

**Review of Sustainability Measures and Other Management
Controls for the April 2006 Fishing Year**

Initial Position Paper

22 December 2005

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AMENDMENT TO REQUIREMENTS FOR DETERMINING AND RECORDING WEIGHTS OF FISH PACKED AND FROZEN AT SEA

Proposal

- 1 The Ministry of Fisheries (MFish) proposes that the Fisheries (Recordkeeping) Regulations 1990 ('Recordkeeping Regulations'), the Fisheries (Commercial Fishing) Regulations 2001 ('Commercial Fishing Regulations') and the Fisheries (Conversion Factors) Notice 2000 ('Conversion Factors Notice') be amended to:
 - a) Require that all fish packed and frozen at sea is labelled with species name (common name or scientific name or species code), landed state, packing date and net weight of the fish along with the identity of the vessel on which it was packed;
 - b) Ensure that "naked blocks" are classed as containers for the purposes of recordkeeping and labelling;
 - c) Consequentially revoke regulation 19(6) of the Commercial Fishing Regulations, which will be superseded by the proposed amendments;
 - d) Clarify the requirement to record actual weight rather than nominal net weight of fish on purchase tax invoices and unloading dockets;
 - e) Require Licensed Fish Receivers to record the number and type of containers on purchase tax invoices;
 - f) Provide a standard deduction of 2% in weight for ice glaze and provide a mechanism for additional tolerances for certain classes of vessel which employ more than 2% glaze;
 - g) Ensure that additives absorbed by or adsorbed to fish products are treated as part of the landed state for the purpose of reporting weights;
 - h) Require fishermen packing and freezing fish at sea to keep records of packaging weights; and
 - i) Provide a standard method to be used by fishery officers to determine, on landing, the actual weight of fish product packed and frozen at sea.

Interpretation

- 2 The following terms are used in this paper:
 - Greenweight – the weight of fish, aquatic life or seaweed before any processing commences and before any part is removed.
 - Actual weight – the weight of fish in kilograms in its landed state. Actual weight is determined by deducting legitimate allowances for packaging and other non-fish components from the gross weight.

- Gross weight – the combined weight of fish, packaging and other non-fish components.
 - Net weight or nominal net weight – the weight at which the product will be offered for sale.
- 3 The proposals in this paper are intended to apply to fish that is packed and frozen at sea. Fish such as ling, toothfish and tunas, that are processed and frozen individually, but not packed, are not covered by the proposals. As noted above however, “naked blocks” (blocks of frozen fish that have no external covering) will be covered by these proposals.
- 4 It is envisaged that the majority of fishing vessels that pack and freeze product at sea are those registered as a Limited Processing Fishing Vessel or those that have a Registered Risk Management Programme under the Animal Products Act 1999. Vessels not operating under either regime will not be affected by the proposals, although the chief executive will have the ability to require additional vessels to comply with the requirements.

Background

- 5 The reporting framework set out in the Fisheries (Reporting) Regulations 2001 (‘the Reporting Regulations’) is a critical tool with which MFish collects information for use in assessing the state of New Zealand’s fishstocks and enforces the rules associated with the utilisation of those fishstocks. The reporting framework is underpinned by the Recordkeeping Regulations which prescribe the required documents on which reporting is based.
- 6 The Reporting Regulations currently require that catch of all species other than scallops and Foveaux Strait dredge oysters be recorded in greenweight kilograms on monthly harvest returns, which are the returns used for catch balancing purposes. Greenweight is the weight of the fish before any processing commences and before any part is removed. It is important for the integrity of the quota management system (‘QMS’) that the reporting of catch is accurate.
- 7 The responsibility for determining the greenweight of any fish rests with the licensed fish receiver (‘LFR’). This is straightforward when fish is landed “green” since the catch has simply to be sorted by species and weighed. However, frozen fish landed by factory vessels is normally processed and packed before landing. The Conversion Factors Notice provides an official ratio for use in converting the weight of processed fish landed to greenweight.
- 8 Aside from providing the conversion factors, the current regulatory framework is not prescriptive about how either LFRs or MFish determine the greenweight of fish packed and frozen at sea. It does not provide guidance on how to allow for the water glaze (applied to the fish to prevent it drying out), packaging, or other additives that form part of the gross weight of the landed catch. MFish is concerned about inaccuracies in reporting catch (which may amount to some tonnes of fish per landing), while the industry has concerns about (i) the absence of a level playing field between operators; and (ii) uncertainty over the MFish’s approach to prosecution for perceived offences.

- 9 Issues surrounding the determination of greenweight for fish packed and frozen at sea have been troublesome for some years. Ways of resolving these issues have been under discussion by a joint industry/Ministry working party for over a year, and an agreed position was finally reached in March 2005. The proposals below are based on this agreement.
- 10 An initial discussion paper was released in April 2005. Feedback from industry representatives indicated significant concerns with this paper. The Ministry agreed to review its proposals and formally release a revised Initial Position Paper.

Problem Definition

- 11 Fish that is packed and frozen and at sea presents some unusual difficulties for inspecting fishery officers and LFRs. These difficulties are:
 - a) It is difficult to pack fish to a predetermined weight, so the weights of cartons of fish are normally quite variable. It is therefore necessary to weigh a large sample of cartons from each product line to determine a reliable average gross weight. The question of how many cartons must be weighed is a matter of frequent dispute;
 - b) It is often difficult in practice to identify the cartons belonging to a particular product line, since most fish cartons look alike. Labelling requirements currently vary depending on the intended destination of the product and the type of vessel. For each carton fishery officers need to know the species, landed state, net weight and packing date of the contents. It is inefficient to have to determine this by opening every carton;
 - c) Further difficulties for identification are introduced when fish are frozen into “naked blocks”. These are rectangular blocks of fish product, usually encased in a layer of ice but without any other form of packaging or wrapping. At present these blocks are not covered by the definition of “container” in the Recordkeeping Regulations and are therefore exempt from labelling requirements;
 - d) Frozen fish is frequently glazed with either seawater or freshwater. This glaze is applied before packing, and serves as a coating to prevent freezer burn. It is not possible to ascertain the amount of glaze applied without thawing the product, which will destroy its export value. Additionally, there is as yet no straightforward means of determining the amount of glaze after landing. Operators often make a deduction for glaze either using a standard allowance or using vessel records; and
 - e) Additionally, some fish products contain additive solutions (anti-oxidants, sodium-tripolyphosphate or gelling agents). These are absorbed into the product, and it is not possible to ascertain by inspection whether they are present, or if so in what quantity. The legislation is currently silent as to whether or not these additives are a part of the landed state for the purpose of calculating greenweight. Practice varies between LFRs, with some making deductions from the gross weight for these additives and others including them in the gross weight.

- 12 Due to the inherent difficulties in determining actual weight of fish that has been packed and frozen at sea, LFRs therefore have difficulties recording and reporting the greenweight of fish received. The greenweight is determined from the actual weight and multiplied by a conversion factor where applicable. Greenweight is the basis for the QMS, where catch is reported and balanced against annual catch entitlement.
- 13 These issues create potential inaccuracies in reported catch, which may undermine the integrity of the QMS.

Options for Management Response

- 14 Non-regulatory options include the “do nothing” option or development of an Industry Code of Practice. Industry recently attempted to develop a Code of Practice, however a consensus could not be reached. Industry did agree however to collaborate with MFish on developing a standard.
- 15 MFish therefore considers that several regulatory amendments are necessary to give effect to the industry/Ministry working party agreement. The proposed amendments are:

- a) To amend the Commercial Fishing Regulations to require all commercial fishers packing and freezing fish at sea to mark the containers in which the fish are packed with a species identifier (common name or scientific name or species code), landed state, net weight, packing date and vessel identifier (name or number). References to common name, scientific name, species code, landed state and container type are references to the reporting codes in Schedule 3 of the Reporting Regulations.

As a consequence regulation 19(6) of the Commercial Fishing Regulations is to be revoked, as it will be superseded by the proposed amendment. These amendments specifically address the problem identified in paragraph 11(ii);

- b) To amend regulation 4 of the Recordkeeping Regulations to require commercial fishers packing and freezing fish at sea to keep records of packaging weights, and to produce these on demand to any fishery officer. This amendment will assist both fishery officers and LFRs to determine actual weight;
- c) To amend the definition of “container” in regulation 2 of the Recordkeeping Regulations to make it clear that “naked blocks” of frozen fish are containers for the purpose of recordkeeping and labelling. The definition of “naked blocks” will exclude individual fish.

Labelling of “naked blocks” is not difficult as some vessels currently freeze paper labels into the ice coating of these blocks now. This amendment addresses the problem identified in paragraph 11(iii);

- d) To amend regulations 12 and 13 of the Recordkeeping Regulations to make it clear that actual weight rather than net weight is required to be recorded on purchase tax invoices and unloading dockets;
- e) To amend regulation 13 of the Recordkeeping Regulations 1990 to ensure that container numbers and type are required to be recorded on purchase tax

invoices. Reference to container type is a reference to the reporting codes in Schedule 3 of the Fisheries (Reporting) Regulations 2001;

- f) To amend regulation 2 of the Recordkeeping Regulations to introduce a definition of the term “product line”, being a set of containers from the same landing, all containing the same net weight of fish and containing fish of the same species and landed state. This amendment addresses the problem identified in paragraph 11(ii);
 - g) To amend the Conversion Factors Notice to make it clear that additives and absorbed water are part of the landed state for the purpose of reporting weights. It is also proposed to amend regulation 13 of the Fisheries (Recordkeeping) Regulations 1990 to allow an LFR to deduct any allowance in weight made for added polyphosphate solutions when completing a purchase tax invoice. These amendments addresses the problem identified in paragraph 11(v).
- 16 MFish has considered the issue of allowing vessel specific glaze ratios where more than 2% glaze is used on a particular vessel or class of vessel. However the Fisheries Act 1996 does not currently contain a provision to provide regulatory support for this measure and it would be at least two years before the Act could be amended accordingly. In the interim MFish considers the best option may be a classification of vessels into classes, for which appropriate glaze ratios can be specified in regulation. MFish welcomes submissions on the potential classification of vessels using different glaze ratios.
- 17 MFish also proposes to introduce a new “administrative” regulation to specify how fishery officers will determine the actual weight of a product line of frozen fish. In the absence of proof to the contrary this calculation will be deemed to be correct. The details in the proposal are slightly adapted from the Canadian Consumer Packaging and Labelling regulations. The proposed new regulations are contained in the Appendix to this paper and address the problems identified in paragraphs 11(i) and 11(iv).

Relationship to Food Safety Authority Labelling Regulations

- 18 The New Zealand Food Safety Authority (FSA) is the agency responsible for administering the legislation relating to primary processing of animal products. They are also the controlling authority for imports and exports of food and food-related products. The primary statute is the Animal Products Act 1999 and there are several regulations and notices issued pursuant to that Act that are relevant to fishing vessels that pack and freeze product at sea.
- 19 The Animal Products (Regulated Control Scheme – Limited Processing Fishing Vessels) Regulations 2001 apply to vessels that carry out limited processing operations of fish material at sea [regulation 4(1)] where:
- Any of the fish material or fish product is intended to be exported for human consumption as New Zealand product;
 - That fish material or fish product is not be delivered to an onshore primary processor, other than solely for storage or transport (or both); and

- That fish material has been harvested from or is deemed to have been harvested from within New Zealand fisheries waters.
- 20 Fishing vessels covered by these Regulations are required to label product in accordance with the Animal Products (Specifications for Limited Processing Fishing Vessels) Notice 2005. Clause 38 of that Notice states that labelling must be provided on transportation outers and must state:
- a) The fish material or fish product name or description;
 - b) Storage directions, where necessary to maintain the fish material as suitable for processing or fish product as fit for intended purpose;
 - c) Lot identification (except that this requirement is optional if the application of lot identification to the retail packaging is a mandatory requirement under other legislation and that legislation is complied with); and
 - d) The scientific name of the fish as specified by the Director-General in clause 32(3)(d) of the Animal Products (Specifications for Products Intended for Human Consumption) Notice 2004.
- 21 Vessels that carry out further processing, such as filleting or surimi production must carry out those operations under a registered risk management programme. Vessels operating under a registered risk management programme are subject to the Animal Products (Specifications for Products Intended for Human Consumption) Notice 2004. Part 7 of that Notice deals with labelling and clause 32(3) states that that labelling must be provided on transportation outers and must state:
- a) The animal material or animal product name or description; and
 - b) Storage directions, where necessary to maintain the animal material as suitable for processing or animal product as fit for intended purpose; and
 - c) Lot identification (except that this requirement is optional if the application of lot identification to the retail packaging is a mandatory requirement under other legislation and that legislation is complied with); and
 - d) In the case of fish product, the scientific name of the fish as specified by the Director-General;
 - e) In the case of minced fish, surimi, reformed fish, or multi-ingredient fish products that have undergone further processing, the scientific name either on the label of the transportation outer or on the accompanying documentation; or
 - f) In the case of shucked paua that is intended for canning and is held at temperatures not exceeding 6°C, that the paua is for canning only in New Zealand.
- 22 The Australia New Zealand Food Standards Code, which applies to all food sold in New Zealand and Australia, may also be relevant to fishing vessels packing and freezing product at sea. If product is exported or further processed the labelling requirements detailed above cover the requirements of the Food Standards Code. If, however, vessels produce retail packages for sale on the domestic market in New Zealand, those packages would need to meet the labelling requirements of the Food

Standards Code. This situation will not be discussed further as the FSA is not aware of any vessels currently doing this.

- 23 Vessels registered as limited processing fishing vessels or those vessels that have a registered risk management programme are essentially operating under the same labelling requirements. In some cases the requirements overlap with MFish's proposed requirements (e.g. scientific name). However the requirements are not sufficient to enable fishery officers to accurately determine actual weight of a product line. In particular landed state and date of packing are essential to reconcile product with reporting.

Preliminary Consultation

- 24 The proposals described here reflect an agreement reached in March 2005 by a working party established jointly by the Seafood Industry Council and MFish. Prior to this agreement being reached, industry attempted to develop a Code of Conduct to address the reporting of weights, but a consensus was not reached on this.
- 25 Additionally, a meeting was held between Industry and MFish staff on 2 June 2005 to discuss aspects of the IPP. This amended version of the IPP has been produced after consideration of several of the issues raised at that meeting.

Costs and Benefits of the Proposal

- 26 Most vessels packing and freezing fish at sea already meet some of the labelling requirements for containers. Because of the existing requirements to comply with FSA regulations any additional labelling requirements can be met with minimal change. The benefit of the labelling requirements is that all LFRs and fishery officers can easily ascertain which containers need to be weighed in order to determine and report greenweight accurately.
- 27 LFRs are already obliged to determine the actual weight of fish landed in order to complete the LFR return accurately, so requiring actual weight rather than net weights on the source documents should impose no additional cost. The benefit is that purchase tax invoices, catch landing returns and LFR returns should be more easily reconciled if the statement of weight in all these documents is made on the same basis.
- 28 The provision of a standard deduction for ice glaze will reduce costs for both LFRs and MFish since destructive testing of product to determine actual glaze percentages applied will no longer be necessary. Data accuracy is unlikely to be compromised, as in practice many LFRs conduct no or only perfunctory glaze tests now. Methods of glaze testing in use vary widely in reliability. The 2% figure is based on tests conducted at sea, and is a reasonable industry average.
- 29 In most cases, additives (e.g. gelling agents in surimi) are an integral part of the landed state and the existing conversion factors have already taken this into account. However, a small number of vessels add polyphosphate solution to fillets before packing, and the weight of added solution is not always included in the landed state.

- 30 Codification of a standard method for determining greenweight of fish packed and frozen at sea should provide certainty to both Industry and MFish, but should not impose any additional cost on the industry and should simplify enforcement.
- 31 It is not envisaged that any new offences and penalties will be created. However if it is necessary to do so, any new offences and penalties will be of a similar nature to those relating to breaches of the Fisheries (Reporting) Regulations 2001.

Administrative Implications

- 32 Enforcement and administration of the Act will be simplified by altering these regulations.

Preliminary Recommendations

- 33 MFish recommends that the Minister:
- a) **Agree** to amend the Fisheries (Commercial Fishing) Regulations 2001 to require all commercial fishers packing and freezing fish at sea to mark the containers in which the fish are packed with a species identifier (common name or scientific name or species code), landed state, net weight and vessel number or name;
 - b) **Agree** to amend the Fisheries (Recordkeeping) Regulations 1990 to require commercial fishers packing and freezing fish at sea to keep records of packaging weights, and to produce these on demand to any fishery officer;
 - c) **Agree** to amend the Fisheries (Recordkeeping) Regulations 1990 to make it clear that “naked blocks” of frozen fish are containers for the purpose of recordkeeping and labelling;
 - d) **Agree** to amend the Fisheries (Recordkeeping) Regulations 1990 to make it clear that actual weight rather than net weight is required to be recorded on purchase tax invoices and unloading dockets.
 - e) **Agree** to amend the Fisheries (Recordkeeping) Regulations 1990 to ensure that container number and type is required to be recorded on purchase tax invoices and unloading dockets;
 - f) **Agree** to amend the Fisheries (Recordkeeping) Regulations 1990 to introduce a definition of the term “product line”, being a set of containers from the same landing, all containing the same nominal net weight of fish and containing fish of the same species and landed state;
 - g) **Agree** to amend the Fisheries (Conversion Factors) Notice 2000 to make it clear that additives and absorbed water are part of the landed state;
 - h) **Agree** to amend the Fisheries (Recordkeeping) Regulations 1990 to allow a licensed fish receiver to deduct any allowance in weight made for added polyphosphate solutions when completing a purchase tax invoice

- i) **Agree** to regulate for a standard procedure for fishery officers to use in determination of actual weight of landed fish.

ANNEX ONE – DETERMINATION OF ACTUAL WEIGHT OF PRODUCT LINE

Note: This is suggested wording only. The final wording is likely to be slightly different

1 Proposed Regulation A is:

- a) A fishery officer examining any product line of fish packed and frozen at sea for the purpose of determining whether the actual weight or greenweight of that product line has been recorded or reported in accordance with the requirements of the Fisheries Act 1996 (the Act) shall proceed by selecting and examining a sample from the product line, and/or by examining all the containers in that product line.
- b) Where a product line contains the number of containers set out in Column I of Table 1 in the Schedule, the fishery officer shall select from that product line a number of containers not less than the number set out in Column II of Table 1 of that schedule, and the containers selected shall constitute the sample. A reserve sample of the same size shall be drawn at the same time.

Comment

*All testing will be carried out on the **samples** to determine compliance of the product line. Fishery officers may take larger samples if this is felt to be necessary, but additional samples should seldom be required. The samples must be selected from the product line at random in accordance with generally accepted statistical sampling practice.*

- c) The fishery officer shall weigh all containers in a sample.
- d) The average gross weight of the containers sampled from a product line shall be the gross weight of the sample divided by the number of containers in the sample.

2 Proposed Regulation B is:

- a) The average actual weight of the sample referred to in Regulation A will be determined by deducting the container weight from the average gross weight.
- b) If the product line is glazed, and if the appropriate landed state code for this fish product is GRE, GUT, HGU, HGT, HGF, DRE, DSC, DVC or TEN the average actual weight of the sample shall be deemed to be 98% of the weight calculated in B(i).
- c) Any additives in the product are deemed to be part of the processed state and no deductions may be made from the actual weight of the sample. However, if sodium tripolyphosphate or sodium hexametaphosphate solutions have been added to either fillets or mince (as defined in the Fisheries (Reporting) Regulations 2001), and the product is clearly labelled as containing these additives, the average actual weight of the sample shall be deemed to be 96% of the weight calculated in B(i).

Comment

Polyphosphate solutions are sometimes added to fillets and mince and cause a substantial increase in weight of the processed state. It is impossible to determine the amount of polyphosphate added without destructive testing, but an allowance of 4% for added weight would meet current industry practice. It is not anticipated that this deduction would be claimed fraudulently since the addition of polyphosphates reduces consumer acceptance of the end product. Additional labelling is required so the fishery officer can identify the product which has had a polyphosphate solution added.

Proposed Regulation C is:

- a) A fishery officer shall determine the actual weight, and where appropriate the greenweight, of a product line by applying the following formulae:

$$\text{Actual weight} = A \times N$$

$$\text{Greenweight} = A \times N \times C$$

Where: A = the average actual weight of the sample

N = the number of containers in the product line

C = the conversion factor specified in the Fisheries (Conversion Factors) Notice 2000 or in a certificate issued by the chief executive under section 3A(3) of the Fisheries Act 1983 or section 188 of the Fisheries Act 1996.

Comment

Note that the Conversion Factors Notice simply provides an official ratio for calculating greenweight and does not apply to all species or to all product states. The wording “where appropriate” is used here to indicate that in circumstances where there is no applicable conversion factor the greenweight formula is not to be used.

- b) If the product line comprises fish frozen and packed whole, the conversion factor shall be 1.00.

3 Proposed Regulation D is:

- a) If an actual weight recorded or reported for a product line from which a sample was taken is less than the actual weight calculated from the formula in Regulation C(i) the amount of the deficiency shall be calculated by subtracting the actual weight recorded or reported from the actual weight calculated from the formula in Regulation C(i).
- ii) A statement of actual weight for a product line in a record or return shall be lawfully recorded or reported if and only if the actual weight recorded or reported is greater than or equal to the actual weight calculated from the formula in Regulation C(i) less the sampling tolerance.
- iii) The sampling tolerance shall be calculated from the formula:

$$\text{Sampling tolerance} = N * s(t/\sqrt{n})$$

Where: n = the number of containers in the sample
 N = the number of containers in the product line
 t = the value determined from Table 2 the Schedule
 s = the standard deviation of the sample

- iv) The standard deviation of the sample shall be calculated from the formula

$$s = \sqrt{\frac{\sum (x - A)^2}{(n - 1)}}$$

Where: n = the number of containers in the sample
 $\sum(x-A)^2$ = the sum of the squared differences between the mean actual weight of the sample and the actual weight of each container in the sample.

- v) However, where all the containers in a product line are weighed no sampling tolerance shall apply.

Comment

A product line is required to contain no more than the declared quantity of fish. The formulae above allow a tolerance to reflect the fact that the actual quantity of fish is being estimated from a sample, and that there is therefore some uncertainty associated with the estimate. When all containers are weighed, there is no uncertainty and no need for a sampling tolerance.

4 Proposed Regulation E is:

- a) If a statement of greenweight in a purchase tax invoice or any return for a product line from which a sample was taken is less than the greenweight calculated from the formula in Regulation C(i) the amount of deficiency shall be calculated by subtracting the greenweight recorded or reported from the greenweight calculated from the formula in Regulation C(i).
- ii) A statement of greenweight for a product line shall be lawfully recorded and reported if and only if the greenweight recorded or reported is greater than or equal to the greenweight calculated from the formula in Regulation C(i) less the sampling tolerance.
- iii) The sampling tolerance shall be calculated from the formula:

$$\text{Sampling tolerance} = N * C * s(t/\sqrt{n})$$

Where: n = the number of containers in the sample
 N = the number of containers in the product line
 t = the value determined from the Table 2 the Schedule
 s = the standard deviation of the sample
 C = the conversion factor specified in the Fisheries (Conversion Factors) Notice 2000 or in a certificate issued by the chief executive under section 3A(3) of the Fisheries Act 1983 or section 188 of the Fisheries Act 1996.

- iv) The standard deviation of the sample shall be calculated from the formula:

$$s = \sqrt{\frac{\sum (x - A)^2}{(n - 1)}}$$

Where: n = the number of containers in the sample

$\sum(x-A)^2$ = the sum of the squared differences between the mean actual weight of the sample and the actual weight of each container in the sample.

- v) However, where all the containers in a product line are weighed no sampling tolerance shall apply.

Proposed new Schedule:

Table 1: Sample size for determination of greenweight and/or actual weight

Number of containers in product line	Minimum sample size
2-20	All containers
21-128	One quarter but not fewer than 10 containers
129-4000	32
4001 – 8000	64
8001-12000	96
12,000 +	125

Table 2: Table for values of t

Sample size	T	Sample size	T	Sample size	T	Sample size	T
10	2.821	23	2.508	36	2.438	110	2.361
11	2.764	24	2.500	37	2.434	120	2.358
12	2.718	25	2.492	38	2.431	125	2.357
13	2.681	26	2.485	39	2.429	130	2.356
14	2.650	27	2.479	40	2.426	150	2.352
15	2.624	28	2.473	50	2.405	200	2.345
16	2.602	29	2.467	60	2.391	250	2.341
17	2.583	30	2.462	64	2.387	300	2.339
18	2.567	31	2.457	70	2.382	1000	2.330
19	2.552	32	2.453	80	2.374		
20	2.539	33	2.449	90	2.369		
21	2.528	34	2.445	96	2.366		
22	2.518	35	2.441	100	2.365		

Linear interpolation of t values

Where a sample size is selected that is not listed in Column I of this table, and that sample size lies between 40 and 1000, the value of t will be determined by linear interpolation using the following formula:

$$t = a - \frac{(c - e)(a - b)}{(c - d)}$$

where :

a = the value of t for the closest sample size below the selected sample size in the table

b = the value of t for the closest sample size above the selected sample size

c = the result of 120 divided by the closest sample size below the selected sample size

d = the result of 120 divided by the closest sample size above the selected sample size

e = the result of 120 divided by the selected sample size

DEEMED VALUES FOR 1 APRIL 2006 FISHSTOCKS

Proposal

- 1 The Ministry of Fisheries (MFish) invites comment from stakeholders on its intention to subject all fishstocks with a 1 April fishing year start date to a 12.5% increase in deemed value rates.

Background

- 2 Section 75 of the Fisheries Act 1996 (the 1996 Act) establishes the basis for setting interim and annual deemed value rates. Interim and annual deemed values must be set for all fishstocks in the Quota Management System (QMS). Deemed values are charged on a monthly (interim deemed values) and annual (annual deemed values) basis for any catch of QMS stocks in excess of a person's annual catch entitlement (ACE) holding.
- 3 During the main 2005 sustainability review for 1 October fishstocks, the Minister of Fisheries (the Minister) agreed to increase deemed value rates by 12.5% for all QMS stocks with a fishing year start date of 1 October. This decision arose from the High Court decision *Pacific Trawling Ltd v The Chief Executive of the Ministry of Fisheries* relating to Goods and Services Tax (GST) on deemed values. This decision meant that the deemed value rate included GST, and hence commercial fishers now receive a GST invoice, allowing them to claim back the GST portion of the payment. This had the effect of lowering the deemed value rate invoiced to fishers by 12.5%.
- 4 Under s 75 of the 1996 Act, the Minister must set interim and annual deemed value rates at a level that provides an incentive for every fisher to acquire sufficient Annual Catch Entitlement (ACE) to cover catch. All QMS stocks with a fishing year start date of 1 October 2005 are now subject to a 12.5% increase in order to ensure that commercial fishers have this incentive.
- 5 MFish intends that deemed value rates for QMS stocks with a fishing year commencing on 1 April will also be subject to a 12.5% increase. This will be effective from 1 April 2006. This will then bring the 1 April stocks in line with the decision on 1 October stocks, and will ensure that the deemed value rates for the 1 April fishing year stocks provide an incentive for commercial fishers to balance their catch against ACE. The deemed value rates in the Fisheries (Interim and Annual Deemed Values) Notice 2003 will be GST exclusive. All invoices issued to commercial fishers by FishServe for the 1 April stocks will, from the fishing year commencing 1 April 2006, contain a GST component.
- 6 Seventeen species have a 1 April fishing year start date, including species of shellfish (eg, frilled venus shell, large trough shell), spiny rock lobster, packhorse rock lobster and scallops.
- 7 MFish seeks comment from stakeholders on its intention to subject 1 April stocks to a 12.5% increase in deemed value rates.

Preliminary Recommendation

- 8 MFish proposes that the Minister of Fisheries agree that deemed value rates for those fishstocks for which a 1 April fishing year applies will be subject to a 12.5% increase and that all figures in the Gazette Notice will be GST exclusive.

NEW LANDED STATE CODE – SKATE WINGS

Proposal

- 1 The Ministry of Fisheries (MFish) proposes to amend the Fisheries (Reporting) Regulations 2001 to clarify the reporting of skates in the ‘wings’ processed state.

Background

- 2 A ‘principal landed state’ means, in the case of fish landed in 2 or more states, the landed state that has the greatest actual weight. Principal landed states are defined in the Fisheries (Conversion Factors) Notice 2005, while landed state codes are specified in Part 3 of Schedule 3 of the Fisheries (Reporting) Regulations 2001.
- 3 The principal landed state of “wings” for skates and rays is defined in the Fisheries (Conversion Factors) Notice 2005 as meaning the pectoral fins severed from the body by a cut no further back than the spiracle, proceeding parallel to the edge of the gill openings, then proceeding down the side of the gut cavity, and exiting at the joint between the pectoral fin (being the wing flap) and the pelvic fin (being the next lobe on the body), and the skin on.

Statement of the Problem and Need for Action

- 4 Historically, the state of wings has been included within the definition of “fillets”, with the associated landed state code of FIL. During the recent review of landed state definitions in 2004-05, Industry stated that this arrangement had caused considerable confusion among fishers and consequent incorrect reporting. This confusion is further accentuated because there is an additional landed state code of ‘WIN’, although this only relates to squid wings.
- 5 For these reasons, MFish and Industry agreed during the review of principal landed state definitions that it would be preferable to amend Part 3 of Schedule 3 of the Fisheries (Reporting) Regulations 2001 so that wings is specified as a separate principal landed state with a corresponding landed state code of WRS, ie, wings for rays and skates.
- 6 MFish does not propose to revise the wording of the definition of “wings” for skates and rays as it is currently set out in the Fisheries (Conversion Factors) Notice 2005.

Preliminary Consultation

- 7 Industry representatives on the Conversion Factors Working Group first raised this matter during the review of principal landed state definitions in 2004-05.

Options for Management Response

Non-regulatory Measures

- 8 One possible non-regulatory option is to educate fishers about the use of the fillets (FIL) code in relation to skate and rays. However, this arrangement has been in place since 1991 and no amount of education has significantly improved matters. In addition, the existence of a WIN additional landed state code has further muddied the issue. There is a risk of continued confusion among fishers and associated incorrect reporting of skate wings as discussed in paragraph 4 if a regulatory option is not pursued.

Regulatory Measures

- 9 If the problems with incorrect reporting of skate wings are to be addressed, it is necessary to amend Part 3 of Schedule 3 of the Fisheries (Reporting) Regulations 2001 to specify a sole or principal landed state of wings and a corresponding landed state code of WRS.

Statement of the Net Benefits and Costs of the Proposal

Benefits

- 10 The proposed amendment should clarify the reporting of skate wings and lead to a decrease in errors on fishing returns. Accurate reporting is important for sustainable management and compliance. This should also reduce administrative costs for MFish.

Costs

- 11 There are no significant one-off or on-going costs associated with systems, reporting and implementation to either MFish or stakeholders.

Conclusion

- 12 MFish proposes to amend the Fisheries (Reporting) Regulations 2001 in order to introduce a new principal landed state of wings and a corresponding landed state code of WRS. This change will serve to clarify the reporting by fishers of skates and rays in the wings principal landed state.

Preliminary Recommendation

- 13 MFish's preliminary recommendation is that the Minister of Fisheries agree to amend Part 3 of Schedule 3 of the Fisheries (Reporting) Regulations 2001 to introduce a new principal landed state of wings for rays and skates and a corresponding landed state code of WRS.

NETTING CATCH, EFFORT AND LANDING RETURN (NCELR)

Executive Summary

- 1 The reporting framework set out in the Fisheries (Reporting) Regulations 2001 (the Regulations) is a critical tool to enable the Ministry of Fisheries (MFish) to collect information to assess the state of New Zealand's fishstocks, and administer and enforce the rules associated with the use of those fishstocks.
- 2 The Regulations currently require fishers using the methods set netting, inshore drift netting or pair set netting to record fishing information on Catch Effort and Landing Returns (CELRs).
- 3 The information currently collected on CELRs for these methods does not adequately reflect the information needs for the fisheries. Additionally, the generic nature of the current CELR is not optimised for use by passive net fishers.
- 4 A new form has been developed to replace the CELR for vessels 6m or over using the methods set netting, inshore drift netting or pair set netting. The new form will provide a means to collect high quality policy, science, fisheries operations, research and compliance information where this is needed to manage the fisheries successfully. The new form will also be simpler and more intuitive for fishers to complete.

Proposal

- 5 MFish proposes that the Regulations be amended to introduce a new Netting Catch Effort Landing Return (NCELR) for reporting passive net fishing.
- 6 The new NCELR will collect data from vessels 6m or over in overall length, about fishing using the methods set netting, inshore drift netting or pair set netting (these methods will be referred to as passive netting for the purpose of this paper).
- 7 Fishers using vessels less than 6m in overall length will continue to report set netting, inshore drift netting or pair set netting on the CELR at this stage.
- 8 Fishers who routinely use several different methods (passive netting plus one or more other methods) during one fishing trip will be eligible to apply for an exemption under regulation 41 of the Regulations to allow them to continue to report fishing information on the existing CELR.

Background

- 9 The reporting framework set out in the Regulations is a critical tool with which MFish collects commercial fishing information used in assessing the state of New Zealand's fishstocks. The information collected is also essential for administering and enforcing the rules associated with the use of those fishstocks.

- 10 The Regulations currently specify nine different commercial fishing catch effort returns. Five of the returns collect catch and effort data, two collect landing data and two collect catch, effort and landing data. The Regulations currently require fishers using set netting, inshore drift netting or pair set netting to record fishing information on CELRs.
- 11 The CELR was introduced in 1989 and is a multi-purpose form used to capture information about a number of different fishing methods. The form was designed for use with cardboard templates that are overlaid on the form for different types of fishing methods. There are currently seven different templates, and as they need to be overlaid on each form they are not attached to the book of returns.
- 12 Vessels using passive netting methods range in overall length from 2 – 24 metres. There are about 400 vessels and almost 50% of them are 6m or over in overall length. Approximately 90% of the passive netting catch is taken by vessels 6m or over. Fishing trips using these methods are generally only 1 – 2 days long, but may be up to 10 days. Some fishers may use several different methods on any one trip (approximately 4% of all trips reported on the CELR use multiple methods).

Problem Definition

- 13 The information currently collected about passive net fishing does not adequately reflect the information needs for the fisheries. Additionally, the CELR is generic in nature and is not optimised for use by passive net fishers.
- 14 One of the problems with the CELR is the use of templates. The templates are often lost and this has led to confusion among fishers and variation in the way the forms are completed. Another problem is that templates may be incorrectly placed on the form or may move while in use, resulting in information being incorrectly entered on the return.
- 15 The CELR was designed in an era when less information was available about good form design principles. An obvious issue with the CELR from a form design perspective is that data requirements are not clearly specified on the form.
- 16 The CELR collects very limited data for each day of fishing and does not collect data for each unit of fishing effort (e.g. each set of a net). The form attempts to capture data about many different fishing methods and to provide an overview of fishing activity rather than specifically meeting the data needs of each fishery. Changes in both fishing and fisheries management practices also mean that additional information is now required that was not put on the forms originally.
- 17 These issues need to be resolved to aid in the successful management of passive netting fisheries. A new purpose designed reporting form is required to collect high quality policy, science, fisheries operations, research and compliance information where this information is needed in order to manage the fisheries successfully.
- 18 The new reporting form will capture more detailed information about each unit of fishing effort. It will include fine scale fishing position data (latitude and longitude) and more rows to report each species caught.

- 19 At this time, MFish does not believe it is reasonable to require very small vessels to provide very detailed information about their fishing activities. Very small vessels often do not have a covered area in which to store the returns book, and they generally fish close to shore without a GPS. Therefore it would be unreasonable to expect them to have the same reporting requirements as much larger vessels.
- 20 It is difficult to determine the exact size range at which the requirements of the new form become reasonable. One guideline is that the Maritime Safety Authority require vessels 6.1m and over to carry vessel documentation and additional safety equipment. So it is likely that vessels of about 6m would have the facilities to complete and store paperwork on board.
- 21 Field trials of prototype forms also indicated that vessels below 6m would have difficulty providing more detailed information at this time (e.g. latitude and longitude of fishing positions). It is possible that future developments in technology will make it easier for smaller vessels to use the new form.
- 22 If the arbitrary 6m and over vessel size threshold proves to be set incorrectly, it is possible that it could be revised in future.
- 23 For fishers who commonly use multiple methods on a trip, changing to a passive netting form would be problematic. The proposed netting return would require these fishers to carry multiple books of returns and this would have additional problems regarding separation of catch caught using different methods for reporting purposes.
- 24 The new form will need to be larger in size than other existing catch effort returns (A3 instead of A4). A significant amount of time has been spent designing and trialing prototype netting forms and it has not been possible to meet all of the required specifications for information and form design standards while retaining the A4 form size.
- 25 The A3 size will allow for more detailed reporting without the need for fishers to duplicate information or carry separate books for effort and landing information. It will also ensure that standards for the appearance of forms and the size of answer spaces can be met. The books of forms will be printed so that they are folded into A4 size for ease of use and storage.

Preliminary Consultation

- 26 The Fisheries Data Working Group recommended development of a new form. A project team was set up to develop a new Netting Catch Effort Landing Return.
- 27 The project team included representatives from the following groups:
- Fishing Industry - representatives from netting fisheries;
 - Researchers – NIWA and SeaFIC;
 - Science - Ministry of Fisheries;
 - Fisheries Operations - Ministry of Fisheries;
 - Compliance - Ministry of Fisheries;

- Research Data Management - Ministry of Fisheries.

28 The form design process was as follows:

- Project team established.
- Initial consultation carried out with project team.
- Information needs analyses carried out through consultation with project teams and analysis of existing catch effort data.
- A set of requirements for the new forms established.
- Prototype forms were designed.
- Forms redesigned several times after consultation with the project team.
- Field trials run where prototype forms were tested with fishers, revised and then tested again.

29 Members of the project team were encouraged to consult with others in their area and to keep their members informed about progress.

30 Feedback from fishers has been mixed, with some liking the new form and some not. None of the fishers was particularly keen to move to A3 forms but preferred that option to needing to complete two separate returns for each trip.

31 Some fishers are also resistant to changing to fine scale position reporting. Again, feedback was mixed. Some fishers recognised and understood the need for this information and were happy to provide it, whereas other fishers were very reluctant to provide more detailed information.

Options for Management Response

32 Non-regulatory options are not available to address the problems outlined above. Commercial fishers are required to provide information about their fishing activities in the format specified in the Regulations. If the new netting return is not introduced, fishing using passive netting methods will continue to be reported on the current CELR and the problems outlined in this document will continue.

33 If these matters are to be addressed, MFish considers it necessary to amend the Regulations under section 297 of the Fisheries Act 1996, to introduce a new Netting Catch Effort Landing Return (NCELR). A copy of the draft form is attached to this proposal.

34 The following provisions will apply:

- a) The new form will be used to report fishing using the methods set netting, inshore drift netting or pair set netting by vessels 6m or over in overall length.
- b) Fishers using vessels less than 6m in overall length will continue to report set netting, inshore drift netting or pair set netting on the CELR at this stage.

- c) Fishers who routinely use several different methods during one fishing trip will be eligible to apply for an exemption under regulation 41 of the Regulations to allow them to continue to report fishing on the CELR.
- 35 MFish recognises that introducing the new NCELR is likely to result in an increase in the reporting obligations of passive netting fishers. This is due to the requirement for more detailed information about these fisheries. This increase will be offset by the improved design of the form, making it simpler and more intuitive for fishers to complete.

Statement of Net Benefits and Costs of the Proposal

Benefits

- 36 The information principles in section 10 of the Fisheries Act 1996, state that decisions should be based on the best available information. The new NCELR will contribute to this by collecting high quality policy, science, fisheries operations, research and compliance information where this information is needed in order to manage the fisheries successfully.
- 37 The new reporting form will capture more detailed information about each unit of fishing effort. It will include fine scale fishing position data (latitude and longitude) and more rows to report each species caught.
- 38 The design of the new form will also be simpler and more intuitive for fishers to complete. It is hoped that this will lead to fewer errors, which will reduce the amount of time and effort needed to ensure that good quality information is available.

Costs

- 39 MFish estimates the costs to implement a new NCELR (including developing the printing template, printing new books of returns and doing a mass mail out to all affected fishers) will total approximately \$7 500.
- 40 The cost of printing the new books will be more expensive than usual due to the larger size of the new NCELR. However, these costs are offset by the fact that fewer of the current CELR books will be printed. Also, as the new NCELR has more space for reporting, fishers may be less likely to use multiple pages for a trip, so books may last longer.
- 41 Ongoing operational costs resulting from introduction of the NCELR have not yet been assessed. However, these costs are likely to be offset by a reduction in the numbers of CELRs requiring processing.

Administrative implications

- 42 There are administrative implications associated with implementing a new form. Resources will be needed to make the required changes to the MFish catch effort computer system and to write explanatory notes to accompany the form. There are also resource implications associated with raising fisher awareness of the new reporting requirements.

Conclusion

- 43 A new NCELR will ensure that good quality information is available to manage passive netting fisheries successfully. The new form will capture information from 50% of passive netting vessels and about 90% of the catch. This will represent a huge improvement in the data available for these methods.

Preliminary Recommendation

- 44 MFish recommends that the Minister of Fisheries agree to amend the Fisheries (Reporting) Regulations 2001 to introduce a new Netting Catch Effort Landing Return. The new return will be used to report fishing using the methods set netting, inshore drift netting or pair set netting by vessels 6m and over in overall length.

REGULATION OF NON-FISH INCIDENTAL CATCH RETURN

Proposal

- 1 The Ministry of Fisheries (MFish) proposes to amend the Fisheries (Reporting) Regulations 2001 to regulate the reporting of non-fish¹ incidental catch.

Executive Summary

- 2 MFish has identified three options for the reporting of non-fish incidental catch –
 - a) Regulate the fields of information required to be reported, but not a specific return;
 - b) Amend the catch effort returns to incorporate non-fish incidental catch information; and
 - c) Regulate the non-fish incidental catch return and amend the existing catch effort returns to include a declaration about whether or not non-fish incidental catch occurred.
- 3 MFish's preferred option is (c). Regulating non-fish incidental catch returns will ensure a standard means of reporting catch of non-fish aquatic species and contribute to MFish's understanding of the effects of fishing on the aquatic environment.

Background

- 4 The Marine Mammals Protection Act 1978 (s 16) states that “Where any person in the course of fishing pursuant to any licence, permit, or permission granted or given under the Fisheries Act 1996 accidentally or incidentally kills or injures a marine mammal he shall, if fishing from a vessel, record the event in the vessel's log and report the event in writing ... not later than 48 hours after the arrival of the vessel in port.”
- 5 The Wildlife Act 1953 (s 63B) similarly requires that “If any person, in the course of fishing pursuant to a permit, licence, authority, or approval issued, granted, or given under the Fisheries Act 1996, accidentally or incidentally kills or injures marine wildlife he or she shall, if fishing from a vessel, record the event in the vessel's log and report the event in writing ... not later than 48 hours after the arrival of the vessel in port.”
- 6 The information gained from the above legislative requirements is of interest to MFish, as it can potentially inform fisheries management decision-making on the effects of fishing on non-fish species. As a matter of practice, fishers have traditionally sent non-fish reports to MFish rather than to the Department of Conservation. Prior to 1996 there was no systematic means of reporting – reports to

¹ Non-fish incidental catch includes corals, sponges, bryozoans, seabirds, marine mammals, and marine reptiles.

MFish were received by fax, telex, e-mail or mailed in various formats of Industry's devising. However, inconsistent format and varying information meant MFish could do little with the reports.

- 7 In 1996, MFish and the then Fishing Industry Board initiated a project to consolidate reporting of non-fish incidental catch. A draft non-fish incidental catch reporting form was produced and consulted on. The form was released to Industry in late 1996/early 1997.

Management Rationale

- 8 MFish's rationale for collecting incidental non-fish data is –
 - a) To collect data relevant to the environmental aspects of the Fisheries Act 1996 (the 1996 Act) and policy. This will serve to:
 - i) Contribute to MFish's understanding of the effects of fishing on the aquatic environment
 - ii) Provide baseline information to assess whether a particular fishery or method has a by-catch problem
 - b) To standardise the reporting needed as a statutory defence under the Marine Mammals Protection Act 1978 and the Wildlife Act 1953 if they catch protected species
 - c) To comply with minimum or default reporting required under the National Plan of Action for seabirds and various Industry Codes of Practice.
- 9 The 2005 Strategy for Managing the Environmental Effects of Fishing sets out a standards-based approach by which MFish will manage environmental effects. These standards will require MFish to identify those species and habitats on which fishing activities are having an adverse effect.

Problem Definition

- 10 MFish has identified a number of shortcomings with the current non-fish incidental catch reporting form –
 - a) There is no legal requirement under the Wildlife Act 1953 or the Marine Mammals Protection Act 1978 to complete the current non-fish by-catch form, or any other specific form;
 - b) There is no legal requirement to report nil catches, so there is no information on whether failure to report any non-fish incidental catch means that nothing was caught during a particular fishing event;
 - c) There is no legal requirement under the 1996 Act to report non-fish incidental catch;
 - d) Data collection is not consistent or across all fisheries. There is a lack of knowledge about the existence of the current form by some fishery sectors. The current form is used mainly by large companies. There is a lack of

education for fishers of their obligations with respect to reporting non-fish incidental catch and use of the form;

- e) Current data cannot be used to extrapolate total catch of non-fish incidental catch, nor to explore factors affecting captures of non-fish species because the dataset is considered to be incomplete;
- f) The current form only covers seabirds and marine mammals, whereas the Wildlife Act 1953 requirements also include marine reptiles and some species of coral;
- g) Instructions for completing the form are not as clear as they could be;
- h) Uncertainty exists as to which authority (MFish or the Department of Conservation) data should be reported to;
- i) The current form requires fishers to duplicate some information that is also reported on their catch effort returns;
- j) There is no easy way to determine which catch effort return describes the fishery in which the reported seabird or marine mammal was caught.

Options for Management Response

- 11 Before discussing the following options, it is important to clarify whether the MFish Chief Executive has the legal mandate under the 1996 Act to require reporting of non-fish incidental catch. To date, reporting of non-fish by-catch has been under the MMPA and the Wildlife Act. However, the 1996 Act contains provisions that provide the MFish Chief Executive with the power to require non-fish reporting. Section 297(1)(d)(ii) of the 1996 Act states that the MFish Chief Executive may make regulations requiring fishers to provide to the chief executive such information as may reasonably be required for the purpose of the 1996 Act.
- 12 Section 8 of the 1996 Act states that the purpose of the Act is to provide for the utilisation of fisheries resources, while ensuring sustainability. “Ensuring sustainability” is defined to mean “... (b) avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment.” The interpretation section of the 1996 Act (s 2) defines “aquatic environment” as including all aquatic life and “aquatic life” to mean any animal that must inhabit water, including seabirds (whether or not in the aquatic environment).
- 13 MFish has identified three options for collecting the required information –
 - a) Regulate the fields but not the return itself;
 - b) Amend the catch effort returns to incorporate non-fish incidental catch information;
 - c) Regulate the non-fish incidental catch return and amend the existing catch effort returns to include a declaration about whether or not non-fish incidental catch occurred.
- 14 Regardless of which of these options are chosen, MFish proposes that the information collected will cover the following species of aquatic life – seabirds, marine mammals (ie, all species of dolphins, sealion, fur seal and whale), turtles and corals. The

reporting does not apply to “fish” (all species of finfish and shellfish, at any stage of their life history, whether living or dead), which must be reported on catch effort returns.

- 15 All three options would require varying amendments to the Fisheries (Reporting) Regulations 2001, eg, the addition of a new part to Schedule 2 for a prescribed non-fish incidental catch return. The Interpretations section of the Reporting Regulations will also need to be amended to define certain terms, such as “coral”. The explanatory notes will specify the reporting codes to be used in completing the returns. Due to difficulties identifying some species (particularly birds), group codes (eg, albatross, petrel and shearwater) will be created, rather than requiring individual species codes.
- 16 There is also an inconsistency between the reporting timeframe for submission of non-fish reports under the Marine Mammals Protection Act 1978 and the Wildlife Act 1953 (ie, within 48 hours of landing) and MFish’s requirements for most catch effort returns (ie, within 15 days from either the end of the trip or the last day of the month in which the trip ended, depending on the return type). MFish is currently discussing this issue with the Department of Conservation. In the meantime, MFish would welcome stakeholders’ views on the reporting timeframe for submission of non-fish returns.
- 17 The advantages and disadvantages of the alternative approaches are discussed below.

Regulating the fields but not the return itself

- 18 This approach involves specifying in regulations the fields of information that must be reported but allowing Industry groups to design forms for their particular fisheries.
- 19 This approach has the advantage of allowing fisheries with additional commitments, such as the NPOA Seabirds, the Sea Lion (SQU6T) Operational Plan or the Marine Stewardship Council, to design one form that would meet all of their environmental reporting needs, rather than having to fill in a non-fish incidental catch form plus one or more additional forms to meet their other needs.
- 20 There are several disadvantages with this approach. It would be far more complicated to enter and store the data into a database. It would also become more complicated and confusing for fishers not actively involved in an industry group. This option also represents a step backwards to pre-1996 when fishers reported non-fish incidental catch in a myriad of different ways.

Amending the catch-effort returns to incorporate non-fish incidental catch information

- 21 This approach has the advantage of attracting a higher likelihood of compliance, as fishers are already required under the Reporting Regulations to complete catch-effort returns, and levels of compliance are high.
- 22 However, due to the competition for space on catch effort returns, incorporating the incidental catch component would be difficult and it would not be possible to include all of the desirable information. Alternatively, catch-effort forms could become larger

than their current A4 size to incorporate new information. However, this would require significant changes to the systems that are currently operating.

Regulating the non-fish incidental catch return

- 23 The advantage of regulating a revised non-fish incidental catch form is that it would allow for the capture of more detailed information than would be the case by revising the catch and effort forms. Additionally, as reporting is a statutory defence, it would be preferable for a standard form to be used, and it would not be advisable to go back to the previous “open slather” system.
- 24 In terms of possible disadvantages, there are some costs to Government associated with the proposal (see paragraphs 31-35). In addition, the level of compliance may be lower than would be the case if the catch-effort returns were amended to incorporate non-fish incidental catch information. Fishers generally would prefer fewer rather than more forms to complete (although reporting of non-fish incidental catch is already required in any event).
- 25 On balance, MFish’s preferred option is that a non-fish incidental catch return (NFICR) be regulated as a standard form.
- 26 If a standard return is regulated, the existing catch effort returns would also need to be amended to include a declaration about whether or not non-fish incidental catch occurred. This could be in the form of an “incidental catch yes/no” tick box or field. This would allow data users to know when to expect a NFICR and to be confident that when no NFICR is present, no incidental captures occurred. It should also be noted that MFish may take the opportunity to make other minor and technical amendments to the catch effort returns if the proposed tick box or field proceeds. A list of proposed changes to catch effort returns to incorporate a non-fish incidental catch declaration is attached as Appendix I.
- 27 If this option were to be adopted, one generic return is proposed, rather than a number of different returns to encompass different types of captures and species. The NFICR includes fields to ensure that non-fish incidental catch events and catch effort data can be linked (the lack of which is a major short-coming of the current form), while minimising duplication of reporting requirements for fishers. MFish Effort data relevant to the non-fish incidental catch event will be able to be accessed through the link to the relevant catch effort data.
- 28 MFish also considered whether, if this option proceeds, to integrate the non-fish returns into the catch effort return book to increase the likelihood of compliance, or to produce them in a stand-alone book. At least initially, the forms will be provided in a stand-alone book until MFish is able to more accurately determine the number of non-fish forms that would need to be provided with the catch effort return book. In due course, it may be preferable to integrate the forms into the catch effort book. MFish considers the costs of either option to be not dissimilar. MFish invites stakeholder views on this issue.
- 29 A template for the proposed NFICR is attached as Appendix II.

Statement of the Net Benefits and Costs of the Preferred Option

Benefits

- 30 The benefits of regulating the non-fish incidental catch reporting form are as follows –
- a) Will allow for fishers to report a wider range of aquatic species, eg, coral to measure benthic impacts;
 - b) Contribute to MFish’s understanding of the effects of fishing on the aquatic environment through provision of relevant high quality information;
 - c) Provide an initial indication of which fisheries may have a problem with incidental catch of non-fish aquatic species;
 - d) All fishers will furnish a generic standardised non-fish return;
 - e) The design of the new return will be simpler and more intuitive for fishers to complete and will reduce the amount of duplication between returns; and
 - f) Will ensure that non-fish incidental catch data and catch effort data can be linked.

Costs

- 31 The one-off cost to Government associated with producing the new non-fish form booklets is estimated to be approximately \$13,600. This cost includes creating the printing template, the initial printing of the booklets, a mail-out to all vessel owners, and writing the explanatory notes to accompany the forms. Copies of these books will initially be sent to all relevant permit holders. Other fishers, eg, potting fishers, with a very low likelihood of non-fish captures may be sent only a letter explaining the requirements.
- 32 The costs associated with incorporating an incidental catch declaration on all types of catch effort returns is expected to be in the region of \$1500 to \$2500. MFish will run down stocks of the current forms in anticipation of the introduction of the new forms.
- 33 As it is not possible at this stage to estimate the number of forms to be received and actioned by FishServe, MFish is only able to provide an estimate of the costs. These costs are estimated to be in the range of \$10,000 to \$40,000, although most likely at the lower end of that range, for 2006-07.
- 34 There will be some direct MFish costs associated with the required developments to the database in order to store and retrieve the information gathered. These costs are estimated at approximately \$50,000.
- 35 Experience suggests that compliance by the inshore fleet may be negligible without constant reminder and education. MFish is committed to ensuring that completion of these revised forms is publicised and enforced.

Penalty provisions

- 36 MFish is considering the appropriate type of penalty provisions applicable to the proposed amendments and has identified two options for the maximum fine for any offences against the reporting of non-fish incidental catch in fisheries returns. These two options are a maximum fine of either \$20,000 or \$100,000. An offence carrying a maximum penalty of \$100,000 would mean that property used in the commission of an offence is automatically forfeit (including the vessel itself). Relevant considerations for MFish when deciding upon which of these options to adopt include the importance of the reporting requirements, the compliance requirements (detection and rate of compliance required) and the deterrence value (along with any other relevant considerations).

Preliminary Consultation

- 37 A working group of MFish, the Department of Conservation and Industry representatives has met to discuss approaches to the non-fish incidental catch reporting issues. The working group representatives have reviewed draft templates of the NFICR. As part of the form design process, field trials were run where prototype forms were tested with fishers, revised and then tested again.
- 38 MFish understands that there is some initial Industry support, as expressed by the NZ Seafood Industry Council, for regulating the forms at the earliest opportunity.

Conclusion

- 39 MFish has identified three options for the reporting of non-fish incidental catch –
- a) Regulate the fields but not the return itself;
 - b) Amend the catch effort returns to incorporate non-fish incidental catch information;
 - c) Regulate the non-fish incidental catch return and amend the existing catch effort returns to include a declaration about whether or not non-fish incidental catch occurred.
- 40 MFish's preferred option is (c). Regulating non-fish incidental catch returns will ensure a standard means of reporting catch of non-fish aquatic species and contribute to MFish's understanding of the effects of fishing on the aquatic environment.

Preliminary Recommendation

- 41 MFish's preliminary recommendation is that the Minister of Fisheries agree to amend the Fisheries (Reporting) Regulations 2001 to prescribe a non-fish incidental catch reporting return, and to amend catch effort returns to include a non-fish incidental catch declaration.

ANNEX ONE

Proposed Catch Effort Return changes to incorporate a “Non-fish incidental catch” declaration

Form type	Proposed change	Information loss
Catch Effort Landing Return	<p>Option 1: Reduce the “Effort data” section to the columns: “Time”, “A”, “B” and “C” only. The space where effort column “D” is located will be replaced by a “Non-fish incidental catch” yes/no tick box or field</p> <p>Option 2: Reduce the width of the “Target species”, “Total (kg)” and “Species code”, “Weight (kg)” columns to provide extra space for a “Non-fish incidental catch” yes/no tick box or field.</p>	<p>Option 1: The only template to use effort Column “D” is the “Seining” template. On this template the instruction reads: “Sea surface temperature (C°) Purse seine only”. If this column is to be replaced by a “Non-fish incidental catch” yes/no tick box or field, the only information that would be lost is sea surface temperature on purse seine sets.</p> <p>Option 2: No information will be lost, as extra space will be created to accommodate the “Non-fish incidental catch” yes/no tick box or field.</p>
Trawl, Catch, Effort and Processing Return	<p>The “Target species” column heading will be moved to the blank box under the column heading: “Trawling speed”. The space once used for recording “Target species” will be replaced by a “Non-fish incidental catch” yes/no tick box or field.</p>	<p>No information would be lost, as the box under “Trawling speed” is currently blank.</p>
Squid Jigging Catch, Effort Return	<p>Under the “Catch” section, the last line of the “Other species”, “Total catch (kg)” section will be removed and replaced with a “Non-fish Incidental Catch” yes/no tick box or field section.</p>	<p>Some information may be lost, but currently fishers are only utilising one line of the “Other species” section.</p>
Tuna Longlining Catch, Effort Return	<p>The lines available to record “Catch kept” (section 4.) will be reduced from 20 to 17 lines. The space made available will then be used for a “Non-fish incidental catch” yes/no tick box or field.</p>	<p>In one set, if a fisher reports more than 17 species of fish caught and kept, they would be forced to write additional species on a new return. This inconvenience may discourage some fishers from fully meeting their reporting</p>

		requirements.
Lining Catch, Effort Return	<p><u>Option 1:</u> The lines available to record “estimated greenweight” of each species will be reduced from 8 to 7 lines. The space made available will then be used for a “Non-fish incidental catch” yes/no tick box or field. This new section will be positioned under “Weight of all other species caught this set”.</p> <p><u>Option 2:</u> The “Target species” section will be incorporated into the “Set number (since start of trip)” section. The space made available, would then allow the other effort sections to move up the form so that a “Non-fish incidental catch” yes/no tick box or field section can be positioned on the line above the “estimated greenweight” section.</p>	<p><u>Option 1:</u> In one set, if a fisher reports more than 8 species of fish caught, they would need to report the 8th species as part of “Weight of all other species caught this set”. The separate identification and quantification of the 8th species would be lost.</p> <p><u>Option 2:</u> Changing the current meaning of a line to incorporate 2 different sections, may cause some additional confusion to fishers.</p>

REGULATIONS TO ALLOW COMMERCIAL FISHING FOR ROCK LOBSTER AND PADDLE CRAB IN TE KAITIAKI A MOREMORE MATAITAI RESERVE

Key Issues to be Considered

- 1 The key issues to be considered are:
 - a) The Fisheries (Kaimoana Customary Fishing) Regulations 1998 (the Regulations) prohibit commercial fishing in a mātaitai reserve. However, the Regulations provide for the making of regulations to allow commercial fishing for specific species by quantity or time period.
 - b) The Tangata Kaitiaki/Tiaki (Kaitiaki) of the Moremore Mātaitai Reserve (the Mātaitai Reserve) consider that rock lobster and paddle crab is abundant enough to allow commercial fishing of these species in the Mātaitai Reserve.
 - c) The Kaitiaki have – under r 27(3) of the Regulations – requested the Minister of Fisheries (the Minister) to recommend the making of regulations that allow commercial fishers to harvest rock lobster and paddle crab within the Mātaitai Reserve subject to time period conditions. The Kaitiaki have not requested a quantity limit for either species.
 - d) Other than r 27(3), the Regulations do not provide guidance on what must be considered when deciding whether or not to allow commercial fishing in a mātaitai reserve. However, the basis for a decision must be consistent with:
 - i) The purpose and principles of the Fisheries Act 1996 (the Act);
 - ii) The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992;
 - iii) The Fisheries (Kaimoana Customary Fishing) Regulations 1998.
 - e) The Mataitai Reserve came into effect on 12 August 2005 and commercial fishing within the reserve has been prohibited since then. At the time the Mataitai Reserve was declared, there were no sustainability concerns for paddle crab or rock lobster.
 - f) Allowing commercial fishing for rock lobster and paddle crab in the Mātaitai Reserve will not impact on the ability of tangata whenua to manage their customary fishery.
 - g) The Kaitiaki request is consistent with the provisions of r 27(3). The request is also generally consistent with the criteria described in r 23(1)(e) of the Regulations, which the Minister considered when deciding to declare the area a Mātaitai Reserve, and with the management aims of the Mataitai Reserve – although not a mandatory consideration, these criteria are relevant to the current decision.
 - h) Should commercial fishing for rock lobster and paddle crab be allowed in the Mātaitai Reserve, it must be conducted in accordance with the provisions of

the Act and the relevant commercial fishing regulations applying under the Act (as per r 27(5) of the Regulations).

Background

- 2 The Regulations provide for the establishment of mātaimai reserves. Mataimai reserves are areas of special significance to tangata whenua for customary food gathering purposes. Kaitiaki appointed to manage the customary food gathering area/rohe moana under r 9 of the Regulations, and the tangata whenua who appointed those Kaitiaki, may apply to the Minister for the declaration of a mātaimai reserve. The Minister must approve an application and declare the mātaimai reserve, if the application satisfies the criteria prescribed by r 20 of the Regulations. Once the Minister has declared the mātaimai reserve he must also appoint the Kaitiaki nominated by the tangata whenua to manage the mātaimai reserve.
- 3 Commercial fishing is prohibited within mātaimai reserves by r 27(2) of the Regulations. Amateur fishers remain unaffected by the declaration of a mātaimai reserve and normal amateur fishing rules apply, unless bylaws are made under r 28 of the Regulations. Kaitiaki may make bylaws that apply generally to all persons fishing in a mātaimai reserve, and place additional restrictions or prohibitions on fishing activity in a mātaimai reserve, subject to the Minister's approval.
- 4 In addition, Kaitiaki may request the Minister to recommend the making of regulations that allow for commercial fishing within a mātaimai reserve, subject to certain conditions. The requested regulations must relate to the taking of specified species of fisheries resources by quantity or time period within the mātaimai reserve. Aside from these conditions, the Regulations provide that commercial fishing, once permitted, must be conducted in accordance with the provisions of the Act and the relevant applicable commercial fishing regulations. Any commercial fisher with a fishing permit for the species specified may then take that species within the mātaimai reserve. However, MFish retains the responsibility to manage commercial fishing within the reserve.

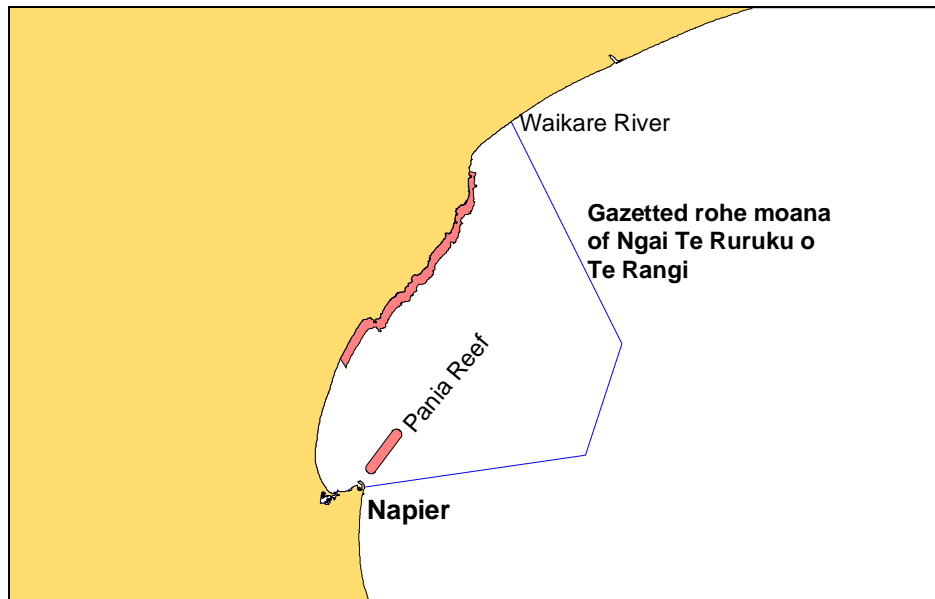
Te Kaitiaki a Moremore mātaimai reserve

- 5 The Moremore Mātaimai Reserve was established by Gazette notice on 12 August 2005². The Mātaimai Reserve encompasses two disjunct areas at Moremore in Napier (Figure 1 below).
- 6 Rangi Spooner and Te Aranui Boyce Spooner are the Kaitiaki appointed to manage the Mātaimai Reserve, having also previously been confirmed as the Kaitiaki to manage customary food gathering (in the rohe moana described in Figure 1) under the Regulations.
- 7 Commercial fishing has been prohibited within the Mātaimai Reserve since it was declared. There are currently no bylaws placing additional restrictions or prohibitions on fishing activity within the Mataimai Reserve. However, the Kaitiaki have established a Mataimai Reserve Management Committee – inclusive of commercial

² No name for the Mātaimai Reserve was prescribed in the Gazette notice so the term "Moremore Mataimai Reserve" is used in this paper to describe both areas that make up the Mātaimai Reserve.

and non-commercial local fishery stakeholders – to facilitate cooperative management in the mātaitai reserve.

Figure 1: Map showing boundaries of Te Kaitiaki a Moremore (mātaitai reserves shaded).



Proposal

- 8 The Kaitiaki have requested that the Minister recommends the making of regulations that allow certain commercial fishing within the Mātaitai Reserve. Specifically, the Kaitiaki have requested that:
- a) Commercial rock lobster fishing be allowed from 1 April to 30 September each year;
 - b) Commercial paddle crab fishing be allowed for a time period of five years; and
 - c) Existing input controls relating to rock lobster and paddle crabs are retained within the relevant quota management areas (QMAs), CRA 4 and PAD 2 respectively.
- 9 MFish notes that with regard to c) the input controls within the relevant QMAs will apply anyway through the operation of r 27(5) of the Regulations.

Assessment

Sustainability and utilisation

Paddle crab

- 10 The Mātaitai Reserve is within the area that encompasses the PAD 2 paddle crab fishery. The PAD 2 QMA is equivalent to the standard fisheries management area (FMA) 2. The Total Allowable Catch (TAC) is 125 tonnes and the allowances are as follows:
 - a) Total Allowable Commercial Catch (TACC) 110 tonnes;
 - b) Recreational allowance 10 tonnes; and
 - c) Customary allowance 5 tonnes.
- 11 Estimates of current and reference biomass are not available. However, landings have fluctuated, most probably due to market variations – paddle crab is abundant throughout most of its range and information indicates the fishery is only lightly exploited. Landings from PAD 2 peaked close to 200 tonnes in the 1998-99 fishing year but since then have been relatively stable between 20 and 53 tonnes.
- 12 MFish is satisfied that commercial paddle crab fishing in the Mātaitai Reserve, under the provisions of the Act and associated commercial fishing regulations, will not introduce any sustainability risks to the paddle crab fishery, associated and dependent species, or the aquatic environment.
- 13 Commercial fishers target paddle crab with crab pots – this is a relatively benign fishing method with little bycatch. Trawl, set net and dredge fisheries occasionally catch paddle crab as bycatch, but fishers do not use these methods in the target paddle crab fishery. Therefore it is unlikely fishers will use these methods – that might potentially result in bycatch and habitat destruction issues – in the Mātaitai Reserve.
- 14 In addition, MFish notes that utilisation of paddle crab – for all stakeholders – is already provided over the wider PAD 2 but that allowing commercial fishers to recommence harvesting in the Mātaitai Reserve will further allow people to provide for their social, economic and cultural well-being.

Rock lobster

- 15 The Mātaitai Reserve is within the area that encompasses the CRA 4 Wellington/Hawkes Bay rock lobster fishery. CRA 4 extends from the Wairoa River mouth on the east coast of the North Island, southwards along the Hawkes Bay, Wairarapa and Wellington coasts, through Cook Strait and north to the Manawatu River. The TAC for CRA 4 is 771 tonnes and the allowances are as follows:
 - a) TACC 577 tonnes;
 - b) Recreational allowance 85 tonnes;
 - c) Customary allowance 35 tonnes; and
 - d) Other mortality 75 tonnes.

- 16 The CRA 4 TACC has been almost fully caught every year since 1995 and the most recent CRA 4 stock assessment shows that the biomass is above target reference levels. Biomass is moving towards target reference levels, but MFish does not consider that allowing commercial rock lobster fishing in the Mātaitai Reserve will significantly increase sustainability risks to the rock lobster fishery, associated and dependent species, and the aquatic environment.
- 17 Commercial fishers target rock lobster with cray pots – this is also a relatively benign fishing method with low bycatch of octopus and some finfish species, and no adverse effects on the benthic environment. MFish does not consider that allowing commercial rock lobster fishing in the Mātaitai Reserve will impact on the sustainability of octopus in the Mātaitai Reserve, or over the wider CRA 4 QMA.
- 18 In addition, MFish notes that utilisation of rock lobster – for all stakeholders – is already provided over the wider CRA 4, but that allowing commercial fishers to recommence harvesting in the Mātaitai Reserve will further allow people to provide for their social, economic, and cultural well-being.

Non-commercial customary fishing

- 19 Under the Deed of Settlement, the Crown recognises that traditional fisheries are of importance to Maori. The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (the Settlement Act) was enacted to give effect to the agreements expressed in the Deed of Settlement.
- 20 Under section 10(c) of the Settlement Act, the Minister shall recommend the making of regulations “*to recognise and provide for customary food gathering by Maori and the special relationship between tangata whenua and those places which are of customary food gathering importance (including tauranga ika and mahinga mātaitai), to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade*”.
- 21 Under s 186 of the Fisheries Act 1996, the Crown has enacted two sets of regulations consistent with section 10(c) of the Settlement Act: the Fisheries (Kaimoana Customary Fishing) Regulations 1998, and the Fisheries (South Island Customary Fishing) Regulations 1999 – these regulations help fulfil the commitment given by the Crown in the Settlement Act.

Fisheries (Kaimoana Customary Fishing) Regulations 1998

Regulation 27(3)

- 22 Regulation 27(3) of the Regulations states that “*Despite subclause (2) [that prohibits commercial fishing in a mātaitai reserve] the Tangata Kaitiaki/Tiaki of the Mātaitai Reserve may request the Minister to recommend the making of regulations to allow the commercial taking of specified species of fisheries resources by quantity or time period within that Mātaitai Reserve*”.
- 23 The request satisfies the conditions of r 27(3). The Kaitiaki have specified which species may be taken commercially – rock lobster and paddle crab – and have stated the time period commercial fishers can access the fisheries – 1 April to 30 September for rock lobster and a five year time period for paddle crab. With regard to paddle

crab, MFish notes that, should regulations be made to give effect to the Kaitiaki request, the standard 1 October to 30 September fishing year will apply for the requested five year period.

Management aims

- 24 MFish considers that the aims stated in the application for the declaration of the Mātaitai Reserve are of general relevance to the Minister’s decision on whether or not to recommend that regulations be made. After giving consideration to these aims, MFish is satisfied the Kaitiaki request is generally consistent with the stated aims of management for the Mātaitai Reserve. These aims are:
- a) To ensure the sustainability of the fisheries resources and the environment;
 - b) To conduct a comprehensive survey of the quantities and variety of species currently inhabiting the mātaitai reserves (provided funding can be obtained);
 - c) Due to depletion through over-fishing, to introduce bylaws that will help the restoration and enhancement of all species;
 - d) To monitor fish stocks on a regular basis; and
 - e) To investigate fish stock enhancement techniques and reseeded programmes in order to determine suitability.
- 25 The Minister has already agreed – on approving the Mātaitai Reserve – that these general aims of management are consistent with sustainable utilisation.

Regulation 23(1)(e)

- 26 With regard to amateur and commercial fishers, MFish considers the criteria described in r 23(1)(e) of the Regulations are generally relevant to the Minister’s decision on whether or not to recommend that the requested regulations be made. Regulation 23(1)(e) states that, before declaring a mātaitai reserve, the Minister must be satisfied the proposed mātaitai reserve will not:
- a) Unreasonably affect the ability of the local community to take fish, aquatic life, or seaweed for non-commercial purposes; or
 - b) Prevent persons with a commercial interest in a species taking their quota entitlement or annual catch entitlement (where applicable) within the quota management area for that species; or
 - c) Unreasonably prevent persons with a commercial fishing permit for a non-quota management species exercising their right to take fisheries resources under their permit within the area for which that permit has been issued; or
 - d) Unreasonably prevent persons taking fish, aquatic life, or seaweed for non-commercial purposes within the fisheries management area or quota management area to which the Mātaitai Reserve relates.
- 27 The actual relevance of the criteria will depend on the particular request. MFish has no information to suggest that the proposals in the Kaitiaki request for regulations for the Mātaitai Reserve will result in any of the circumstances listed in r 23(1)(e) occurring.

Options for Management Response

Non-regulatory

- 28 There are no non-regulatory mechanisms available to allow commercial fishing for rock lobster and paddle crab in the Mātaitai Reserve.

Regulatory

- 29 The request from the Kaitiaki to allow commercial fishing for rock lobster and paddle crab in the Mātaitai Reserve requires a regulatory response. The authority and process to respond is outlined above and described in r 27 of the Regulations.

Benefits

- 30 Allowing commercial fishing for rock lobster and paddle crab in the Mātaitai Reserve will allow commercial fishers to access parts of CRA 4 and PAD 2 within which commercial fishing was prohibited when the Mātaitai Reserve was declared. This approach might also facilitate further collaboration between the Kaitiaki and fisheries stakeholders in the area.

Costs

- 31 The resumption of limited commercial fishing in the Mātaitai Reserve means there is the potential to be less rock lobster and paddle crab available for non-commercial fishers. MFish considers that this effect will be minimal and notes that the effects on non-commercial fishers from commercial fishing for rock lobster and paddle crab in the Mātaitai Reserve did not form part of the Minister's decision to declare the Mātaitai Reserve. The Mātaitai Reserve was declared to provide for and recognise customary non-commercial fishing rights and to allow the tangata whenua to exercise further rangatiratanga over a traditional fishery.

Administrative Implications

- 32 Aside from the standard costs associated with developing and administering regulations, MFish foresees no extraordinary costs associated with the progressing the Kaitiaki request.

Compliance implications

- 33 Potential compliance implications include:
- a) Demands on MFish Compliance to check commercial fishers are only targeting rock lobster or paddle crab within the permitted time periods; and
 - b) Commercial fishers incidentally catching other species while targeting rock lobster or paddle crab.
- 34 MFish considers that the Compliance resources required to enforce commercial fishing and input controls within the Mātaitai Reserve are no more than is currently required to enforce commercial fishing in other general areas.

Statutory Considerations

- 35 In assessing the Kaitiaki proposal for the purposes of this IPP the following statutory considerations have been taken into account.

Provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

- 36 MFish considers issues arising under the provisions of the Settlement Act are adequately addressed in its assessment of the Kaitiaki request. Management of non-commercial customary fishing is still provided for and managed by the Kaitiaki, despite the recommendation to allow commercial fishing in the Mātaitai Reserve subject to certain conditions.

Fisheries Act 1996 – Purpose

- 37 The Kaitiaki proposal seeks to make available fisheries resources for commercial use. This is consistent with providing for utilisation that enables people to provide for their social, economic and cultural well-being.
- 38 MFish is satisfied the proposal does not present a sustainability risk. Until recently the Mātaitai Reserve was part of the wider QMAs fished commercially. There were no significant sustainability concerns for rock lobster or paddle crab when the Mātaitai Reserve was declared and MFish has no information to indicate that the reintroduction of commercial fishing will present any sustainability risk, providing the relevant conditions indicated in this paper are satisfied. MFish and fisheries stakeholders address sustainability risks over the wider QMAs and FMAs.
- 39 In addition, MFish is satisfied that the general aims of management the Kaitiaki have for the Mātaitai Reserve are consistent with sustainable utilisation. The Kaitiaki have undertaken a commitment to monitor fisheries resources in the mātaitai reserve, and this undertaking will help identify potential or emerging sustainability risks.

Fisheries Act 1996 – Environmental principles

- 40 MFish is confident the default sustainability measures and management controls that will apply if commercial fishing is allowed in the Mātaitai Reserve are sufficient to mitigate any potential risks to associated or dependent species, and to the biological diversity of the aquatic environment.
- 41 In addition, the fishing methods (potting) used to harvest rock lobster and paddle crab are benign and MFish considers it unlikely they would have a demonstrable adverse effect on habitats of significance for rock lobster and paddle crab fisheries management.

Fisheries Act 1996 – Information principles

- 42 In assessing the Kaitiaki proposal, MFish has considered the best available information and concluded that information uncertainty is not relevant to this assessment. MFish seeks any further information from stakeholders that is relevant to this IPP.

Preliminary consultation

- 43 The Kaitiaki and Mātaitai Reserve Management Committee have discussed the Kaitiaki request with representatives of the commercial CRA 4 and PAD 2 fisheries.

Future Management

- 50 If the Kaitiaki request is approved, and regulations are passed to give effect to the request, the Kaitiaki have undertaken to:
- a) Consult annually with commercial fishing representatives to ensure sustainable utilisation of the resource;
 - b) Continue to work closely with MFish, particularly in regard to the evaluation of survey data; and
 - c) Instigate and develop, with the commercial sector, a voluntary reporting system for all rock lobster captured (ie to include lobster captured but returned to the sea) in order to monitor the fish stock abundance within the Mātaitai Reserves on a regular basis.
- 51 These undertakings (should regulations be made), will require significant time and effort on the part of the Kaitiaki in order to implement the measure above. MFish recognises the potential value in these undertakings and acknowledges the benefit that they will bring, and the effort on the part of the Kaitiaki.
- 52 MFish notes that it retains the responsibility to manage commercial fishing in the Mātaitai Reserve.

Conclusion

- 53 The Kaitiaki of the Moremore Mātaitai Reserve have requested that the Minister recommends the making of regulations to allow commercial fishing for rock lobster and paddle crab in the Mātaitai Reserve. MFish is satisfied the request conforms to the requirements of the Regulations and that allowing commercial fishing will not adversely impact on sustainability of both target species and bycatch species and the aquatic environment.

Preliminary Recommendations

- 54 MFish proposes that:
- a) The Minister of Fisheries recommends the making of regulations allowing commercial fishing for rock lobster and paddle crab within the Moremore Mātaitai Reserve, with the following conditions:
 - i) Commercial rock lobster fishing be permitted only between 1 April to 30 September;
 - ii) Commercial paddle crab fishing be permitted for a time period of five years.