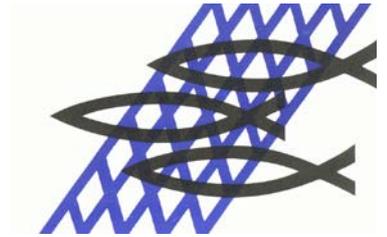


**NZ FEDERATION OF COMMERCIAL
FISHERMEN (INC)**



**New Zealand Federation of Commercial
Fishermen (NZFCF)
Submission to Regulations Review Committee**

4 May 2015

1. INTRODUCTION

1.1 This submission is lodged in support of opposition to the Shipping (Charges) Amendment Regulations 2013 and the Marine Safety Charges Amendment Regulations 2013 and seeks the Regulation Review Committee to:

1.1.1 review the regulations, and recommend to the Minister that the changes be made to the regulations, and in the interim, the previous regulations be reinstated pending the review of the current regulations; and

1.1.2 Direct that the hourly rates charged by MNZ be reviewed downwards to relieve the burden on operators; and

1.1.3 As further set out in this submission.

1.2 The NZCF supports the complaint laid by Paul Wilson for the reasons outlined in that complaint.

2. BACKGROUND

2.1 The NZFCF is a national body representing the interests of owner-operator commercial fishermen in New Zealand. The NZFCF represents members' interests at national, regional and local association levels and, where appropriate, on an individual basis. The NZFCF is an Incorporated Society currently representing more than 350 members from 27 Port Associations at ports throughout New Zealand, and is a commercial stakeholder organisation active in advocating on behalf of owner operators and contract harvesters. This submission will address the individual 'comment requests' as outlined in the Public Consultation Draft, and then raise some additional concerns surrounding the proposed changes.

3. DISCUSSION

3.1 The NZFCF has had calls from its members around elevated costs imposed by MNZ in the context of primarily three areas of work:

3.1.1 The costs of implementation of MOSS; and

3.1.2 The cost of "deemed MTOC Audits"; and

3.1.3 The costs of transitioning Certificates under the new "Sea Cert" regime, which arises from the amendment and implementation of Maritime Rule 31.

3.2 The NZFCF also have concerns that the rates charged by MNZ under the Regulations have no relation to market rates for similar services and there is no incentive for MNZ to keep costs down, and improve service delivery.

3.3 *Costs of implementation of MOSS and SeaCert.*

Whilst the NZFCF, supports the initiative by MNZ to bring auditing of vessels in house through MOSS, in the consultation process leading to the implementation of MOSS, the costs of transitioning to MOSS were

expressed to be similar or less than remaining within SSM. Costs savings were projected through extending the tailshaft survey to 5 years, and the overall savings over a 5 to 10 year period would become evident. In practise however, the costs of transitioning into MOSS (preparation of MTOP, MNZ on site visits, expensive interactions with MNZ) have proved to be a greater burden on operators than SSM. In particular, with the new hourly rate structure of MNZ, any enquiries for documents etc are charged for (after the initial attendance) which places an additional burden on operators.

At the same time, the costs of transitioning older legacy tickets through the Sea Cert regime have impacted the operators hard, particularly where the transition of the certificates require additional courses to be sat with training institutions. Further, operators are billed for every attendance, over and above the basic charge for the certificates which at the increased hourly rates charged by MNZ places a significant burden on operators.

The implications of two major changes to the NZ regulatory environment, have not been well managed, and marginal operators are being adversely affected. NZFCF supports effective regulation, however, there appears to be little restraint on hourly costs. It is very difficult to question costs, if an operator requires a certificate which will stop him from sailing. A further constraint is that it is very difficult to contact decision makers in the MOSS and SeaCert teams to question costs, and lengthy delays are experienced in getting charging issues sorted out.

All of these matters conspire to cause NZFCF members to throw up their hands, pay the costs (even if unreasonable) to get their certification. It seems to NZFCF that this is not the intention of the changes to the regulations. Given that the charges regulations are having unintended consequences, we submit that these should be resolved through changes to the regulations that would drive transparent pricing.

This must be coupled with quick and efficient service delivery and accessibility of MNZ staff, particularly if the current levels of hourly rates are charged, the principle being that a higher hourly rate, should cause better service delivery.

3.4 *Cost of Deemed MTOC Audits and high hourly rates.*

This may be a further unintended consequence of the changes to the regulation that has caused much frustration with the NZFCF members. I will not comment on the legality of these audits, as this is being dealt with elsewhere. However, many NZFCF members made sure that prior to the implementation of MOSS that their vessel surveys and audits were up to date, meaning that the vessel would not be required to enter into MOSS for up to 2 to 4 years, depending on where the vessels were in their survey cycle. However, many NZFCF members have been required to do additional 'Deemed MTOC Audits' without any specific reason being given for these audits, and these audits are being charged to the operators at hourly rates of up to \$238 per hour with little distinction being made between various sizes of vessel.

The unintended consequence here is that the regulations allow MNZ to charge operators at high hourly rates for basic attendances that do not have a specific legislative underpinning.

A further unintended consequence is that the high hourly rate charged by MNZ auditors, will impact the market and will cause private surveyors to increase their rates. The services of an experienced qualified surveyor can be obtained for \$165 per hour. The rates charged by unqualified MNZ personnel are well in excess of this (\$238per hour).

Further, on the billing, there is no flexibility in the hourly rate, with a one size fits all approach no matter how menial the attendance (ranging from the auditor's attendance to producing a standard form report).

In NZFCF's view, administrative and less important attendances should be charged at a lower (market related rate) and any charging needs to be carefully itemised and broken down to fractions of an hour, rather than charges in hourly units. This should be reflected in changes to the regulations.

The charges regulations should also be amended to allow a pathway for members to appeal the level of charges without being penalised by non-provision of documentation. This appeal process should incorporate specific time frames for MNZ and operator response to expedite matters.

4. **CONCLUSION**

In summary:

- a. The NZFCF submits that taking out the competitive balances on pricing caused by competition between SSM companies has created a monopoly which can dictate charges without being accountable for delivery.
- b. The Regulations empower MNZ to place a disproportionate burden on small operators who have no ability to question charges or negotiate outcomes with MNZ. There is no accountability framework built into the regulations and the ability to charge.
- c. The high hourly rates charged are not market related, unrelated to the attendance and almost take the form of an additional tax.
- d. The high hourly rates bear no resemblance to the market cost of private fully qualified surveyors.
- e. The Regulations should be amended to have a sliding scale of hourly rates to reflect the type of attendances charged, linked to market rates.
- f. The Regulations should stipulate that any invoices be itemised (in 6min intervals) with detailed descriptions of work undertaken;
- g. A fast track appeals mechanism should be built into the regulations.

Any further queries please do not hesitate to contact Doug Saunders-Loder at (03) 528 2823.