

29 June 2007

Dear Stakeholder

REVIEW OF REGULATORY MEASURES AND OTHER MANAGEMENT CONTROLS FOR 1 APRIL 2008

The Ministry of Fisheries (MFish) is currently consulting on several proposals that could result in changes to regulation. If approved these would take effect on 1 April 2008. The Initial Position Paper (IPP) provides you with MFish's initial position on each issue being reviewed. The IPP includes the rationale to support each proposal and for some issues a preliminary recommendation.

The purpose of this letter is to provide you with a short summary of each IPP, so that you can choose which issues you would like to examine further, and potentially provide comment on.

The proposals considered in the IPP include:

Review of the regulation that permits stalling of nets in the Kaipara Harbour

1. The Kaipara Harbour is the only area of New Zealand where stalling of nets is permitted. Stalling is the process whereby a net is set in such a manner that any fish enclosed or entangled by the net is left stranded by the falling tide; or is enclosed or entangled in such a manner that at any stage of the tide there is an insufficient depth of water at either end of the net to enable the fish to pass from the waters above the net to the waters below the net.
2. Stalling causes a significant amount of fish wastage. When fish are left out of the water in stalled nets for too long they deteriorate and become unfit for sale. They are then frequently discarded and not reported. There is no obvious reason to allow stalling of nets in the Kaipara Harbour as a special case above other tidal fishing areas.
3. Stalling of nets is a practice in fisheries for flatfish, grey mullet and rig in the Kaipara Harbour. There are 50 commercial fishers that currently use set nets in the Kaipara Harbour. However, MFish has no clear information on how much stalling occurs in the harbour, or how much fish is lost due to wastage of fish in stalled nets.

4. MFish proposes three options: to a) retain the status quo; b) require attendance at stalled nets in the Kaipara Harbour; or c) prohibit stalling in the Kaipara Harbour.
5. Prohibiting stalling or requiring attendance at nets should improve the quality of catches and the abundance and availability of fish stocks within the Kaipara Harbour. However, there would be economic costs for commercial fishers who currently stall their set nets as they would need to change their fishing practices.

Amendment to the Recreational Scallop Fishing Season in Fisheries Management Area 9

6. Fisheries Management Area (FMA) 9 is the area of the west coast of the North Island between North Cape and Tirua Point. In that area, as in most areas of New Zealand, recreational fishers may only fish for scallops between 15 July and 14 February each year (both days inclusive).
7. Stakeholders have advised MFish that scallops in harbours on the north-west coast of the North Island are generally in poor condition at the start of the season, and are generally undersized at the end of the season, probably because harvesting pressure has already removed the legal-size scallops.
8. In order to protect undersized scallops and to assist scallop fishers to harvest the best quality scallops, MFish proposes options that would (a) maintain the status quo, or (b) open the recreational scallop season later, and/or (c) close the scallop season earlier each year in FMA 9. Options (b) and (c) would reduce the time available for recreational fishers to harvest scallops in that area.
9. However, MFish does not have information on recreational scallop fishing in all areas of FMA 9. MFish is interested in the views of tangata whenua and stakeholders on whether a shortened season would benefit the non-commercial scallop fishery and what the opening and closing dates of the season should be.

Surf clam dredge size

10. Regulation 78 of the Fisheries (Commercial Fishing) Regulations 2001 (the regulations) specifies that commercial fishers must not use:
 - a) More than 1 dredge with a bar or bit that is more than 2.5m long; or
 - b) More than 2 dredges, either of which has a bar or bit that is more than 1.4m long.
11. MFish recommends amending r 78 of the regulations to allow commercial surf clam fishers to use wider dredges.
12. Commercial fishers have developed a longer 3.6m bar or bit on their new dredges. MFish considers the effect of the new dredge on sustainability and the environment will probably be neutral, and may be positive. MFish considers the new dredge provides utilisation opportunities for commercial surf clam fishers.
13. MFish is unable to quantify the environmental and utilisation effects of dredges wider than the 3.6m new dredge. However, MFish anticipates that the overall environmental effect of wider dredges will be neutral because (i) it is unlikely the

area of surf zone swept will increase (ii) it is unlikely that more tows will be necessary to harvest the Total Allowable Commercial Catch (TACC), and (iii) mortality of small, non-marketable, surf clams and non-target species will be reduced. MFish would be concerned if dredges became so large and heavy that they caused more damage to the environment.

14. Wider dredges will better enable commercial surf clam fishers to maximise value by minimising operating costs (i.e. fewer tows). Commercial surf clam fishers also claim that technology they can use more efficiently on wider dredges will better enable fishers to maximise value by increasing harvest efficiency (catch per unit effort (CPUE)).
15. The IPP presents three options; these range from (i) retaining the current rules (status quo), (ii) amend r 78 of the regulations by setting a maximum dredge bar or bit length of 3.4 m for dredges used in the target commercial surf clam fishery; and (iii) the MFish preferred option is to amend r 78 of the regulations by setting no maximum dredge bar or bit length for dredges used in the target commercial surf clam fishery.

Review of regulations relating to fishing interactions with marine turtles

16. In New Zealand fisheries waters, the taking and possessing of marine turtles by commercial fishers is prohibited. There is an exemption to this prohibition for marine turtles taken accidentally in nets or taken pursuant to a permit or authority issued under the Wildlife Act 1953 or the Trade in Endangered Species Act 1989.
17. Currently, any uninjured turtle caught in a net must be immediately returned to the sea. This means that only turtles caught in nets may be taken on board fishing vessels in order to expedite safe handling and treatment. In addition, requirements to report catches of marine turtles relate only to those taken in nets. However, from time to time marine turtles may also be taken by other fishing methods.
18. In 2005, the Western and Central Pacific Fisheries Commission (WCPFC) passed a resolution requiring that members implement international guidelines to reduce sea turtle mortality, enhance the implementation of mitigation measures and report all available information on sea turtle interactions. As a member of WCPFC, New Zealand is required to report on steps it is taking to implement the resolution.
19. Amendments to the Fisheries (Commercial Fishing Regulations) 2001, in relation to marine turtles, are required to meet this commitment. MFish is also in the process of developing new reporting arrangements for non-fish/protected species incidental catch including marine turtles. The IPP contains MFish's initial position on the most appropriate options for implementing new initiatives for handling sea turtles and reporting interactions in response to international obligations and to facilitate improvements already planned for the reporting of non-fish bycatch.

Container Type Reporting for Schedule Six Discards

20. MFish proposes amending the Fisheries (Reporting) Regulations 2001 to fix a technical problem with reporting requirements for fish discarded under Schedule Six of the Fisheries Act 1996. Currently, when reporting fish discarded in accordance with Schedule Six, fishers are required to complete “container type” information (number, type and content weight). Many species of fish discarded under Schedule Six are returned immediately to sea without being placed in a container. Consequently fishers are unable to complete container type information accurately.
21. MFish proposes addressing this technical problem by either removing the requirement to complete “container type” information (Option 1) or introducing a new container type code (Option 2) for Schedule Six discards. MFish’s preferred option is Option 1 as MFish considers a new container type code unnecessary at this time.

Paddle Crab: Allowing for return to sea

22. MFish is aware some commercial fishers targeting paddle crabs are high-grading (i.e. selecting high value crabs and returning low value crabs to sea). Returning harvested paddle crabs to sea is illegal as fishers are required to land all legal paddle crabs caught and either balance the landed quantity with ACE or pay the deemed value.
23. Because there is no evidence suggesting high-grading is having a negative impact on management objectives for paddle crab fisheries, three options to manage the return of paddle crab to sea are proposed: (1) focus compliance effort to curb the illegal activity; (2) allow paddle crabs likely to survive to be returned to sea by adding paddle crabs to the Sixth Schedule; and (3) allow pot-caught paddle crabs likely to survive to be returned to sea by adding pot-caught paddle crabs to the Sixth Schedule. Options 2 and 3 also include a review of the Minimum Legal Size (MLS) applying in PAD 3, 4, 5 and 6.
24. MFish’s preferred option is to allow pot-caught paddle crabs likely to survive to be returned to sea and to remove the MLS. MFish considers this approach would pose little risk to sustainable utilisation of paddle crab fisheries (the survival rate of returned pot-caught crabs is likely to be high), would enable commercial fishers to increase their economic returns and would provide more robust management of returns to sea. MFish considers more information is required before deciding whether fishers should be allowed to return paddle crabs taken by other methods. Paddle crabs taken by other methods are more likely to suffer damage, and the survival rates of damaged paddle crabs after return to sea are unknown.
25. MFish acknowledges information on paddle crab fisheries is limited and invites stakeholders to provide information to inform decision making. In particular, MFish invites information on the damage caused to crabs by trawl nets, set nets and dredges, the size distributions of paddle crab in target and bycatch catches, the value of different sizes of paddle crabs, and the proportion of catch being returned to the sea as undersize in PAD 3, 4, 5 and 6.

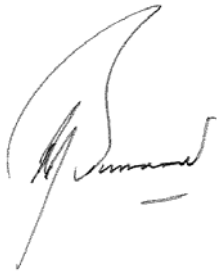
Deepwater Crab: Proposal to list on Schedule Six of the Fisheries Act 1996

26. MFish received a request from the commercial fishing industry (industry) to add the following species to Schedule Six of the Fisheries Act 1996 (the Act) to enable their return to the sea following capture: deepwater red crab (CHC), giant spider crab (GSC) and king crab (KIC). Collectively these stocks are known as deepwater crabs.
27. Deepwater crabs were introduced into the quota management system (QMS) in 2004. Since then, commercial catch has been limited to bycatch in the squid and scampi trawl fisheries. Exploratory fishing is currently underway to determine the feasibility of a target deepwater crab fishery. Commercial catches have been well below the total allowable commercial catch (TACC) for the deepwater crab stocks since 2004 and limited information is available regarding the status of the stocks.
28. Section 72 of the Act requires all commercial catch of QMS fish stocks to be landed and reported. However, the Act's Sixth Schedule provides an exemption from the requirement to land all fish for some fishery stocks. Industry has requested that deepwater crab stocks be included on the Sixth Schedule to provide vessels with additional operational flexibility and enable quota holders to maximise the value of deepwater crab annual catch entitlement (ACE).
29. MFish considers the Sixth Schedule amendment is appropriate for deepwater crabs that are likely to survive and caught with potting gear since it will enable value maximisation for fishers without negative impacts on the sustainability of deepwater crab stocks.
30. MFish requests more information to determine whether trawl-caught deepwater crabs should be added to the Sixth Schedule. Stakeholders are invited to introduce information relevant to trawl-caught crab survivability or submit proposals for a collaborative data collection process if such information is not available. MFish welcomes stakeholder views on all options.

MFish welcomes written submissions on the proposals contained within the IPP. **Written submissions are due by Friday, 24 August 2007** and should be posted to Tracey Steel, Ministry of Fisheries, PO Box 1020, Wellington. Alternatively, electronic submissions can be emailed to tracey.steel@fish.govt.nz.

Finally, we note that all submissions that are received for the purposes of the regulatory measures process are publicly available under the Official Information Act 1982. Should any person or organisation wish for any information contained in their submission to be withheld under the Official Information Act 1982, the grounds for withholding the information must be provided in the submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Burnard', with a horizontal line underneath the name.

Russell Burnard
Manager Regulatory and Information