

SPECIES CODES FOR REPORTING COMMERCIAL CATCH – INITIAL POSITION PAPER

Executive Summary

- 1 The Ministry of Fisheries (MFish) proposes to amend Part 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001 (the Reporting Regulations) to add further species codes for statutory reporting purposes for commercial fishing.
- 2 Regulating further codes for species found in freshwater will assist in monitoring the commercial catch of these species and their inter-relationship with other aquatic life. This will provide a better basis on which to assess future management options. The proposal is confined to the improvement of commercial catch reporting. The proposal does not seek to alter the provisions that authorise the take of these species under other provisions of the Fisheries Act 1996 (the Act), and as may be restricted by other legislation or regulation.
- 3 Regulations to prescribe the information specified in statutory returns¹ may be made under the general regulation making power of the Act (ie, section 297(1)(h)). The key regulatory framework for the reporting of information derived from commercial fishing activities is the Reporting Regulations, and the Schedules of reporting codes contained in those regulations.
- 4 This paper focuses on the need to specify further codes for a range of species found in freshwater, and to codify these in regulation. These species are either being taken as a bycatch in existing fishing operations, or are subject to some limited interest in target fishing operations for a range of end uses, including live capture.

Regulatory Impact Analysis Requirements

- 5 This Initial Position Paper (IPP) required a Regulatory Impact Statement which was reviewed internally by MFish.
- 6 For more information on the Regulatory Impact Analysis requirements and the meaning of the word 'significant' with reference to an IPP, please refer to the Ministry of Economic Development website, www.med.govt.nz.

The Issue

General approach

- 7 Most species of aquatic life² may be commercially fished. Commercial fishers are required to submit statutory returns on species taken when commercial fishing. The Reporting Regulations are periodically amended to include

¹ The kinds of statutory returns are defined in regulation 4 of the Fisheries (Reporting) Regulations 2001.

² 'Aquatic life' is defined in the Fisheries Act 1996 to mean any species of plant or animal life that, at any stage in its life history, must inhabit water, whether living or dead, and includes seabirds (whether or not in the aquatic environment).

further species codes relating to the catch taken. Species codes are used irrespective of whether the species in question is taken commercially as a target species, or as a bycatch of other species being targeted.

- 8 The purpose and principles of the Act supports a need to obtain information for fisheries management decisions. The development of management advice is most likely to be best achieved from the basis of having good information on the nature and extent of such use. Consequently, a regulatory framework has been developed to manage and record the use of fisheries resources by commercial fishers. The initial specification of a species reporting code is one of the basic steps taken to enable the collection of catch information.

Existing regulatory framework

Species codes regulated in the Schedules of the Reporting Regulations

- 9 Regulation 37 of the Reporting Regulations provides that codes are to be used for certain entries on statutory returns furnished by commercial fishers. Species codes are set out in Part 2 of Schedule 3 of the Reporting Regulations. Species codes currently specified in this Schedule for species found in freshwater include, amongst others, shortfin eel, longfin eel, brown bullhead catfish, koi and quinnat salmon. This represents only a small proportion of species likely to be taken by commercial fishers on a regular basis, even if the quantities involved may be relatively small.
- 10 Commercial fishers are required to enter a species code to which the return relates (Regulation 37(b)). Commercial fishers taking species found in freshwater would therefore need to complete relevant species code entries when completing the:
 - a) Freshwater Eel Catch Effort Return (ECER);
 - b) Freshwater Eel Catch Landing Return (ECLR);
 - c) Catch, Effort and Landing Return (CELR), and the;
 - d) Monthly Harvest Return (MHR);
- 11 The above returns are applicable to a broad range of species of aquatic life. The two eel forms must be used by commercial fishers when targeting eel fisheries.

Use of explanatory notes accompanying statutory returns

- 12 Regulation 29(3) of the Reporting Regulations enables the chief executive of MFish to provide explanatory notes for the return forms. The purpose of the explanatory notes is to explain or elaborate on the manner in which the relevant return must be completed or provided. Explanatory notes were provided with the ECER and ECLR when introduced in October 2001. Some species codes were included in the accompanying explanatory notes if they were not already in the Reporting Regulations at that time. The explanatory notes for the ECER and ECLR forms have not been updated since their introduction. However, 'brown bullhead catfish' (cf. freshwater catfish) has more recently been codified in regulation.

- 13 The explanatory notes for the ECER and ECLR forms currently provide the following species codes that must be used when completing these forms.

Species	Code specified for ECER explanatory notes	Code specified for ECLR explanatory notes	Scientific name
Freshwater catfish ³	CAT	CAT	<i>Ictalurus nebulosus</i>
Brown trout	BTR	BTR	<i>Salmo trutta</i>
Freshwater perch	FLU	FLU	<i>Perca fluviatilis</i>
Freshwater crayfish	KOU	KOU	<i>Paranephros</i> spp (sic)
Goldfish	CAU	CAU	<i>Carassius auratus</i>
Whitebait and kokopu	GLX	GLX	<i>Galaxiidae</i> spp
Koi carp	KOI	KOI	<i>Cyprinus carpio</i>
Giant bully	GGO	GGO	<i>Gobiomorphus gobioides</i>
Bullies	BUL	BUL	Electridae spp
Rudd	RDD	RDD	<i>Scardinius erythrophthalmus</i>
Flatfish	-	FLA	- including flounder, sole, brill, and turbot
Black flounder	BFL	-	<i>Rhombosolea retiara</i>
Brill	BRI	-	<i>Colistium guntheri</i>
Greenback flounder	GFL	-	<i>Rhombosolea tapirina</i>
Lemon sole	LSO	-	<i>Pelotretis flavilatus</i>
NZ sole	ESO	-	<i>Peltorhamphus novaezelandiae</i>
Sand flounder	SFL	-	<i>Rhombosolea plebeia</i>
Turbot	TUR	-	<i>Colistium nudipinnis</i>
Yellowbelly flounder	YBF	-	<i>Rhombosolea leporina</i>

³ An updated common and scientific name for brown bullhead catfish (*Ameiurus nebulosus*) has been inserted into the Fisheries (Reporting) Regulations 2001 as at January 2006. The species code has remained the same.

- 14 The explanatory notes for the completion of CELRs and MHRs do not include reference to the species codes referred to in the explanatory notes for ECERs and ECLRs, other than for the eight flatfish species.

Reporting species codes by a commercial fisher

- 15 A commercial fisher is obliged to enter a species code where one is provided, as set out in Part 2, Schedule 3, of the Reporting Regulations (regulation 37(b)). Where the relevant species code is not available there, a commercial fisher must comply with the explanatory notes provided for the completion of the relevant form.
- 16 In the absence of an appropriate species code in the explanatory notes, a commercial fisher is reliant on a directive from the chief executive of MFish as to how returns must be completed (regulation 39(2) of the Reporting Regulations). However, commercial fishers are not obliged to seek assistance in such circumstances.
- 17 The specification and promotion of a reasonable range of species codes in the Reporting Regulations will enable commercial fishers to correctly complete their returns on a monthly basis. This will remove the inconvenience and potential time delay associated with obtaining an appropriate species code, particularly near the due date for the furnishing of returns. Commercial fishers face financial penalties for the late submission of returns.
- 18 The latter situation is not an efficient administrative process for the longer term. Directives from the chief executive are typically used as interim arrangements while particular code entries are developed for longer term use and codified through regulation.

The outcome sought

- 19 Providing additional species codes in regulation will enable more efficient and effective monitoring of commercial use of fisheries resources found in freshwater. Most species codes proposed are already used in other databases or in conjunction with other authorities under fisheries legislation. Recognition of these species codes in regulation will minimise the potential for reporting errors. For example, fish farmers, who may also be commercial fishers, have obligations to record information on the species they have in their possession.
- 20 The need for better specification of commercial catch of freshwater species was initially highlighted in the development of new reporting returns for the eel fishery prior to October 2001. A 2004 review of management measures related to bycatch in the eel fishery also noted that the reporting framework was able to capture information on species taken as a bycatch.
- 21 In addition, a statutory moratorium on the issuing of fishing permits to new entrants for most non-quota management system (QMS) species was lifted in October 2004. With the lifting of the moratorium, some interest has been expressed in commercial use of freshwater species other than those used to date (e.g., eels, catfish, koi). This includes the targeting of some species for

the aquarium trade, and use in species conservation or enhancement programmes with a commercial element. Accordingly, the current initiative to update and add an appropriate range of further species codes to the regulatory framework is timely.

- 22 There is also a need to review some of the species codes provided in the explanatory notes for the relevant returns for freshwater species. Some of the stated species codes do not necessarily reflect the preference to report the catch of each species (e.g., BUL – ‘bullies’ encompasses all species within the family, but more species specific reporting is preferred). In general, the reporting of catch on a species by species basis will allow for more informed assessments about sustainable use of the respective species. The correct species codes can now be codified in regulation as part of this review. Species codes provided in explanatory notes can be updated as a consequence of amendments to the Reporting Regulations. This is an administrative step undertaken by the chief executive of MFish.
- 23 Where sufficient information is available on the species being taken, fishery managers and a wide range of fishery interests will be better able to assess whether the use of fisheries resources is consistent with the purpose and principles of the Act. The inclusion of further species codes in the Reporting Regulations will provide the desired transparency for commercial fishers when completing their returns. Information derived from improved reporting can be used to better evaluate management initiatives relating to the use of the species by a number of fishery interests.

Summary of Options

Option 1 – Status Quo

- 24 Commercial fishers would only be able to readily use a limited number of species codes under the status quo option. These would be derived from either the Reporting Regulations or the explanatory notes accompanying returns.
- 25 This option does not enable the collection of catch information for species found in freshwater. Under this option, MFish may need to allocate resources to ensure that commercial fishers are complying with the regulatory framework as it exists. This includes the issuing of ad hoc directives from the chief executive of MFish to commercial fishers on the species codes that should be used when completing their returns.
- 26 Retaining the status quo will not enable commercial fishers to better document the aquatic life taken when commercial fishing. Commercial fishers, particularly those wishing to target particular species found in freshwater, are likely to experience some delay in attempting to furnish accurate returns as guidance on species codes may need to be obtained.
- 27 Accurate information on the catch of a variety of species will not necessarily be available for evaluating the effects of commercial fishing, or developing appropriate management responses where an undesirable impact is identified.

Option 2 – Addition of further species codes – MFish Preferred

Option

- 28 MFish proposes to recommend the amendment of Part 2, Schedule 3, of the Reporting Regulations to list further species codes for freshwater species taken by commercial fishers. The species and their proposed codes are set out as follows.

Common name	Proposed species code	Scientific name
Alpine galaxias	ALG	<i>Galaxias paucispondylus</i>
Atlantic salmon	ATS	<i>Salmo salar</i>
Banded kokopu	BKO	<i>Galaxias fasciatus</i>
Black mudfish	BCM	<i>Neochanna diversus</i>
Bluegill bully	BGB	<i>Gobiomorphus hubbsi</i>
Brook char	BKC	<i>Salvelinus fontinalis</i>
Brown mudfish	BNM	<i>Neochanna apoda</i>
Brown trout	BTR	<i>Salmo trutta</i>
Burgundy mudfish (Northland mudfish)	NLM	<i>Neochanna heleioides</i>
Canterbury galaxias	CNG	<i>Galaxias vulgaris</i>
Canterbury mudfish	CBM	<i>Neochanna burrowsius</i>
Common bully	GCO	<i>Gobiomorphus cotidianus</i>
Common smelt	SME	<i>Retropinna retropinna</i>
Cran's bully	CBU	<i>Gobiomorphus basaloides</i>
Dune lakes galaxias	DFI	<i>Galaxias gracilis</i>
Dwarf galaxias	DFG	<i>Galaxias divergens</i>
Estuary stargazer	ESZ	<i>Leptoscopus macropygus</i>
Estuarine triplefin (Cockabully)	GNI	<i>Grahamina nigripinna</i>
Freshwater mussel	CWE	<i>Cucumerunio websteri</i>
Freshwater mussel	HME	<i>Hyridella menziesii</i>
Giant bully	GGO	<i>Gobiomorphus gobioides</i>
Giant kokopu	GKO	<i>Galaxias argenteus</i>
Goldfish	CAU	<i>Carassius auratus</i>
Grass carp	GRP	<i>Ctenopharyngodon idella</i>
Inanga	GMA	<i>Galaxias maculatus</i>
Koaro	KOA	<i>Galaxias brevipinnis</i>
Lamprey	LAM	<i>Geotria australis</i>

Northern koura	KPP	<i>Paranephrops planifrons</i>
Otago roundhead galaxias (Roundhead galaxias)	RHG	<i>Galaxias anomalus</i>
Perch	FLU	<i>Perca fluviatilis</i>
Quinnat Salmon (Chinook salmon)	SAM	<i>Oncorhynchus tshawytscha</i>
Rainbow trout	RTR	<i>Oncorhynchus mykiss</i>
Redfin bully	RFB	<i>Gobiomorphus huttoni</i>
Rudd	RDD	<i>Scardinius erythrophthalmus</i>
Sailfin molly	SFM	<i>Peocilia latipinna</i>
Short-jawed kokopu	SKO	<i>Galaxias postvectis</i>
Silver carp	SRP	<i>Hypophthalmichthys molitrix</i>
Sockeye salmon	SOS	<i>Oncorhynchus nerka</i>
Southern koura	KPZ	<i>Paranephrops zealandicus</i>
Stokell's smelt	STK	<i>Stokellia anisodon</i>
Taieri flathead galaxias (Flathead galaxias)	FHG	<i>Galaxias depressiceps</i>
Tench	TNC	<i>Tinca tinca</i>
Torrentfish	CHF	<i>Cheimarrichthys fosteri</i>
Upland bully	ULB	<i>Gobiomorphus breviceps</i>
Upland longjaw galaxias (Longjaw galaxias)	LJG	<i>Galaxias prognathus</i>
Watercress	WAT	<i>Nasturtium microphyllum & N. officinale</i>

29 Other than the proposed addition of new species codes to Part 2, Schedule 3, of the Reporting Regulations, the following species have subtle, yet important, proposed changes to coding that is also proposed to be included in the Reporting Regulations.

Species (existing code) - and where currently specified	Proposed species Reporting Regulations	new code for	Proposed name for Reporting Regulations	species Reporting change	Nature of proposed change
Bullies (BUL) - explanatory notes for	BUL retained, but specific introduced	but codes for	Bluegill <i>Gobiomorphus hubbsi</i> ,	bully common	Provide specific codes for listed bully species.

ECER, ECLR.	BGB, GCO, GGO, RFB, ULB.	bully <i>Gobiomorphus cotidianus</i> , giant bully <i>Gobiomorphus gobioides</i> , redfin bully <i>Gobiomorphus huttoni</i> , upland bully <i>Gobiomorphus breviceps</i> .	Retain BUL for use when taken as bycatch, or for bully species not having their own species code.
Catfish (freshwater) (CAT) – Reporting Regulations.	CAT – already in place.	Brown bullhead catfish <i>Ameiurus nebulosus</i>	Removal of old common name from Part 2, Schedule 3, of Reporting Regulations.
Freshwater crayfish (KOU) – explanatory notes for ECER, ECLR.	KPP KPZ	Northern <i>Paranephrops planifrons</i> Southern <i>Paranephrops zealandicus</i>	Recognition of two separately identifiable species; old species code proposed to be discontinued. Spelling error in scientific name in explanatory notes corrected.
Whitebait and kokopu (GLX) – explanatory notes for ECER, ECLR.	GLX retained, but specific codes introduced for BKO, GKO, SKO, GMA, KOA, SME. In addition, WHI code introduced for lifestages known as whitebait.	Banded kokopu <i>Galaxias fasciatus</i> , giant kokopu <i>Galaxias argenteus</i> , short jawed kokopu <i>Galaxias postvectis</i> , inanga <i>Galaxias maculatus</i> , koaro <i>Galaxias brevipinnis</i> , smelt <i>Retropinna retropinna</i> .	Provide species specific codes for listed galaxiid and smelt species. Retain GLX for use when these species taken as bycatch, or for galaxiid species not having their own species code. WHI used solely for juvenile lifestages known as whitebait.

30 Should the Minister of Fisheries (the Minister) agree to the amendment of the Schedules to the Reporting Regulations, it is proposed to consequently seek the chief executive's agreement to update the explanatory notes accompanying the returns relevant to commercial catch in the freshwater environment. The update will include those new species codes regulated, and any other relevant matters appropriately placed in the explanatory notes.

Rationale for Management Options

Intent

- 31 The proposal seeks to codify species codes through regulatory amendment of Schedule 3 of the Reporting Regulations with the intent that:
- a) existing species codes (as may be amended) should be promoted from inclusion in the explanatory notes accompanying certain returns (but not others), to apply generically to all returns;
 - b) a few existing species codes are amended or adjusted to better reflect the expected use of these codes for the longer term (ie, more specific codes);
 - c) new species codes are introduced so commercial fishers can complete returns without the need to seek a directive from the chief executive of MFish on how to complete their return;
 - d) MFish and the Minister are better able to carry out statutory responsibilities to achieve the purpose and principles of the Act, and any obligation arising from a specific Treaty settlement.
- 32 The opportunity has been taken to identify those species that are likely to be taken in existing commercial fishing operations, or in related commercial ventures (e.g., fish farming). Similarly, some species codes proposed in this paper are used for research or fish farming databases. Such species codes are readily transposed for the future completion of statutory returns by commercial fishers.
- 33 The addition of further species codes in regulation will provide greater transparency to commercial fishers when completing their statutory returns, and provide for the efficient administration of the reporting framework.
- 34 The catch information collected will provide a better basis for monitoring the use of such species, and will be used in assessing future management measures required under the Act. This will be a valuable source of information for those fishery interests involved in subsequent discussions focused on identifying management objectives for these fisheries resources.

Implementation

- 35 Regulations for the purpose of prescribing the manner and form of returns and information specified in such returns may be made under the general regulation making power of the Act (section 297(1)(h)). Species codes used by commercial fishers are specified in Part 2, Schedule 3, of the Reporting Regulations. Should the Minister agree to amend the regulations to add further species codes as proposed, this is likely to come into effect by June 2009. This effective date provides for the normal time period in developing and implementing new regulatory measures.
- 36 The fishing industry will be informed on any changes to the species codes used for reporting through letters and website notification. Identifiable commercial stakeholder organisations with an interest in freshwater species

will also be informed on a personal basis. Initial advice of any changes will be made as a result of the Minister's decision letter, which typically precedes the regulatory development process by some months. MFish will liaise with Commercial Fisheries Services Ltd (FishServe) to ensure that the relevant administrative steps are undertaken prior to the implementation date.

Candidate species

- 37 A full review of the species codes for species found in freshwater has previously not been undertaken. Previous species codes have been developed to reflect the fisheries of interest at the time, and the species largely taken as bycatch of those fishing activities. A similar approach has generally been taken with marine fisheries resources over recent decades.
- 38 The list of species codes proposed for inclusion in regulation also recognises that limited target fishing of some species is either being undertaken now, or is proposed, for a range of end uses (e.g., aquarium trade, conservation programmes). Accordingly, the list of proposed species codes reflects the increased interest and ability, since 2004, for fishery interests to take a wider variety of these species on a commercial basis.
- 39 The ability to target some species commercially is not available in all circumstances, nor is it within the scope of this proposal which focuses on improving the reporting framework. For example, some species have a particular legal status in some geographic areas as a result of Treaty settlements (e.g., taonga species). However, the nature and extent of their unintentional capture in commercial fishing operations is of importance to note.
- 40 There are a small number of species of aquatic life (e.g., sports fish) that hold a particular status under other legislation. Species codes under fisheries legislation are still appropriate for such species, in terms of the desire to be informed about the level of interactions with such species and associated fishery interests. For example, sports fish such as quinnat salmon (taken principally in southeast South Island trawl fishery) or rainbow trout (eel or grey mullet fishery) are occasionally taken as bycatch in commercial fishing operations. Commercial fishers are not allowed to keep such catch, but are able to report its capture.
- 41 Information on the nature and extent of these types of interactions will be facilitated if further species codes for a wider range of freshwater species are codified in regulation. Species codes beyond those already in regulation (e.g., SAM for quinnat salmon) have to date been made available to commercial fishers through the explanatory notes for eel returns (e.g., RTR for rainbow trout). However, these and a range of additional species should be now codified in regulation. This will allow commercial fishers to report unintentional catch of these species in other fisheries (e.g., set nets), that generally use other returns (e.g., CELRs).
- 42 Any future review of species codes can consider further additions as justified and considered appropriate to meet the objective of securing information for

fisheries management purposes. Fishery interests may however identify some species that have not been included in this IPP, but they may wish to see considered in the current review.

Assessment of Management Options

Option 1 – Status Quo

Impact

- 43 MFish and fishery interests are not in a good enough position to clearly understand the nature and extent of species caught in the freshwater environment. Most of the existing information on commercial catch of other species is indicative only, other than those species of historic interest. The development and evaluation of management options would be made easier for all relevant species if catch information was more reliable, accurate and available.
- 44 Commercial fishers have traditionally focussed on reporting the primary species of interest to them, and /or other species that have been retained given some commercial value. Catch information has mainly been captured on the CELR in the past. New reporting forms (ie, ECER and ECLR) were introduced for the eel fishery in October 2001, and the reporting of bycatch species was similarly factored into the design of the returns.
- 45 The explanatory notes provided for the two eel reporting forms did specify species codes for a range of freshwater species taken as bycatch of eel fishing. However, the level of compliance with the reporting of other bycatch species taken in the freshwater environment has not been as high as desired. The lack of species codes within the regulatory framework may not have assisted with achieving the desired outcomes, even though the explanatory notes provided guidance on completion of species code information for some species.
- 46 If the status quo is maintained, there will be a need to increase adherence to the reporting of catch against existing species codes. Similarly, some commercial fishers interested in the targeting of some species found in freshwater will need to rely on directives from the chief executive of MFish on how the returns should be furnished. This is not a systematic and efficient way to operate an administrative system for the reporting of commercial catch, particularly if the species are, or could be, taken reasonably frequently.
- 47 The inclusion of further species codes in the explanatory notes is generally not consistent with the purpose of the notes to explain or elaborate on the reporting requirements set out in regulation. Inclusion of species codes in the explanatory notes could only be seen as an interim step prior to codification of appropriate codes in the Schedules to the Reporting Regulations.
- 48 Retaining the status quo would similarly mean that the identification of individual species catch would not be as specific as desired from a longer term management perspective. For example, the current species codes for both bully and koura species do not distinguish between the various species involved. This would have an impact on MFish's ability to provide advice to

the Minister on management measures appropriate to the species in question, in accordance with the statutory obligations of the Act.

- 49 MFish's enforcement strategy for freshwater fisheries has focused on species of particular interest including shortfin eel, longfin eel, koi and catfish. This reflected the topical nature and interest in the use of these species. As future monitoring of the use of those resources is undertaken, the opportunity will be taken to monitor the adherence to the species codes for other species found in freshwater. Similarly, MFish is generally aware of the identity of industry members with an interest in other species found in freshwater. MFish anticipates that on-going liaison with the small niche industry for these species should resolve any compliance issues without the need for enforcement action.
- 50 There are a number of Treaty Settlements with hapu and iwi throughout the country that emphasise the importance of freshwater fisheries resources as taonga. There is a need for the Crown to have in place management strategies that recognise these values. The existing management strategies may not be seen as sufficient to ensure that these values are not affected. Where the use of these resources remains relatively light, the risks to these values may be relatively small. However, there is a need to have systems in place to better assess any such impacts on these values.
- 51 If the status quo is maintained, it is highly likely that the same proposal will need to be considered again. The need to monitor the use of fisheries resources found in the freshwater environment is an on-going priority.

Costs

- 52 Some commercial fishers wish to target species found in freshwater and want to ensure that their activities are adequately encompassed by the reporting framework. These interests understand the need to ensure that their fishing activities are undertaken in a sustainable way, and appreciate the need for accurate reporting of their operations. Retaining the status quo is likely to lead to some difficulties for such commercial fishers, when attempting to adequately complete returns.
- 53 Similarly, MFish and the Minister may have difficulty in adhering to statutory obligations under the Act over the medium to longer term where information is deficient in some way for the purposes of management. The aim of encouraging transparency, accuracy and compliance with the reporting framework might also be affected where MFish has not provided the necessary means to adequately report catch.
- 54 If the status quo is maintained, the accuracy of catch information for a broader range of species taken in freshwater may not improve. Similarly, efficiency gains from an administrative perspective may not be addressed. With the status quo left in place, the opportunity would be lost to gain better information about the commercial use of species found in freshwater, prior to broader management initiatives that support sustainable use outcomes.

- 55 A failure to undertake a reasonably comprehensive review of species codes at this time may add to the compliance costs of administering data, databases, and the number of interactions between FishServe and commercial fishers. In addition, there is a greater chance that ancillary steps (e.g., liaison with Maori, compliance initiatives) will need to be undertaken to ensure that statutory obligations of the Minister and MFish are not compromised.

Benefits

- 56 There are no benefits in maintaining the status quo over the medium to longer term. The statutory obligations of MFish and the Minister to act in accordance with the purpose and principles of the Act are unlikely to be adequately met over that timeframe.
- 57 Some cost savings, in terms of MFish resources, may be made in not seeking to implement the work already done to date in preparing the proposed species codes proposed in this paper. However, this may only defer the completion of the tasks associated with refining the reporting framework. It is inevitable that further species codes will be required to monitor the commercial use of a wider range of species.

Option 2 – Addition of further species codes – MFish Preferred Option

Impact

- 58 Commercial fishers are already required to specify species codes in their returns, whether these are derived from the Schedule to the Reporting Regulations, or from the explanatory notes for particular returns. Inclusion of the proposed species codes in the Schedules of the Reporting Regulations will ensure that these additional codes are available for general use. These species codes would apply to all types of return that a commercial fisher may need to complete.
- 59 At present, the explanatory notes differ between different returns in terms of the extent of species codes available for use. Addition of further species codes to the Reporting Regulations will also emphasise that data on the commercial catch of the affected species is required, irrespective of whether taken as a target or bycatch fishery.
- 60 There are advantages to commercial fishers and MFish where the parameters of the reporting framework are clearly understood. Where the species codes for the completion of returns are appropriately placed in regulations, the explanatory notes can be focused on any elaboration required to assist commercial fishers in the completion of their returns. Similarly, the chief executive won't need to provide directives as to how returns are completed for the species mentioned in this paper, which would be the case if the status quo was retained.
- 61 Should further species codes be codified in regulation, then explanatory notes for the relevant returns can be updated by the chief executive of MFish. Thereafter, MFish may request that FishServe monitors the accuracy of

species code entries on returns subsequently furnished by commercial fishers. The intent would be to assess whether commercial fishers are having any difficulties associated with the entry of further species codes. In addition, MFish will work directly with commercial stakeholder organisations, key Licenced Fish Receivers (LFRs) and commercial fishers, to ensure that the use of new species codes is understood.

- 62 MFish does not envisage that the completion of species codes in a return for the wider range of species within this paper will result in a significant time commitment for commercial fishers. Typically, a commercial fisher operating in freshwater does not catch many species at any one time, and the methods used are reasonably selective. Relatively more species are caught on any one occasion in the marine environment.
- 63 A slight increase in data entry by FishServe may result, but the number of commercial fishers operating in the freshwater environment is relatively low (~5%) in comparison to the overall number of all commercial fishers. Several of the species codes are already required to be entered on eel forms as a result of their inclusion in the explanatory notes for those returns. As the offence and penalty regime for the failure to submit returns with the required information is reasonably generic, it is not proposed to make any adjustments to those settings as a result of adding the proposed species codes in this review.

Costs

- 64 The regulatory amendment will provide greater transparency for commercial fishers and administrators, and therefore should reduce compliance costs over the medium term. There will be a need in the short term to ensure that commercial fishers are aware and informed of the availability of the species codes in regulation, and draw their attention to updated explanatory notes that accompany returns.
- 65 MFish does not consider that the additional data entries required to be made on returns will be onerous for commercial fishers, or of significance to the data entry function undertaken by FishServe. Most commercial fishing operations in the freshwater environment catch a small variety of species at the one time.
- 66 The proposal will be of more consequence for the small number of commercial fishers who wish to take a wider range of species found in freshwater. Such activities are likely to be quite focused on particular species using relatively selective fishing methods. These commercial interests recognise that the use of other species comes with a reasonable expectation of reporting for the purposes of achieving good fisheries management outcomes.
- 67 This paper has considered a reasonably broad range of species found in freshwater which is more efficient than undertaking repeated reviews each year as further species codes are desired. Accordingly, future costs to the Crown, some of which are recoverable from the fishing industry, are able to be avoided.

Benefits

- 68 The proposed regulatory amendment will enable commercial fishers to complete their returns with increased clarity and transparency. The proposed species codes will then apply to all types of return. Provision of the additional species codes will enable the relevant returns to be completed without reference to FishServe or MFish for guidance. The addition of the proposed species codes in the Reporting Regulations will lead to an increase in the efficiency of administrative processes and systems, and strengthen the integrity of the reporting framework. The explanatory notes can be refocused to elaborate on how returns should be completed, rather than being used for the longer term purpose of specifying the codes for use.
- 69 Obtaining better information on the commercial use of fisheries resources will facilitate the monitoring and management of these resources consistent with the purpose and principles of the Act. The QMS directly limits the quantity of overall catch for species managed by this system. However, with some exceptions, commercial access is generally unconstrained for those species managed outside of this system. Access to these other species was generally prevented from 1992 as a result of a statutory moratorium on the issuing of fishing permits – this was lifted in 2004.
- 70 Obtaining information on the catch of the various species not managed under the QMS is quite valuable when assessing the status of a fishery over the longer term. Putting in place the basic specifications for reporting of this catch will enable fishery interests to better monitor the use of these resources and be proactive in developing management strategies.
- 71 Information obtained from improved species reporting can also be used to assess the extent to which such fisheries resources are taken that may also be the subject of interest to other fishery interests, particularly tangata whenua. As some hapu and iwi have identified interests in some of these species, MFish can consider in conjunction with fishery interests whether those interests are being affected.

Other Management Controls

- 72 The specification of species codes discussed in this paper relate to commercial use. However, it is important to recognise that the same species codes are generally used for categorising the catch of other fishery interests. The same species codes are generally used when conducting research on recreational catch, and can be applied to the reporting and storing of data for customary catch purposes.

Statutory Considerations

- 73 Fisheries resources need to be used on a sustainable basis. Obtaining information on the nature and extent of any such use provides a basis from which the nature of the use can be tested against statutory obligations. The current proposal simply provides information on what species are taken by commercial fishers. Such catch may be derived from either direct fishing for these species, or they may be taken as a bycatch of fishing for other species.

- 74 The specification of further species codes for catch of commercial fishers will provide a more informed basis from which any adverse effects of fishing on the aquatic environment can be assessed. The collection of further basic and relevant information for the purpose of the Act will also contribute to improved future decisions. The uncertainty and unreliability of information made available to decision makers can be progressively reduced, and the adequacy of information improved.

Appendices

Statutory Considerations

75 In forming the management options discussed in this paper, the following statutory considerations were taken into account:

- a) **Section 5(a) and (b) – Application of international obligations and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992:** There is a wide range of international obligations relating to fishing (including sustainability and utilisation of fishstocks and maintaining biodiversity). MFish considers issues arising under international obligations and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 are adequately addressed in the management options. The collection of information underpins the appropriate use of fisheries resources, taking into account the differing values that fishery interests may have, what may be taken on a sustainable basis, and what other biological interactions may be affected.
- b) The provision of information will enable a more objective assessment on the use of fisheries resources and an assessment of any potential risks and impacts on other fishery interests, or other fisheries resources. Further, refining the reporting framework will enhance the Crown's ability to develop policies to help recognise customary use and management practices. There are several species found in the freshwater environment that are considered taonga, and some of these are already recognised in settlement obligations between relevant hapu/iwi and the Crown.
- c) **Section 8 – Purpose:** The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability. Enabling the collection of commercial catch information will assist fishery interests, MFish and the Minister in their respective assessment of how the purpose of the Act, in its various elements, is being met.
- d) **Section 9 – Environmental principles:** The proposal will enable better information to be collected on the array of species taken by commercial fishers. This will assist MFish and the Minister when taking into account the environmental principles for subsequent management activities. The current proposal in itself will not affect the longer term viability of associated and dependent species, the maintenance of biological diversity, or the protection of habitat of particular significance for fisheries management. The value in the current proposal is in its application to these principles when considering further management initiatives.
- e) **Section 10 – Information principles:** Decisions made under the Act should be based on the best available information. Further, decision makers need to consider any uncertainty in the information available, and be cautious when it is uncertain, unreliable or inadequate. Beyond that, the absence of, or uncertainty in any information should not be

used as a reason for postponing or failing to take any measure to achieve the purpose of the Act.

- f) The proposal seeks to provide a better basis for decision making as it relates to the use of fisheries resources found in the freshwater environment. There is a reasonable amount of uncertainty, unreliability and inadequacy associated with information on the use of fisheries resources found in freshwater. The level of deficiency in these factors is greater than desired in light of the statutory obligations and management initiatives that have been taken, or are likely to be taken, over the medium term.
- g) The proposal seeks to initiate further improvements in the capture of commercial catch data. In developing the current proposal, MFish considers that the purpose of the Act would be better achieved with refinement to the reporting framework for commercial fishing activities.

REGULATORY IMPACT STATEMENT - SPECIES CODES FOR REPORTING COMMERCIAL CATCH

Executive Summary

- 1 The Ministry of Fisheries (MFish) proposes to amend Part 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001 (the Reporting Regulations) to clarify and/or add further species codes for statutory reporting purposes for commercial fishing. The current review of species codes focuses on species of aquatic life found in freshwater. Provision of further species codes will allow commercial fishers to comply with the reporting framework provided by the Fisheries Act 1996 (the Act). With improved reporting of the range of fisheries resources taken by commercial fishers, the Crown will be in a better position to monitor catches of those species.

Adequacy Statement

- 2 This Regulatory Impact Statement has been reviewed by the Ministry of Fisheries (MFish) Regulatory Impact Analysis Review Committee and is considered to meet the criteria agreed by Cabinet.

Status Quo and Problem

The Current Situation

- 3 The taking of aquatic life for commercial purposes is undertaken in accordance with the provisions of the Act. The key regulatory framework for the specification of information derived from commercial fishing activities is the Fisheries (Reporting) Regulations 2001, and the Schedules of reporting codes provided by that regulatory series. Commercial fishers are required to submit statutory returns on the catch they have taken in accordance with this framework.

Why Government Action is Needed

- 4 Commercial fishing is generally able to be undertaken for species subject to the quota management system (QMS), and for the vast majority of species outside of that framework by virtue of holding a fishing permit under the Act. However, in the context of the freshwater environment, the statutory arrangements for managing the commercial use of some species life stages are currently prescribed in other legislation (ie, whitebait).
- 5 Commercial fishers may take some species as a target fishery, or as a bycatch of existing fishing activities. In late 2004, commercial access to fisheries resources not managed under the QMS was liberalised. Some commercial fishers have expressed an interest in the commercial fishing of species not previously fished. The current proposal does not affect or change the ability of commercial fishers to access fisheries resources, but simply focuses on the need to ensure that such catch is able to be recorded accurately for fisheries management purposes.

- 6 MFish is aware that some commercial catch is not being reported given a deficiency of species codes set out in the Reporting Regulations. The species codes for the completion of returns have not been reviewed for species found in freshwater since 2001. Commercial fishers are unable to meet their obligations to submit returns containing information on the catch of various important species. MFish and the Minister of Fisheries are not able to monitor the sustainable use of commercial fishing activities in the absence of information on the catch of the variety of species the subject of the current review.

Objectives

- 7 The objective of the proposal is to improve the quality of the information reported to MFish on the catch of a number of species found predominantly in freshwater. Enabling the collection of commercial catch information will assist fishery interests, MFish and the Minister in their respective assessment of how the purpose of the Act is being met. Similarly, decision makers must take account of a number of environmental and information principles in exercising or performing functions etc under the Act. The collection of information underpins the appropriate use of fisheries resources, taking into account the differing values that fishery interests may have, what may be taken on a sustainable basis, and what other biological interactions may be affected.

Alternative options

- 8 There are no alternative options to the status quo and the preferred option which are considered legally robust or likely to meet the objectives outlined above.

Preferred option

- 9 MFish's preferred option is to amend Part 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001 (the Reporting Regulations) to clarify and add further species codes for statutory reporting purposes for commercial fishing.

Impacts

- 10 Commercial fishers are already required to enter species codes in their returns, whether these are derived from the Schedule to the Reporting Regulations, or from the explanatory notes for particular types of return. Inclusion of further species codes to the Schedules of the Reporting Regulations will ensure that these additional codes are available for general use, regardless of what type of return a commercial fisher may be using. At present, the explanatory notes differ between different returns in terms of the extent of species codes available for use.

Benefits

- 11 There are advantages to both commercial fishers, FishServe and MFish where the expectations of the reporting framework are clearly understood. In the case of species codes for species found in freshwater, once codified in regulation, and set out further in relevant explanatory notes, these codes will be readily referred to by all concerned.

- 12 The current review considers a reasonably broad range of species found in freshwater. A comprehensive review on the species codes available for reporting is more efficient than undertaking repeated reviews each year as further species codes are desired. Accordingly, future costs to the Crown, some of which are recoverable from the fishing industry, are able to be avoided.

Costs

- 13 MFish does not consider that the additional data entries required to be made on returns will be onerous for commercial fishers, as most commercial fishing operations in the freshwater environment do not catch a wide variety of species at the one time, and species codes are already available (although not codified in regulation) for the main bycatch species taken in the fisheries where these are most likely to be taken.
- 14 The regulatory amendment will provide greater transparency for commercial fishers and administrators, and therefore should reduce compliance costs over the medium term. There will be a need in the short term to ensure that commercial fishers are informed of the availability of the species codes in regulation, and draw their attention to updated explanatory notes that accompany returns.

Implementation and review

- 15 MFish proposes that the amendments to the Reporting Regulations, if approved, will come into effect in June 2009. As a consequence of any regulatory amendment, the chief executive of MFish will also review the explanatory notes accompanying relevant returns in order that they are consistent with the regulatory amendment.
- 16 Affected parties will be notified of changes through the MFish external website, through the approved service delivery organisation FishServe that undertakes registry and data entry services on behalf of MFish, and through contact with relevant Commercial Stakeholder Organisations and representative commercial fishers.
- 17 MFish will periodically monitor the changes in the reporting of commercial catch through planning and related research initiatives undertaken by MFish in collaboration with fishery interests. On-going communication between commercial fishers, FishServe and MFish fishery officers will further ensure that compliance with the public policy objective is achieved.

Consultation

- 18 MFish has consulted commercial fishers who sought advice on how to report the catch of additional species of aquatic life found in freshwater, in addition to commercial fishers involved in the eel fishery. This latter group of commercial fishers takes a range of species of aquatic life as a bycatch of their fishing activities focused on eels. More generally, representatives of tangata whenua, commercial, recreational and environmental interests were consulted during September 2008.

