

Deemed Values Review: Minister of Fisheries Final Decisions

Deemed values encourage fishers to cover their Quota Management System (QMS) stock catches with Annual Catch Entitlements (ACE). Fishers pay deemed values if they don't balance landed catch of QMS stocks with ACE

In May 2005 a Crown-Industry Joint Working Group (JWG) made nine recommendations on how to improve the deemed value regime to the Minister of Fisheries. Stakeholders were given the chance to comment on the JWG recommendations in a public consultation in late 2006.

Taking the views of stakeholders, the Ministry of Fisheries analysed the recommendations and prepared advice for the Minister. In March 2008 the Minister made final decisions on the recommendations.

Each of the JWG recommendations, followed by the Minister's decisions, are outlined below. At the end of this page are links to the reports and advice papers referred to above.

Recommendation 1

The JWG recommended that chronic over-catch should trigger management action.

The Minister agreed with this recommendation. Where over-catch of the Total Allowable Commercial Catch (TACC) is occurring, consideration will be given to the most appropriate management actions, including:

- (a) Deemed value increase and differential deemed value adjustments;
- (b) Reassessment of best information relating to appropriateness of TACCs; and
- (c) Other management measures such as overfishing thresholds.

Recommendation 2

The JWG recommended that sections 14A and 14B be revised to provide greater flexibility for setting management targets for by-catch stocks in a multi-species fishery while still taking into account the rights of dissenting parties.

The Minister agreed with this recommendation. A review of the section 14A agreement threshold, in conjunction with consideration of other collective thresholds in the Fisheries Act, will be considered for the next review of the Fisheries Act.

Recommendation 3

The JWG recommended principles for the setting of deemed value rates. The Ministry's revised catch balancing guidelines, on which the Ministry bases its deemed values advice to the Minister, implements recommendation 3.

The Minister agreed that, in general, over-catch should lead to an increase in deemed value rates in the following year so that they provide sufficient incentive to fishers to balance catch with their Annual Catch Entitlement (ACE). The need for extra compliance effort to support increased deemed value rates and differentials will be determined on a stock by stock basis.

Recommendation 4

The JWG recommended that a range of information be used in setting deemed values (ACE prices, port prices, catch in excess of TACC, and by-catch to target catch ratios).

The Minister agreed with this recommendation. Overcatch of the TACC is the major signal that a deemed value increase should be considered. The ACE price, informed by other information sources, is the primary information for determining at what level the deemed value rate should be set.

During the public submission process, one submitter recommended that the Ministry should ensure opportunities to reduce deemed values are identified. The Ministry's catch balancing system guidelines have been amended to ensure they are responsive to situations where a reduction on deemed values may be appropriate.

The JWG recommended that deemed values could be set in the first month of the fishing year so they can reflect information on whether the previous year's deemed value was sufficient to keep catch within the TACC.

The Minister decided that this recommendation will be considered for the next review of the Fisheries Act.

Recommendation 5

The JWG was concerned that lower interim deemed values, relative to the ACE price, increases incentives for fishers to delay balancing. The JWG therefore recommended that the use of interim deemed values be phased out as the other JWG recommendations are implemented. The exception would be where the deemed value is set well above the ACE price; here interim deemed values may continue to be appropriate to provide flexibility to fishers.

The Minister agreed with this recommendation. Legislative amendment would be required to set interim deemed values rates at the same level as the annual deemed values rates. This recommendation will be considered for the next review of the Fisheries Act. Prior to this legislative amendment, incentives for fishers to balance more frequently can be improved by reducing the difference between annual and interim rates. The Ministry's catch balancing guidelines, on which it bases its advice to the Minister, provide for interim rates to be set closer to annual rates in case where interim rates may be contributing to over-catch.

Recommendation 6

The JWG noted that differential deemed values can serve as a backstop to protect stocks from over-fishing and as an indicator to assist the tuning of deemed values. The JWG noted that differential deemed values can cause distortions in ACE markets and should not be applied as a general rule. The JWG also noted that differentials should be available for use where the TACCs have been exceeded in the previous year.

The Minister agreed that differentials should be retained until changes to the deemed value/catch balancing policy have proven effective. But even where over-catch is minimised, differentials continue to perform important functions. The Ministry's catch balancing guidelines provide that differentials will not automatically be applied to a stock. A case by case approach will be taken and differentials may be applied if individual over catch is a problem.

Recommendations 7-9

Recommendations 7 and 9 relate to the return of deemed value revenues to quota owners, and recommendation 8 discussed risks associated with some recommended policies including the return of deemed values. For commercial only stocks, the JWG recommended that deemed values for catch in excess of the TACC or an agreed and binding lesser catch limit should be returned to quota owners in proportion to quota ownership. For shared stocks, the proportion of deemed values for catch in excess of the TACC equal to the TACC/Total Allowable Catch (TAC) ratio should be returned to quota owners.

The JWG noted that the return of deemed value revenues to quota owners may weaken incentives, on fishers who are also quota owners, to cover catch with ACE, and thereby lessen the chances of constraining aggregate catches within the TACC. The JWG recommended that this risk be managed by increasing the deemed value rate for each stock to counteract this "discount effect," so that the level faced is greater than the economic value of gained from the catch.

The JWG also made recommendations on whether, and to what extent, deemed values collected in the past would be available for return to quota owners.

The Minister carefully considered the implications of implementing these recommendations. The Minister was concerned that returning deemed value revenues to quota owners would reduce their incentives to take responsibility for how their ACE is fished. The Minister was concerned that it would reduce quota owners' interests in ensuring the TACC is defended.

The JWG also suggested addressing this risk by increasing deemed value rates to mitigate the impacts of the return of deemed value revenues to quota owners. The Minister was concerned that this proposed solution removes important benefits and flexibilities of the deemed value regime. Increasing the deemed value rate to mitigate against the loss of incentives for large quota owners would remove much of the benefit of the deemed value regime for other fishers.

The Minister did not agree to recommendations 7 and 9, or any variants of them.

The other issue discussed under recommendation 8 is the need for penalties to be brought to bear on individual fishers or companies that are deeming catch excessively, despite the application of the standard incentive framework. The JWG recommended the use of overfishing thresholds where other measures are not proving effective, and focused compliance attention should be paid to behaviour where deemed value rates exceed port price by a significant margin.

The Minister agreed with the intent of the JWG recommendation. Overfishing thresholds will only be considered in light of the results of effective deemed value rates. Until the effects of such rates on fishing behaviour have been assessed, the Minister considered it would be inappropriate to consider setting overfishing thresholds.

Review of Implementation

The JWG review developed a number of valuable improvements in the implementation of the catch balancing regime as well as suggesting several legislative amendments.

The Minister would like to assess the implementation of the agreed changes to the regime to ensure it is being reflected in the management of fisheries. An important indicator of success will be a downward trend in the total deemed values revenue collected. The Minister directed the Ministry to conduct this review by 2012.