

REVIEW OF REGULATIONS RELATING TO FISHING INTERACTIONS WITH MARINE TURTLES

Executive Summary

- 1 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.
- 2 Currently, any uninjured turtle caught in a net must be immediately returned to the sea. Injured turtles must be delivered to the nearest institution approved for the turtle's immediate care, unless commercial fishers are authorised by the Chief Executive after consultation with the Director General of Conservation, to return the turtle to the sea. This means that turtles caught in nets may be taken on board fishing vessels in order to expedite safe handling and treatment.
- 3 Current requirements to report catches of marine turtles relate only to those taken in nets (whether dead or alive). However, from time to time marine turtles may also be taken by other fishing methods.
- 4 In 2005, the Western and Central Pacific Fisheries Commission (WCPFC) has passed a resolution¹ containing requirements 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. The resolution is non-binding. Nonetheless, as a member of WCPFC, New Zealand is required to report on steps it is taking to implement the resolution.
- 5 Changes to the existing fishery regulations in relation to marine turtles are required to meet New Zealand's commitment under the resolution.
- 6 MFish is also in the process of developing new reporting arrangements for non-fish/protected species incidental catch including marine turtles. The project includes publicising handling procedures designed to improve the survival of injured marine turtles.
- 7 This paper 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.

¹ Resolution to mitigate the impact of fishing for highly migratory fish species on sea turtles (see Appendix One).

Summary of Options

8 MFish proposes to amend the Fisheries (Commercial Fishing) Regulations 2001 (see Appendix Three) as follows:

- i) To provide an exemption from Regulation 45 (1) (the prohibition of taking and possessing sea turtles), if sea turtles are taken accidentally irrespective of fishing method (Reg 45(2)(a));
- ii) To allow uninjured sea turtles caught by commercial fishers irrespective of fishing method to be released immediately to the sea (Reg 46);
- iii) To provide that injured sea turtles caught by commercial fishers irrespective of fishing method must be delivered to approved institutions for care (Reg 47);
- iv) To provide that dead turtles caught by commercial fishers irrespective of fishing method must be offered to the Museum of New Zealand Te Papa Tongarewa (Reg 48);
- v) Require that sea turtle captures, whether alive or dead, irrespective of fishing method, be reported in accordance with the standards and specifications of new fisheries reporting regulations.

AND

Amend the explanatory notes for the Non-fish/Protected Species Catch Return to require additional reporting for marine turtles when appropriate (eg, reporting of tags, providing photographs and taking measurements);

AND

Revoke Reg 49 (2), (3) and (4).

Rationale for Management Proposal

Problem Definition

9 Three of the seven species of marine turtle are known to occur in New Zealand waters. These three species are considered either endangered or vulnerable to local and even global extinction because of declining numbers². According to available information, turtles are rarely caught in New Zealand waters or on the High Seas by New Zealand vessels. Nevertheless, it is desirable to gain information on their capture in New Zealand fisheries, and to limit their mortality in such fisheries where possible.

10 In 2005, at its second session, the Western and Central Pacific Fisheries Commission (WCPFC) adopted (among other measures) a resolution for

² These are the loggerhead sea turtle *Caretta caretta*, green sea turtle *Chelonia mydas*, and leatherback sea turtle *Dermochelys coriacea*.

mitigating the impact of fishing for highly migratory fish species on sea turtles (Appendix One). The WCPFC resolution included the following:

- Members should implement the FAO guidelines³ to reduce sea turtle mortality in fishing operations;
- Members are encouraged to provide to WCPFC all available information on sea turtle interactions;
- Members are encouraged to enhance the implementation of their sea turtle mitigation measures already in place.

- 11 New Zealand has reported to WCPFC that it intends to improve the handling and reporting of incidental catches of sea turtles.
- 12 Turtles are protected species in New Zealand according to the Wildlife Act 1953. The effects of fishing activity on marine turtles in New Zealand waters are currently managed under the Fisheries Act 1996 (FA96) regime. The Fisheries (Commercial Fishing) Regulations 2001 (Commercial Fishing Regulations) established under the FA96 contain provisions relating to marine turtles (see Appendix Three).
- 13 New Zealand regulations currently have no provision covering the interactions of sea turtles with any fishing method apart from nets with respect to procedures for handling, release and reporting of sea turtle bycatch. These regulations were created at a time when nets were the only fishing method known to catch sea turtles. However, since the relevant regulations were promulgated, other fisheries have developed and other fishing methods are now known to impact on sea turtles. For example, observer coverage on surface longline vessels indicates a small bycatch of sea turtles (Appendix Two).
- 14 Currently the Commercial Fishing Regulations do not cover other fishing methods that may result in turtle bycatch. The regulations do not direct requirements for dealing with marine turtles caught by these new methods. Reporting requirements under the current regulations do not necessarily result in the collection of the best available information on the effects of fishing on marine turtles.
- 15 MFish is also in the process of developing new proposed reporting arrangements for non-fish incidental catch including marine turtles. The Minister of Fisheries has agreed in principle to amend the Fisheries (Reporting) Regulations 2001 to regulate a “Non-fish/Protected Species Catch Return” (NFPSCR) (see template for this proposed return in Appendix Five). As proposed changes to reporting regulations and commercial fishing regulations will both take effect in April 2008, it is desirable to align and

³ FAO guidelines to reduce sea turtle mortality in fishing operations may be viewed at: www.intfish.net/docs/2004/faoturtles.pdf

improve these relevant regulatory requirements for the reporting of incidental catch of marine turtles.

Management proposals

- 16 The status quo is not considered suitable for meeting New Zealand's existing international obligations and commitments. The Commercial Fishing Regulations require revision to reflect New Zealand's current international commitments and agreements and to be consistent with work conducted by MFish and DOC to improve the reporting of non-fish bycatch.

Proposal for managing interactions with sea turtles

- 17 To amend the Fisheries (Commercial Fishing) Regulations 2001 as follows:
- i) To provide an exemption from Regulation 45 (1) (the prohibition of taking and possessing sea turtles), if sea turtles are taken accidentally irrespective of fishing method (Reg 45(2)(a));
 - ii) To allow uninjured sea turtles caught accidentally by commercial fishers to be released immediately to the sea, irrespective of fishing method (Reg 46);
 - iii) To provide that injured sea turtles caught accidentally by commercial fishers must be delivered to approved institutions for care, irrespective of fishing method (Reg 47);
 - iv) To provide that dead turtles caught accidentally by commercial fishers must be offered to the Museum of New Zealand Te Papa Tongarewa, irrespective of fishing method (Reg 48);
 - v) To require all sea turtle captures, whether alive or dead, to be reported as required by regulations made under the Fisheries Reporting Regulations 2001 ((Reg 49 (1));

AND

Amend the explanatory notes for the Non-fish/Protected Species Catch Return to provide for additional reporting for marine turtles when appropriate (eg, reporting of tags, providing photographs and taking measurements);

- vi) Revoke Reg 49 (2), (3) and (4).
- 18 The proposal to amend Regs 45 (1) and 46 will allow fishers catching turtles by any fishing method to make use of the proposed guidelines for treating and releasing sea turtles. While some fishing methods – including set net, surface longline, and rock lobster pot – have known interactions, other fishing methods may be used in the future that also interact with sea turtles. The advantage of this proposal is that it will not require further changes in future, should any changes in fishing practices occur, or if new information about fishing interactions becomes available.
- 19 This proposal would also require fishers using any fishing method to report any sea turtles that they catch (Reg 49 (1)). Reporting of incidental catch is

very important as a way of gaining further information about fishery interactions.

- 20 The current legal requirement under Regulation 49 (1) is to report all turtles caught in nets within 48 hours of the arrival of the vessel in port. In practice it is not possible to check whether these required ad hoc reports are being made within the specified timeframe. There is also no particular need for such a short reporting timeframe. Under general reporting regulations, commercial fishers have until 15 days after the end of the month, or in some instances trip, to provide their reporting returns. Accordingly, it is proposed that the 48 hour requirement be replaced with reporting regulation provisions linking to non-fish bycatch and the reporting of all catches generally. This will encourage reporting by making timeframes more realistic and making returns more user-friendly.
- 21 Reg 49 (2) refers to mandatory information commercial fishers must include when compiling ad hoc reports to report turtle interactions (see Appendix Three). Ad hoc reporting is to be replaced by mandatory reporting through proposed new reporting regulations (NFPSCR) and improved handling guidelines. Accordingly MFish proposes revoking the descriptors outlined in Reg 49 (2) apart for that relating to the reporting of tags Reg 49 (2c) - see discussion below.
- 22 Reg 49 (3) and (4) refers to discretionary information commercial fishers may include when reporting turtle interactions. These include taking photographs or measuring or describing the carapace and tail that is useful in some instances. Accordingly MFish proposes making the NFPSCR the minimum reporting requirement for marine turtles, but insert explanatory notes for the new return providing for the additional reporting for marine turtles (eg, reporting of tags, providing photographs and taking measurements) consistent with the wording in Reg 49.

Assessment of the proposal

Nature of International obligations

- 23 The UN Fish Stocks Agreement⁴ designates Regional Fisheries Management Organisations (RFMOs) as the primary vehicle through which states shall cooperate to bring about the conservation and management of straddling stocks and highly migratory stocks. New Zealand actively contributes to the development and implementation of conservation and management measures addressed by the RFMOs of which it is a member.
- 24 The rules set affect the activities of New Zealand nationals fishing within the boundaries of the region to which they apply. New Zealand has an obligation to give effect to measures agreed by the WCPFC. The avoidance of incidental sea turtle catch is a significant conservation issue, because many turtle populations are considered at risk. Although the WCPFC resolution on turtle

⁴ Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995.

bycatch is non-binding, this issue will be advanced by improving current regulations.

- 25 Further, New Zealand became a party to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) in 1989 and to the Convention on the Conservation of Migratory Species of Wild Animals (CMS) in 2000. Under these Conventions, New Zealand is bound to restrict trade access to, and fully protect, marine turtles.
- 26 Marine turtles are classified by various listing agencies as threatened or endangered, both regionally and globally. The International Union for the Conservation of Nature and Natural Resources (IUCN) Red List classifies the Leatherback turtle as endangered and both the Loggerhead and Green turtles as vulnerable.

Effectiveness of proposals

- 27 Managing fisheries interactions with sea turtles is becoming an international conservation issue. 'Interactions' includes those turtles released alive and unharmed, those released injured that survive, those released injured that die, and those that die at the time of capture. Sea turtle interactions should not be confused with sea turtle mortality.
- 28 The degree of fishing interactions with marine turtle species in New Zealand waters is largely unknown. Mandatory reporting of interactions with sea turtles is limited to the fishing method of nets. The available information for other fishing methods is limited to that derived from ad hoc reports from fishers, and the scientific observer program. Historically, nets have been held responsible for many turtle deaths. Entanglements in fishing gear like lobster pot lines have also been reported.
- 29 More recently, pelagic longline fisheries have been implicated in a small number of interactions and at least one turtle death (see Appendix Two). In response, guidelines on handling marine turtles have been developed for tuna longline fishers. This initiative is designed to improve survival of turtles (See Appendix Four). Guidelines should stimulate improved handling techniques including the use of equipment – line-clippers, de-hookers, and dip-nets – designed to reduce sea turtle injury. Applying provisions relating to the handling of turtles in uninjured, injured or dead state to all sea turtle interactions regardless of fishing method will facilitate use of the new handling guidelines. This will require amendment of existing regulations.
- 30 Fishers are required under the Wildlife Act and the Marine Mammals Protection Act to report incidental deaths or injuries to non-fish species (e.g., seabirds, marine mammals) that occur in the course of fishing activities. The Minister of Fisheries has agreed in principle to amend the Fisheries (Reporting) Regulations 2001 to regulate a NFPSR (see template for this return in Appendix Five).
- 31 The Minister has also agreed in principle to amend catch and effort and landing returns (CELR). The proposal is to include a box on CELR that

fishers must tick if they catch a non-fish or protected species. The tickbox would provide an essential link to the NFPSCR. These proposals would also apply to fishers that catch sea turtles. Therefore, if fishers catch a sea turtle using a longline, they will be required to tick the box on the lining catch effort return and complete the NFPSCR. The proposed amendments to MFish regulations are dependent upon proposed amendments to reporting timeframes in the Wildlife Act and the Marine Mammals Protection Act. However if these proposals are approved, MFish plans to ensure these new regulations will align and come into effect on the same date in April 2008.

- 32 The proposed amendments to the commercial fishing and the reporting regulations aim to gather better information on incidental catch and to simplify and streamline reporting requirements. The proposed amendments will:
- Improve information available on non-fish and protected species and the impacts of fishing on those species;
 - Encourage reporting by making timeframes more realistic and making returns more user-friendly;
 - Contribute to ensuring the sustainability of the aquatic environment.
- 33 To facilitate implementation of a NFPSCR for recording a range of fisheries interactions, the requirement in regulation 49 that any sea turtle caught in nets be reported within 48 hours should be amended to include all commercial captures and reflect the reporting timeframe set in NFPSCR / Catch Effort and Landing reporting standards. There are several practical benefits to doing so:
- It will be simpler for fishers to make the NFPSCR and Catch and Effort and Landing returns correct and consistent, because they will be completing and sending both forms to MFish at the same time;
 - It will result in improving best available information on marine turtles in New Zealand's EEZ.
 - In contrast to the current ad hoc reporting, reporting to a non-fish/protected species database will ensure more reliable storage and retrieval of data.

Compliance Considerations

- 34 Monitoring turtle catches is important for ensuring appropriate information on sea turtle interactions and mortality is being collected (e.g. species identification, fate and condition at release). This is consistent with the international commitments and requirements imposed under Fisheries regulations. The current reporting requirements relating to marine turtles are not widely known by fishers, which may contribute to non-compliance. A change to the commercial fishing regulations to support mandatory reporting by all fishing methods will simplify the law relating to reporting sea turtles, which may result in improved compliance.

Statutory Considerations

- 35 Appendix Six contains the 'Statutory Considerations' relevant to this paper.

Costs and benefits of proposals

- 36 Turtles are vulnerable animals whose fate arouses public concern; and therefore their incidental capture may indirectly cause negative socioeconomic impacts for the fishing industry. There are potential benefits for industry if it is seen to proactively manage even a small risk of turtle bycatch (through implementing the handling and reporting measures).
- 37 The very small number of turtles reported caught in New Zealand waters suggests the costs of implementing any of the proposals in this paper will be small. Any costs associated with recovering and treating turtles when necessary will be borne by fishers. These costs must be weighed against the potential to reduce fishing related mortality of depleted turtle populations, and the need for an internationally consistent management regime.

Administrative implications

- 38 Adopting the proposal will require amendments to the Fisheries (Commercial Fishing) Regulations 2001.

APPENDIX ONE: RESOLUTION TO MITIGATE THE IMPACT OF FISHING FOR HIGHLY MIGRATORY FISH SPECIES ON SEA TURTLES.

Resolution-2005-04

The Commission For The Conservation And Management Of Highly Migratory Fish Stocks In The Western And Central Pacific Ocean

In accordance with the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:

Recognizing the ecological and cultural significance of all species of sea turtles in the Western and Central Pacific Ocean (WCPO);

Recognizing that the FAO adopted Guidelines to Reduce Sea Turtle Mortality in Fishing Operations at its Twenty-sixth Session of the Committee on Fisheries, held in March 2005, and recommended their implementation by regional fisheries bodies and management organizations;

Noting that the recent international scientific studies on circle hooks show a statistically significant decrease in sea turtle bycatch when such hooks are used in shallow set pelagic longline fishing but that studies and trials continue in different geographic areas;

Further noting that scientific studies indicate that, with the use of circle hooks, the hooking location can lead to a decrease in post-release mortality of incidentally caught species;
Taking into account Article 5 of the WCPF Convention, resolves as follows:

1. Commission Members, Cooperating non-Members, and participating Territories (called CCMs) shall, as appropriate, implement the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations (the Guidelines) in order to reduce the incidental catch of sea turtles and to ensure the safe handling of all turtles that are captured, in order to improve their survivability.
2. The WCPFC shall encourage CCMs to collect, and provide to the WCPFC, all available information on interactions with sea turtles in fisheries managed under the WCPF Convention.
3. The Commission encourages CCMs to enhance the implementation of their respective turtle mitigation measures that are already in place (using best available scientific information on mitigation techniques) and urges them to foster collaboration with other CCMs in the exchange of information in this area.
4. The Commission urges CCMs to require that purse seine vessels flying their flags:
 - i. Avoid encirclement of sea turtles to the extent practicable and, if encircled or entangled, take all practicable measures to safely release sea turtles.
 - ii. Take all reasonable efforts whenever a sea turtle is sighted in the net to rescue the turtle before it becomes entangled in the net, including if necessary, the deployment of a speedboat.

iii. Stop net roll, if a turtle is entangled in the net, as soon as the turtle comes out of the water and, to the extent practicable, assist the recovery of the turtle before returning it to the water.

iv. Take necessary measures to monitor fish aggregating devices (FADs) to the extent practicable to release any sea turtles that become entangled and consider FAD designs and use that reduce the likelihood of sea turtle entanglement.

5. The Commission urges CCMs to:

- i. Undertake research trials of appropriate-size circle hooks in commercial pelagic longline fisheries.
- ii. Undertake research and trials on the use of circle hooks in recreational and artisanal fisheries;
- iii. Require longline vessels flying their flags to carry on board and, when sea turtle interactions occur, employ the necessary equipment (e.g. de-hookers, line cutters, and scoop nets) for the prompt release of incidentally caught sea turtles.

6. The Commission shall consider measures related to the use of circle hook gear technology in longline fisheries at its annual Session in 2006, taking into account the results of research and trials.

7. The Commission urges cooperation with the Inter-American Tropical Tuna Commission in order to share data on sea turtle bycatch and to develop and apply compatible bycatch reduction measures given the migration patterns of many species of sea turtles.

8. As the Commission develops its regional observer program and considers improving observer coverage in the Convention Area, existing observer programs should be reviewed to ensure that the appropriate information on sea turtle interactions is being collected (e.g. species identification, fate and condition at release, relevant biological information and gear configuration).

9. The Commission decides that resources available in the Special Requirements Fund may be used to assist developing State Members and territories in implementing the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations.

10. The Commission encourages CCMs to contribute to the Special Requirements Fund to support eligible small-island developing States, territories, and possessions in implementing this resolution, or to do so through bilateral arrangements.

11. Beginning in 2006, CCMs shall include in their Annual Report to the Commission (Part II) a report on the steps taken to implement this resolution.

12. The Commission, through the Technical and Compliance Committee, shall monitor the progress of CCMs in applying this resolution and develop relevant strategies for the further consideration of the Commission in 2007.

APPENDIX TWO: RECENTLY REPORTED INTERACTIONS OF MARINE TURTLES IN NEW ZEALAND WATERS

- 39 Turtles are taken as an infrequent incidental bycatch of tuna longline fishing, set netting and rock lobster potting. Since 2001, 11 sea turtles have been reported by fishers and observers within New Zealand fisheries waters (Table 1). All these captures were by the fishing method of surface longline. Of the 11, seven were leatherback turtles, one was a loggerhead turtle, one was reported as a green turtle, and two were not reported to species.
- 40 The turtles were mostly caught during the New Zealand summer with catches from November to June. All but one turtle was released alive. Overall turtles are a very rare catch in the New Zealand longline fishery, with only one observed mortality in the past five years. There have been isolated reports of turtles being caught in rock lobster lines or pots.

Table 1. Observed sea turtle interactions for surface longline vessels based on fisher and observer records. All turtles, except for one unidentified turtle caught in 2001, were alive on capture and released.

Species	Scientific name	2001	2002	2003	2004	2005
Green turtle	<i>Chelonia mydas</i>					1
Leatherback turtle	<i>Dermochelys coriacea</i>	3	1		1	2
Loggerhead turtle	<i>Caretta caretta</i>		1			
Unidentified		2				

APPENDIX THREE: COMMERCIAL FISHING REGULATIONS RELATING TO MARINE TURTLES

41 The following regulations in the Fisheries (Commercial Fishing) Regulations 2001 relate to marine turtles:

Reg 45: Taking and possession of marine turtles prohibited

- (1) Commercial fishers must not take marine turtles from New Zealand fisheries waters or possess marine turtles taken from those waters.
- (2) Subclause (1) does not apply if—
 - (a) marine turtles are accidentally caught in nets; or
 - (b) an authority or permit has been given to take or possess marine turtles either—
 - (i) under section 53 or section 56 of the Wildlife Act 1953; or
 - (ii) under section 14 of the Trade in Endangered Species Act 1989.

Reg 46: Uninjured turtles must be immediately returned to sea

Marine turtles caught in nets by commercial fishers that are not injured must immediately be returned to the sea.

Reg 47: Injured turtles must be delivered to approved institutions for care

- (1) Marine turtles caught in nets by commercial fishers that are injured, whether as a consequence of being caught or otherwise, must be delivered to the nearest institution approved for the immediate care of marine turtles by the chief executive in consultation with the Director-General of Conservation.
- (2) Despite subclause (1), commercial fishers may return injured marine turtles to the sea if authorised to do so by the chief executive after consultation with the Director-General of Conservation.

Reg 48: Dead turtles must be offered to Museum of New Zealand Te Papa Tongarewa

- (1) If marine turtles are caught in nets by commercial fishers and die (whether or not as a consequence of being caught), they must be offered to the Museum of New Zealand Te Papa Tongarewa.
- (2) Despite subclause (1), commercial fishers may return dead marine turtles to the sea if authorised to do so by the chief executive.

Reg 49: Turtle catches must be reported

- (1) Commercial fishers who catch marine turtles in nets, whether alive or dead, must record each catch in the vessel's log and report it in writing to the chief executive not later than 48 hours after the vessel arrives in port.
- (2) Every report under subclause (1) must include—
 - (a) the location where the turtles were caught; and
 - (b) the species (if known) of the turtles or a general description of them; and
 - (c) a description of tags found on the turtles; and
 - (d) a description of the conditions and circumstances in which each catch occurred.
- (3) Without limiting subclause (2)(b), a description given under that paragraph

may—

- (a) be in the form of a photograph; or
 - (b) consist of the measurements of the carapace and tail, together with a description of the carapace.
- (4) A report under subclause (1) may—
- (a) include details of reported sightings of marine turtles; or
 - (b) be made in respect of all or some of the turtles caught by a commercial fisher on a particular day.

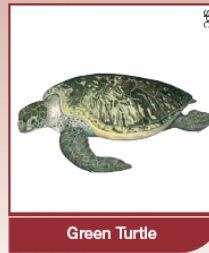
APPENDIX FOUR: EXTRACT FROM PROPOSED GUIDE TO SPECIES GROUPS FOR THE NON-FISH / PROTECTED SPECIES CATCH RETURN

MARINE REPTILES

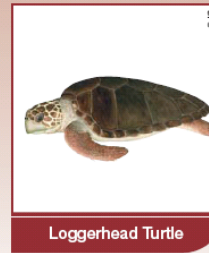
TURTLES:

TLE

- **Green turtles (GNT)** are up to 1.5 m in length, and weigh up to 200 kg. They have a hard shell of bony scutes (plates), olive green to brown in colour.
- **Loggerhead turtles (LHT)** are around 1 m in length and reddish-brown to orange-brown in colour. They can be up to 100 kg in weight.



Green Turtle



Loggerhead Turtle

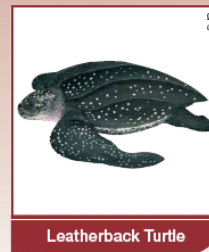
TURTLES

MARINE REPTILES

TURTLES:

TLE

- **Leatherback turtles (LBT)** are up to 2.7 m in length and weigh up to 900 kg. They have 3 prominent ridges running the length of the shell instead of plates. They are dark green to grey in colour with small patches of lighter colour over the body.



Leatherback Turtle

TURTLES

HOW TO HANDLE LIVE OR INJURED TURTLES AND SNAKES:

Handling animals correctly is safer for you and gives them a better chance of survival.

- Turtles need to be handled with great care to avoid damaging them.
- Sea snakes are venomous. Don't handle a live animal. To return a live snake to the sea, gently hose it off the deck with water.

RELEASE ANIMALS GENTLY



Gently bring hooked turtles on board with a net.



Place a piece of wood across the mouth to avoid bites. Remove any hook, or lines, cutting off the barb and pulling the hook through to the outside if possible.



Pack up the rear of the turtle to drain it. Keep it moist and shaded while it recovers (4 - 24 hr).

HOW TO HANDLE LIVE OR INJURED TURTLES AND SNAKES

APPENDIX SIX: STATUTORY CONSIDERATIONS

- 42 In considering the proposed measures contained in this IPP the Minister is required to follow relevant statutory criteria contained in the Fisheries Act 1996 (FA96). These criteria are set out below.
- 43 **Section 5(a)** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96 to act in a manner consistent with New Zealand's international obligations relating to fishing. The WCPFC has created new non-binding international obligations, requiring New Zealand to improve handling and better report any interactions with marine turtles. New Zealand needs to undertake a review of its current regulations and consider additional handling practices and monitoring requirements, as proposed in this paper.
- 44 **Section 5(b)** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96 to act in a manner consistent with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. MFish considers that the proposals contained in this IPP are consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
- 45 **Section 8.** The purpose of the FA96 is to provide for the utilisation of fisheries resources while ensuring sustainability. Ensuring sustainability means maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations and avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment. The proposals in this paper include improved handling practices and improved monitoring of fishing interactions with sea turtles. The proposals will improve the information available on marine turtles and assist in managing the effects of fishing on marine turtles. The proposals in this paper will assist in achieving the purpose of the Act.
- 46 **Section 9** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following environmental principles: (a) Associated or dependent species should be maintained above a level that ensures their long-term viability: (b) Biological diversity of the aquatic environment should be maintained: (c) Habitat of particular significance for fisheries management should be protected.
- 47 Fishers occasionally interact with turtles within New Zealand fisheries waters. There are therefore potential impacts on associated and dependent species, biodiversity, and protected species that require monitoring and possibly future management action. The introduction of improved handling procedures and better monitoring of turtle interactions will improve the ability to address these issues. No habitats of particular significance will be affected by the proposals.

Accordingly, MFish considers that the environmental principles set out in section 9 of the Act will be better met by adopting measures as proposed.

- 48 **Section 10** requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following information principles:
- a) Decisions should be based on the best available information:
 - b) Decision makers should consider any uncertainty in the information available in any case:
 - c) Decision makers should be cautious when information is uncertain, unreliable or inadequate:
 - d) The absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of that Act.
- 49 MFish considers that further information on turtle bycatch would strengthen its ability to manage fishing interactions. There is uncertainty about interactions of marine turtles with fishing methods and the current level of reporting of interactions of sea turtles. Therefore there is uncertainty about the nature and number of current marine turtle interactions with fishing. Adopting measures as proposed would provide better information than continuing with the status quo.
- 50 **Section 15(2)** provides that in the absence of a population management plan approved under the Wildlife Act 1953 or the Marine Mammals Protection Act 1978 the Minister may, after consultation with the Minister of Conservation, take such measures as he or she considers are necessary to avoid, remedy, or mitigate the effect of fishing-related mortality on any protected species, and such measures may include setting a limit on fishing-related mortality.
- 51 The Court of Appeal commented that the Minister is required to consider utilisation objectives and conservation values and take what action he considers "necessary" for avoiding, remedying or mitigating fishing effects on the protected species. (*Squid Fishery Management Co Ltd v Minister of Fisheries* 22/5/04, CA39/04)
- 52 There is no relevant population management plan in existence for marine turtles. MFish considers that it is necessary to take the proposed measures for the purpose of avoiding, remedying or mitigating the effect of fishing related mortality on marine turtles. MFish considers that the proposed measures will have little impact on fisheries utilisation objectives. MFish does not consider it necessary for the proposed measures to include setting a limit on fishing-related mortality.
- 53 **Section 15(3)** provides that the Minister may require, or authorise the chief executive (CE) to require persons listed in section 189 of the FA96 to give to the CE or Minister such information relating to fishing-related mortality as the

- Minister or CE considers necessary and require or authorise the CE to require that information to be in the approved manner or form.
- 54 Although MFish does not recommend setting a limit on fishing-related mortality MFish considers that the collection of information relating to fishing-related mortality of marine turtles is necessary.
- 55 **Section 15(4)** provides that the Minister may recommend the making of regulations under section 298 of the FA96 that the Minister considers necessary or expedient for the purpose of implementing measures referred to in sections 15 (1) or (2) or (3).
- 56 MFish considers that the making of amendments to regulations outlined in this IPP is both necessary and expedient for implementing measures referred to in sections 15(2) and (3).
- 57 **Section 11(1)**. Before setting any sustainability measure for one or more stocks or areas the Minister must take into account: (a) any effects of fishing on any stock and the aquatic environment; and (b) any existing controls under the FA96; and (c) the natural variability of the stock concerned.
- 58 Available information suggests the effect of current fishing practices on marine turtles is very small in New Zealand waters. Nevertheless, measures as proposed will improve the ability for assessing the effects of fishing on turtles. Existing controls are not considered suitable for meeting New Zealand's existing international obligations and commitments. Turtle populations are not known as naturally variable.
- 59 **Section 11(2)**– Before setting any sustainability measure, the Minister must also take into account:
- (a) any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991;
 - (b) and any relevant management strategy or management plan under the Conservation Act 1987
 - (c) Sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000
- 60 MFish is not aware of any provisions in any strategy or planning document under the Resource Management Act 1991 or Conservation Act 1987 beyond those mentioned that are relevant to reviewing these measures for sea turtles.
- 61 Before setting any sustainability measure relevant to the Hauraki Gulf (eg, changing the regulations relating to capture of marine turtles), the Minister must have regard to sections 7 and s 8 of the Hauraki Gulf Marine Park Act 2000 Act. Marine turtles are not known to occur within the boundaries of the Hauraki Gulf.
- 62 **Section 11(2A)** Before setting any sustainability measure under Part III of the FA96 the Minister must take into account:

- (a) any conservation services or fisheries services, and
- (b) any relevant fisheries plan approved under Part III of the FA96; and
- (c) any decisions not to require conservation services or fisheries services.

63 There are no relevant fisheries plans approved that would have any bearing on these measures for sea turtles. Conservation and fisheries services apply to fisheries generally in order to assess and monitor the impacts of fishing on non target fish and non-fish species. The Pelagic Fisheries Medium Term Research Plan outlines research directions already adopted by MFish.

64 **Section 189** requires certain persons to keep accounts, records and provide to the CE such returns as may be required by or under regulations made under the FA96. Section 189(a) includes holders of fishing permits, special permits, licences or other authorities or approvals issued or granted under the FA96 entitling the holder to take fish, aquatic life, or seaweed by any method for any purpose. This includes commercial fishers.

65 The proposals contained in this IPP require commercial fishers to comply with the proposed changes to the Fisheries (Commercial Fishing) Regulations 2001.

66 **Section 297** empowers the Governor General to make regulations for certain purposes. This includes under s297(1):

(a)(i) Regulating, authorising, or prohibiting the taking or possession of any fish, aquatic life, or seaweed of any stock or species:

(a)(ii) Regulating, authorising or prohibiting the taking or possession of fish, aquatic life, or seaweed from any area:....

(a)(v) Regulating or prohibiting the taking, possession, or disposal of any fish, aquatic life, or seaweed that is in any specified condition or exhibits specified physical characteristics:

(a)(vi) Regulating or prohibiting the return of fish, aquatic life, or seaweed to any waters...

(h) Prescribing the accounts, records, returns, and information that any person or class of persons may be required to keep or provide under Part X of the FA96 or any other provision of this Act, and providing for-

(i) The manner and form in which such accounts, records, returns, and information are to be kept or provided:

(ii) The time for or within which such accounts, records, returns and information are to be kept or provided:

(iii) The person by or to whom such accounts, records, returns, and information are to be kept or provided:

(iv) The places where such accounts, records, returns, and information are to be kept or provided.

- 67 **Section 297(1)(o)** enables the Governor General to make regulations implementing any provisions of, or giving effect to, any convention, or agreement to which New Zealand is a signatory or a party, and any understanding concluded by the Government of New Zealand and the government of any other country; and declaring any such regulations to apply beyond the outer limits of New Zealand fisheries waters in respect of any New Zealand citizen, person entitled to reside in New Zealand indefinitely, body incorporated in New Zealand, or any New Zealand ship or vessel registered under the FA96.
- 68 MFish considers that the proposed changes to the Fisheries (Commercial Fishing) Regulations 2001 fit within the relevant provisions of section 297.
- 69 **Section 298** provides that without limiting the generality of section 297, the Governor-General may make regulations for certain purposes. Under section 298(b) these purposes include if there is no applicable approved population management plan in force, imposing such measures as may be necessary or expedient to avoid, remedy, or mitigate the effect of fishing related mortality on any protected species, which measures may include setting a limit on fishing related mortality.
- 70 MFish considers that the proposals contained in the IPP are necessary and expedient to avoid, remedy, or mitigate the effect of fishing-related mortality on marine turtles. MFish does not propose setting a limit on fishing related mortality. The proposals include amendments to regulations.

REGULATORY IMPACT STATEMENT

Review of regulations relating to fishing interactions with marine turtles

Executive summary

In 2005, the Western and Central Pacific Fisheries Commission⁵ (WCPFC) has 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. While the resolution is non-binding, MFish will be implementing new reporting arrangements for non-fish incidental catch including marine turtles. The project includes publicising handling procedures designed to improve the survival of injured marine turtles.

In New Zealand fisheries waters, the taking and possessing of marine turtles by commercial fishers is prohibited. This prohibition does not apply to sea turtles taken accidentally in nets, which may be taken on board fishing vessels in order to expedite safe handling and treatment and improve their likelihood of survival. In addition, current requirements to report catches of marine turtles relate only to those taken in nets (whether dead or alive). More appropriate regulations are required to support the new initiatives for handling and reporting sea turtle interactions in all fisheries that have been developed in response to international obligations.

The preferred approach to resolve this problem is to amend regulations to reflect modern international instruments and agreements and to facilitate work conducted by MFish to improve the reporting of non-fish bycatch, including sea turtles.

This Regulatory Impact Statement (RIS) has addressed all relevant aspects of the RIS requirements contained in Cabinet Office Circular CO (07) 3. Where a requirement has not been addressed it is considered to be not relevant to this proposal.

Adequacy statement

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

Status quo and problem

Three species of marine turtle occurring in New Zealand waters are considered either threatened or vulnerable to local and even global extinction because of declining numbers. According to records, these turtles are rarely caught in New Zealand. Nevertheless, it is desirable to gain information on their capture in New Zealand fisheries, and to limit their mortality in such fisheries where possible.

⁵ The WCPFC is the Regional Fisheries Management Organisation set up under the UN Fish Stocks Agreement as the primary vehicle through which states shall cooperate to bring about the conservation and management of straddling stocks and highly migratory stocks in the Western and Central Pacific Ocean.

The WCPFC adopted a resolution for mitigating the impact of fishing for highly migratory fish species on sea turtles. Although this resolution is non-binding, New Zealand has reported to WCPFC that it intends to improve the handling and reporting of incidental catches of sea turtles as part of an improved process of reporting for non-fish bycatch species.

New Zealand regulations currently have no provision covering the interactions of sea turtles with any fishing method apart from nets with respect to procedures for handling, release and reporting of sea turtle bycatch. These regulations were created at a time when nets were the only fishing method known to catch sea turtles. However, since this regulation was promulgated, other fisheries have developed and other fishing methods are now known to impact on sea turtles.

Objectives

The National Fisheries Outcomes supported by this proposal are *“the health of the aquatic environment is protected”* and *“credible fisheries management”*.

The health of the aquatic environment is protected by ensuring fishers minimise and monitor any effects their fishing activities are having on the aquatic environment. Credible fisheries management outcomes are enhanced by improved reporting of turtle interactions and by implementing policies and practices compatible with international obligations.

Alternative options

Current regulations require revision to reflect modern international instruments and agreements and to facilitate work conducted by MFish to improve the reporting of non-fish bycatch. The status quo is not considered suitable for meeting new obligations and existing commitments.

Consideration was given to amending regulations by listing fishing methods, additional to nets that are now known to interact with sea turtles. However, other methods may be developed in the future that might also interact with sea turtles. It was therefore considered more prudent to include all fishing methods.

Preferred option

The preferred approach is to amend regulations to require all uninjured sea turtles to be released immediately, to require all injured sea turtles to be appropriately treated and if dead offered to Te Papa, irrespective of the fishing method of capture. In addition regulations will be amended to require that all sea turtle interactions must be reported.

The advantage of including all fishing methods is that this approach will not require further changes in future, should any changes in fishing practices occur, or if new information about fishing interactions becomes available.

Implementation and review

It is proposed to amend the Fisheries (Commercial Fishing) Regulations as follows:

- To provide an exemption from Regulation 45 (1) (the prohibition of taking and possessing sea turtles), if sea turtles are taken accidentally irrespective of fishing method (Reg 45(2)(a));
- To allow uninjured sea turtles caught accidentally by commercial fishers to be released immediately to the sea, irrespective of fishing method (Reg 46);
- To provide that injured sea turtles caught accidentally by commercial fishers must be delivered to approved institutions for care, irrespective of fishing method (Reg 47);
- To provide that dead turtles caught accidentally by commercial fishers must be offered to the Museum of New Zealand Te Papa Tongarewa, irrespective of fishing method (Reg 48);
- To require all sea turtle captures, whether alive or dead, to be reported as required by regulations made under the Fisheries Reporting Regulations 2001 ((Reg 49);
- Amend the explanatory notes for the Non-fish/Protected Species Catch Return to require additional reporting for marine turtles when appropriate.

Adopting the proposal will require amendments to the Fisheries (Commercial Fishing) Regulations 2001 and to the explanatory notes for the Non-fish/Protected Species Catch Return. A change to the commercial fishing regulations to support mandatory reporting by all fishing methods will simplify the law relating to reporting sea turtles, and result in improved compliance.

The draft Highly Migratory Species plan sets out indicators to be used to monitor and evaluate this measure over the term of the plan. These indicators include data on interactions from the non-fish reporting system and the fisheries observer program.

Consultation

MFish has carried out consultation with stakeholders and the Department of Conservation earlier this year, as part of its 2007 sustainability round process.

Feedback on the proposal has been positive, with an overwhelming consensus for supporting the measure.