

20 JUL 2008

Dear Stakeholder

### **Review of Regulatory Measures and other Management Controls for 1 October 2008**

This letter outlines final decisions in the review of regulatory measures and other management controls for 1 October 2008.

I have made decisions on a number of regulatory measures that were outlined in an Initial Position Paper (IPP) that was distributed for submissions between March and April this year.

I would like to take the opportunity to acknowledge all submissions received in this year's review. I appreciate the time and effort taken by submitters to prepare submissions on the various proposals. The information within these submissions was valuable in my consideration of each proposal.

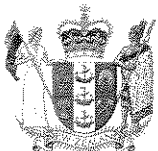
In reaching my final decisions for 1 October 2008, I carefully considered the available information from the Ministry of Fisheries (MFish), and all of the issues and information put forward in submissions on each proposal within the review.

I also had careful regard to the relevant legislative provisions for each of the proposals within the review. A summary of the regulatory decisions is attached.

A copy of the MFish Final Advice Paper (FAP) to me is available on the MFish website at [www.fish.govt.nz](http://www.fish.govt.nz).

### **Corrections and amendments to returns**

I have agreed to amend the Fisheries (Reporting) Regulations 2001 to revoke regulations 7(6) and 16(5) which require any amendments or corrections to MHRs and LFRRs to be made on the original return. This amendment was not consulted on as it was considered to be of an administrative nature. The aim is to allow for the more efficient practice of accepting new returns when amendments or corrections are required. In practice, the amendment does not imply any change or addition to your current obligations under these regulations. Corrections to be made on these forms will, in future, be managed by seeking corrections to copies of the form.



## **Regulatory measures relating to procedures for weighing fish packed and frozen at sea**

I have decided that a weighing procedure that applies to cartons of frozen fish produced at sea by factory vessels should be added to fisheries regulations. Use of the procedure will not be mandatory; its use will only be required in the event of doubt or dispute regarding the weight of fish packed and frozen at sea.

If the procedure is invoked the subsequent weight obtained by using it will not be deemed to be the correct weight and neither will any declarations of weight be deemed to be incorrect. If MFish believes that there has been an incorrect declaration of weight it will still have to prove that an offence has occurred using the existing provisions in the Fisheries (Recordkeeping) Regulations 1990 or the Fisheries (Reporting) Regulations 2001.

Some of you will be aware that a working group was set up in 2004/2005 to examine issues surrounding determining the greenweight of fish packed and frozen at sea. One of the group's key recommendations was for a weighing procedure to be specified in regulation. Some aspects of what the working group wanted to see in such a procedure are unable to be included. For example the Fisheries Act 1996 does not contain any provisions for regulations to deem a reported weight as under-reported.

Nevertheless, I believe that implementing such a procedure, which will still contain the key components of the working group's recommendations, will contribute to the group's aims of:

- Enabling Industry to take a consistent approach to determining the net weight of fish packed and frozen at sea;
- Increasing certainty about the standards that need to be met to ensure catch is being reported accurately; and
- Increasing the efficiency by which the Ministry can determine the net weight of fish processed and frozen at sea.

In order to provide Industry with sufficient lead-in time I have asked that the regulation comes into force on 1 December 2008. MFish will be working closely with SeaFIC to make sure all regulations are effective and operationally sound. MFish will provide vessel operators with additional information prior 1 December.

## **Daily completion of certain fields on TCEPR, SJCER and TLCER returns**

I have agreed to amend regulations 11(2)(a), 12(2)(a) and 13(2)(a) of the Fisheries (Reporting) Regulations 2001 to clarify the wording of the requirement to complete certain fields of the above returns on a daily basis (or more frequently) as for other returns. The aim of such an amendment is to reduce a potential opportunity for misreporting and to create more consistency within the reporting requirements, which as you know, are essential for the operation of the Quota Management System. If you have

been following the instructions on the returns and their explanatory notes no additional requirement or change in practice will be necessary.

### **Identification of containers holding freshwater eels**

I have agreed to amend the Fisheries (Commercial Fishing) Regulations 2001 to create a requirement for containers holding freshwater eels (*Anguilla dieffenbachii*, *A. australis* and *A. reinhardtii*) to be labelled with the permit holder's initials, surname and client number. This requirement is simpler than the one initially proposed during consultation, in response to the concerns raised in some submissions. The aim of the requirement is to allow Fishery Officers to identify the ownership and legality of eels left in holding bags and other containers and thus to isolate and deal with potentially illegal catch effectively. Illegal fishing is believed to occur in the eel fishery; this requirement will reduce the opportunity for such activities to occur and would protect the rights of legitimate users.

### **Amendments to fishing area coordinates to correct errors in Challenger Area regulations**

I have decided to amend the Fisheries (Challenger Area Amateur Fishing) Regulations 1986 and the Fisheries (Challenger Area Commercial Fishing) Regulations 1986 to correct a number of errors in fishing area coordinates and descriptions. I do not believe that these changes will affect fishers in an adverse way since they do not represent new restrictions on current fishing practices.

### **Reporting of Non-defined Processed States**

In recent years, some vessels have been on-processing fillet product into non-defined processed states such as loins and steaks. These products are typically specified by a portion size or weight. These products cannot be administered under the current conversion factor (CF) regime because they do not have a constant recovery rate: the actual recovery rate will vary according to the size distribution of the catch.

I note that MFish and the fishing industry are largely in agreement on the principle of applying a CF to each of the constituent parts of a fillet to obtain a cumulative greenweight as a means of addressing this issue. I also note that MFish and Industry have differing approaches to how this change should be implemented, with MFish favouring a system that would only affect vessels that process non-defined processed states from hoki fillets, while the fishing industry have proposed an alternative that would impose a reporting regime on all hoki fillet product processed at sea.

I have therefore agreed to the MFish recommendation that, while noting there is general agreement between MFish and Industry on the principles for reporting of non-defined landed states, the enactment of regulations be deferred until 1 June 2009. This will allow sufficient time to work through these implementation issues with fishing industry representatives.

MFish will initiate further discussions with the fishing industry in the near future in order to try and reach a solution that is satisfactory to both parties.

## **Proposal to list prawn killer (PRK) on the Sixth Schedule of the Fisheries Act 1996**

I have decided to list prawn killer on the Sixth Schedule of the Fisheries Act 1996 to enable commercial fishers to return prawn killer to the sea subject to the conditions that they must be likely to survive after release and that they are returned to the water as soon as possible.

I note that this is not MFish's preferred option, but I am satisfied that the information provided by NIWA regarding the survivability of similar species supports listing prawn killer on the Sixth Schedule. I am prepared to review this decision if future information indicates a risk to the sustainability of any prawn killer stocks.

## **Localised depletion of Hapuku/bass in the Central Fisheries Management area**

I have decided to retain the existing combined amateur daily bag limit of five hapuka/bass and kingfish in the Central Fisheries Management Area (CFMA).

I note that MFish made it very clear that no independent scientific information was available to verify anecdotal reports of localised depletion of hapuka/bass in the CFMA. In this instance I was prepared to amend the Fisheries (Central Area Amateur Fishing) Regulations 1986, only if there was widespread agreement from the non-commercial sector in the CFMA.

I am convinced from the submissions received there is no widespread agreement among non-commercial stakeholders in the CFMA that reported localised depletion of hapuka/bass was occurring, the cause of the problem, or an agreed and workable solution.

## **Review of the High Seas fishing permits**

I have decided to recommend the promulgation of the Fisheries (High Seas Reporting) Regulations 2009 and the Fisheries (High Seas Fishing) Regulations 2009 during the June 2009 regulatory round and, as appropriate, place in regulations High Seas Fishing Permit (HSFP) conditions that are generic and unlikely to change from fishing year to fishing year. Placing these HSFP conditions in regulation addresses the need for greater clarity and simplicity in administering management measures on the High Seas and the need for greater efficiency in the HSFP application/issuing process.

The proposals are unlikely to have significant impacts on HSFP holders because no changes to management measures are proposed. Changes relate only to the mechanism of implementation.

I have deferred the promulgation of the High seas regulations until June 2009 due to the nature and complexity of drafting the regulations.

## **Blue cod recreational management measures in the Marlborough Sounds**

I have decided to implement a four-year 'no-take' closure for recreational fishing for blue cod within the enclosed Marlborough Sounds to protect the long-term future of the fishery. The area this closure applies to includes Pelorus, Kenepuru, Queen Charlotte Sounds and Tory Channel.

In addition, recreational fishers will be required to land blue cod whole or in a gutted state within the wider Marlborough Sounds Area, with an exception for personal consumption on board a vessel.

These measures will take effect from 1 October 2008. The temporary 'no-take' closure for blue cod will expire on 1 October 2012.

While the closure remains in place, recreational fishers will be prohibited from taking blue cod caught within the enclosed Marlborough Sounds. Recreational fishers will still be able to catch all other species within the closure area but all blue cod caught unintentionally must be returned alive to the water immediately.

I have decided to take strong measures for the Marlborough Sounds blue cod fishery because the stock is in serious trouble. The most recent blue cod survey indicates there has been an average decline across the enclosed Marlborough Sounds of 57% of juvenile blue cod since 2004, with the inner Queen Charlotte Sound reporting no blue cod at all.

The steps that I have taken will help prevent the further decline of blue cod in the enclosed areas of the Marlborough Sounds, but will not be sufficient to rebuild populations alone. The temporary closures will provide a window of opportunity for all interested parties to work together to think about how they want their fishery to be managed. It is imperative that this happens. I believe that if no such agreement is reached in the four-year period then it is likely the blue cod fishery will be terminal.

In addition, I have asked the Challenger Inshore Fin Fisheries Fish Plan Advisory Group (CIFF FPAG) to set review criteria to evaluate the success of, and need to maintain, the proposed blue cod 'no-take' areas.

I am aware from submissions received and information from NIWA that blue cod abundance remains relatively good in the Tory Channel in the 'no-take' area. But I am very conscious that there is a high risk that blue cod within this stretch of water will become depleted through a transfer of recreational fishing effort resulting from the 'no-take' closure elsewhere in the Marlborough Sounds. It is because of this risk that I have included the Tory Channel as part of the no-take area, as I believe this risk must be managed for the longer-term good of the fishery.

I am also aware that there is a voluntary arrangement by commercial fishers not to target blue cod in the enclosed areas of the Marlborough Sounds. I expect that this voluntary arrangement will continue to be adhered to. If there were any substantive breach of this voluntary arrangement, I would fully support the implementation of a formal dispute

resolution process to address this matter.

I have also encouraged MFish officials to investigate and implement active education management regimes to assist in this interim measure.

My decision has been made with regard to the serious decline of blue cod in the Marlborough Sounds, after careful consideration of over 1000 submissions from the consultation, and in light of previous unsuccessful attempts to reduce the decline. I am also aware of the impact this closure will have on the community. However, action now is necessary to ensure we have a fishery for future generations and the vast majority of submissions agree we need further management measures.

I would like to thank individual fishers and stakeholder groups for their huge input into the consultation process. This has provided me with valuable information on the fishery and users' values, and has assisted me in making my decision.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jim Anderton', written in a cursive style.

Jim Anderton  
**Minister of Fisheries**