELRs) or Catch Landing Returns (CLRs).
- 3 MFish proposes addressing this technical problem by either removing the requirement to complete “container type” information for Sixth Schedule discards (Option 1) or introducing a new container type code for Sixth Schedule discards (Option 2)
- 4 MFish’s preferred option is Option 1. MFish considers a new container type code unnecessary at this time.

Summary of Options

- 5 The management options proposed in this paper are:

Option 1 – Remove the requirement to report “container-type” details

- 6 Under Option 1, the reporting regulations would be amended to remove the requirement to report “container type” information for Sixth Schedule discards reported against destination X. An estimate of the total greenweight of discarded fish would still be required;

¹ Destination X is used for all Schedule Six species excepting those listed on Schedule 6A of the Fisheries (Reporting) Regulations 2001. Species listed on Schedule 6A are reported against destination M and balanced against ACE.

² A second issue was also identified. Fishers are required to report classes of rock lobster that under the Fisheries (Commercial Fishing) Regulations 2001 cannot legally be taken or possessed, because these classes are listed on the Sixth Schedule and fishers and scientists are concerned the requirement will affect the quality of information reported in other parts of the reporting form. This second issue interacts with a number of pieces of legislation and MFish is undertaking analysis to identify a robust solution. In the meantime, interim instructions have been issued to clarify rock lobster reporting.

Option 2 – Introduce a new “container type” code for Destination X discards

- 7 Under Option 2, the reporting regulations would be amended to insert a new container type code for Sixth Schedule discards reported to destination X without being placed in a container.

Rationale for Management Options

Background to Management Problem

- 8 On 1 October 2006, the Minister of Fisheries clarified Sixth Schedule requirements by amending the reporting regulations to require commercial fishers to report Sixth Schedule discards on CELRs or CLRs and introduced a new destination type code, destination X. When destination X is used (in accordance with the Sixth Schedule) there is no requirement for the discarded catch to be reported on Monthly Harvest Returns (MHRs) and subsequently balanced against Annual Catch Entitlement.
- 9 After the introduction of destination X, commercial fishing industry participants and MFish personnel identified a technical problem with its implementation. When reporting Sixth Schedule discards, fishers are required to complete “container type” information on the landing sections of CELRs and CLRs. Many species of fish discarded in accordance with the Sixth Schedule are returned immediately to the waters from which they were taken and are never placed in a container. Consequently fishers are unable to report container details truthfully.
- 10 MFish believes management action to address the technical operational issue is appropriate to maintain credible and workable reporting requirements.

Rationale for Options

- 11 MFish proposes two management options (Options 1 and 2 above) to address the problem of fish discarded without being placed in a container.
- 12 Option 1 removes the requirement to complete “container type” information for fish reported to destination X without being placed in a container. Currently the reporting regulations do not list a suitable container type for fish discarded immediately to sea. The primary information being sought from fishers is total quantity of discards and removing the requirement to provide container details obtains this information while simplifying destination X reporting for fishers.
- 13 Option 2 introduces a new container type code for Sixth Schedule discards. This option recognises all other landings reported require completion of container details and maintains consistency in reporting requirements. A new container type code (eg, NCU – no container used) would allow fishers to meet their container reporting requirements without providing inaccurate information.
- 14 MFish has not proposed maintaining the status quo for reporting of destination X “container type” information. MFish does not consider requiring fishers to be untruthful on their catch returns a credible option.

Assessment of Management Options

Option 1 – Remove the requirement to report “container type” details

- 15 Species of fish listed on the Sixth Schedule are required to be returned as soon as practicable or immediately to the waters from which they were taken. Many species of fish, discarded in accordance with the Sixth Schedule, are returned immediately and are never placed in a container. MFish considers it unnecessary to require fishers to place fish into a container before discarding them so that they can meet their “container type” reporting requirements. Such a requirement could also impact on the survivability of the returned fish.
- 16 Requiring fishers to report “container type” information when no container is used forces fishers to find a “best fit” answer (which may differ from fisher to fisher) or to complete their forms untruthfully. Removing the requirement allows fishers to be completely truthful when completing their return (ie, when no container is used, no container information is reported).

Option 2 – Introduce a new “container type” for destination X discards

- 17 Option 2 would introduce a new container type code (e.g. NCU – no container used) that could be used to complete both the container “type” and “number” fields for fish reported to destination X on the landing sections of CELRs or CLRs. The new container type code would allow fishers to be completely truthful when completing their return (as for Option 1) and would maintain consistency in reporting of landings by maintaining the mandatory requirement to complete container information.
- 18 Option 2 is the appropriate option if allowing fishers to leave sections of the form blank would create risks or uncertainties for other aspects of reporting.
- 19 At this time, MFish considers the risks associated with allowing fishers to leave specified sections of the form blank in specified situations to be low and therefore prefers Option 1.

Statutory Considerations

- 20 The proposed management options are technical in nature and relate to an operational problem arising from implementation of Sixth Schedule reporting requirements in 2006. Consequently, the options do not have implications for section 5, 8, 9, 11, 13, 14 and 21 of the Act.
- 21 Information Principles (s10) have been considered in the development of this proposal and best available information has been incorporated, including information from fisheries stakeholders and commercial catch returns.

REGULATORY IMPACT STATEMENT

Container Type Reporting for Schedule Six Discards

Executive summary

A new reporting code, destination X, was introduced on 1 October 2006 for fish discarded in accordance with Schedule Six of the Fisheries Act 1996 (the Act). Following introduction of the new code, industry and MFish identified a technical problem – fishers are unable to truthfully complete mandatory “container type” information on catch landing returns when fish are returned immediately to sea without being placed in a container.

MFish’s preferred option to address this technical problem is to amend the Fisheries (Reporting) Regulations 2001 (the reporting regulations) to remove the requirement to complete “container type” information on catch landing returns for fish discarded without being placed in a container.

Adequacy statement

This Regulatory Impact Statement (RIS) addresses all relevant aspects of the RIS requirements contained in the Cabinet Office Circular CO (07) 3. It has been reviewed by the MFish Regulatory Impact Analysis Review Committee and is considered adequate according to the criteria agreed by Cabinet. Where a requirement has not been addressed it is considered not relevant to this proposal.

Status quo and Problem

A new destination type code, destination X, was introduced on 1 October 2006 to clarify reporting requirements for fish discarded in accordance with Schedule Six of the Act. Post the introduction of destination X, the following technical problem was identified. When reporting Schedule Six discards, fishers are required to complete “container type” information on the landing sections of CELRs and catch landing returns (CLRs). Many species of fish discarded under Schedule Six are returned immediately to sea without being placed in a container.

MFish considers it undesirable to require fishers to place fish into a container before discarding them as such a requirement could impact on the survivability of the returned fish. Requiring fishers to report “container type” information when no container is used forces fishers to find a “best fit” answer (which may differ from fisher to fisher) or complete their forms untruthfully.

Objectives

A key fisheries outcome is to maximise the value New Zealanders obtain through the sustainable use of fisheries resources and protection of the aquatic environment. To achieve this successfully, New Zealanders must have confidence in, and support the way their fisheries are managed. Maintaining credible and workable commercial reporting requirements is important to building this support.

Alternative options

MFish proposed introducing a new container type code for fish discarded in accordance with Schedule Six where no container was used (Option 2) as an alternative to the preferred option. The new container type code would allow fishers to complete their returns truthfully, and would maintain consistency in reporting of landings by maintaining the mandatory requirement to complete container type information.

Option 2 is considered appropriate if allowing fishers to leave sections of the form blank creates unacceptable risks to other aspects of reporting (for example, give fishers the impression that other mandatory sections of the reporting form can also be left blank). At this time, MFish considers the risks to other aspects of reporting low. Consequently Option 2 is not MFish's preferred option.

Maintaining the status quo is not proposed as an alternative option. MFish does not consider requiring fishers to be untruthful or misreport on their catch returns is a credible option.

Preferred options

Removing the requirement to complete container type information for discards in accordance with Schedule Six allows fishers to be completely truthful when completing their return - when no container is used, no container information is reported.

Implementation and review

It is proposed that amendments to the reporting regulations to clarify destination X container type reporting requirements will come into force on (or soon after) 1 April 2008. Commercial fishers will be notified of any changes to destination X reporting requirements via educational material distributed by FishServe, sent to the New Zealand Seafood Industry Council and posted on the MFish external website. Compliance and enforcement of any changes to destination X reporting requirements will be carried out by Fishery Officers. Monitoring and evaluation of submitted reporting forms will be carried out during 2008 to ensure destination X reporting requirements are being met.

Consultation

MFish will consult with all persons and organisations considered by the Minister to be representative of those classes of persons having an interest in options to clarify destination X reporting requirements: including (but not limited to) commercial fishing interests, including Maori commercial fishing interests, and research providers. MFish will consult with relevant government departments after initial consultation with interested parties is completed and submissions have been received and considered.

SUMMARY OF SUBMISSIONS - CONTAINER TYPE REPORTING FOR SCHEDULE SIX DISCARDS

22 MFish received submissions on the Container Type Reporting For Schedule Six Discards IPP from:

- New Zealand Recreational Fishing Council (NZRFC)
- The New Zealand Seafood Industry Council (SeaFIC)
- Te Ohu Kaimoana Trustee Limited (TOKM)
- Sanford Limited

General Submissions

23 All four submissions received agree that there is a need to correct the technical problem with reporting requirements for Schedule Six discards.

24 TOKM submitted that there is no particular reason to record container type data for catch returned to the sea. TOKM submits that the requirement to place catch (to be returned to sea under Schedule Six) into containers, delays return to the sea. TOKM states that any catch returned to the sea needs to be in good condition and able to survive. TOKM suggests that this is best achieved by assessing the catch immediately and returning unsuitable catch with a minimum of handling.

25 TOKM also agrees that it is important that commercial catch returned to sea under Schedule Six is documented for management purposes.

26 NZRFC also believes that commercial fishers, returning catch to sea under Schedule Six, should report the quantities and condition of all fish returned to the sea.

Status quo – change nothing

27 No submissions in support of the status quo were received.

Option 1 – Remove the requirement to report “container type” details

28 All submissions support management option 1, the removal of the requirement to report “container type” details on reporting forms.

Option 2 – Introduce a new “container type” code for destination X discards

29 No submissions in support of option 2 were received.

Other Submissions

- 30 NZRFC requests that independent research be carried out on a regular basis to quantify the information supplied by the commercial sector.

