

14 January 2009

Dear Sir/Madam,

MFish Sustainability Measures and Regulation Planning Processes

Introduction

1. Each year MFish reviews fishery management measures in what we call *sustainability rounds* and *regulation rounds*.
2. The purpose of this paper is to:
 - Explain the processes we use for the sustainability and regulation rounds, and
 - Tell you what issues we propose to address in future sustainability and regulation rounds

Timing of Sustainability and Regulations Rounds

3. **Regulation rounds** include any proposals that require regulatory change. Regulations are approved by the Governor-General on the recommendation of Cabinet, and must therefore follow the Cabinet process. The “28-day rule” means regulations must normally be Gazetted 28-days prior to the new regulation taking effect.¹ Each issue takes around 12 months from the prioritisation step to regulations taking effect. MFish generally has two regulatory rounds running at any one time.
4. **Sustainability rounds** typically include reviews of catch limits, deemed value rates, and other management measures for selected fishstocks. These measures are implemented through Gazette Notices approved by the Minister. Gazette Notices don’t need Cabinet approval so sustainability rounds are typically shorter; taking about 5 – 6 months from the prioritisation stage to the Gazette Notice taking effect.
5. The majority of fishstocks are managed to the October fishing year and are reviewed in the October sustainability round. Rock lobster and southern blue

¹ More information on Cabinet rules about making regulations can be found in the Cabinet Manual at www.cabinetmanual.cabinetoffice.govt.nz/7.77

whiting and some shellfish species are managed to the April fishing year and are reviewed in the April sustainability round.

6. Sustainability and Regulation rounds occur at the same time. Indicative dates for the 2008/09 period are shown in the table below.

Stage in the Process	Sustainability Rounds		Regulation Rounds	
	April	October	June *	October
Prioritisation and Planning	Sept 2008	Early Feb 2009	April 2008	November 2008
Initial Position Paper (For Consultation)	Nov 2008	June 2009	July 2008	February 2009
Consideration of Submissions	Nov 2008 – February 2009	July 2009 – August 2009	August 2008 – September 2008	March 2009 – April 2009
Final Advice Paper (For Minister's decisions)	Early March 2009	September 2009	October 2008	May 2009
Cabinet Policy Committee approval	NA	NA	February 2009	June 2009
Cabinet approval of regulations	NA	NA	April 2009	July 2009
Gazette Notice	End March 2009	End September 2009	End May 2009	End August 2009
Enactment	1 April 2009	1 October 2009	1 June 2009	1 October 2009

* Normally this is an April round which, due to the 2008 election, was delayed for this year

Identifying Issues

7. An important step in each sustainability or regulatory round is identifying which issues to review.
8. Potential issues are identified by stakeholders and MFish. We encourage stakeholders to discuss issues they want reviewed with the relevant fisheries manager². As Fisheries Plans are approved we expect more proposals for reviews of management measures and regulations to be generated from approved Fisheries Plans.
9. Issues must demonstrate clear linkages to the overall fisheries outcome or goal and the three contributing outcomes set out in MFish's Statement of Intent. The overall fisheries goal is:

"To maximise the value that New Zealanders obtain from the sustainable use of fisheries resources and protection of the aquatic environment."

10. The outcomes that contribute to achieving this goal are:

- *The health of the aquatic environment is protected;*
- *People are able to realise the best value from the sustainable and efficient use of fisheries resources;*

² Deepwater: Aoife Martin; Large Pelagic: Arthur Hore; Inshore: Sarah Omundsen and John Taunton-Clark (Auckland); Leigh Mitchell (Napier); Scott Williamson (Nelson); Rose Grindley (Dunedin).

- *Credible fisheries management.*

Prioritising Issues

11. MFish usually don't have enough resources to review all the proposals so we have to prioritise them.
12. Prioritisation of issues is done by an expert panel representing the MFish Science, Compliance, Legal, Policy, and Fisheries Operations Teams, in discussions with the relevant fisheries manager.
13. The expert panel ranks proposals and their relative benefits in achieving the three contributing outcomes.³ The panel also takes into account MFish's capacity to carry out the analysis and preparation of advice to the Minister.
14. The panel recommends which management measures and regulations should be reviewed. The decision on which measures and regulations will be reviewed is made by the National Manager Fisheries Operations in consultation with the Chief Executive.
15. Clear description of the issue to be reviewed is important for the prioritisation step and for later stages in the process. Prioritisation is easier where there is a clear description of how the proposal would help achieve the contributing outcomes. Clear description also improves the development of options to be included in the initial position paper (IPP), preparation of advice to the Minister in the final advice paper (FAP), and for drafting Regulations and Gazette Notices.

Stakeholder Involvement

16. Stakeholder representatives have asked us to outline the review processes and provide regular updates on the Ministry's current thinking on the issues to be reviewed in current and future sustainability and regulations rounds.
17. We will provide updates directly to national stakeholder groups and/or on the MFish website. We will also discuss these updates at iwi and recreational forums. We are not proposing to consult formally on the issues to be included in different sustainability rounds and regulation rounds but we would welcome feedback on the updates.

³ The expert panel ranks proposals on a scale of -5 (large net cost to achieving the fisheries goal) and +5 (large net contribution to achieving the goal); zero is neutral. Proposals are ranked based on the score against each of the three contributing outcomes.

Conclusion

18. Stakeholders wishing to include issues in future sustainability rounds or regulatory rounds are encouraged to discuss their ideas with their local fisheries manager.

Russell Burnard

Manager Regulatory and Information

Sustainability Measures

Current Sustainability Measures Proposals – as at December 2008

The following stocks are being monitored for potential review. These stocks have been identified by stakeholders and MFish fisheries managers.

Stocks being reviewed for April 2009

- Southern Blue Whiting (SBW 6B)
- Rock Lobster (CRA 3, 4, 7 and 8)

Stocks for potential review for October 2009

The following stocks have been identified by stakeholders for possible review:

- Rig (SPO2)
- Elephant Fish (ELE 3 and 5)
- Gurnard (GUR 3 and 7)
- Red Cod (RCO 7)
- John Dory (JDO 7)
- Flatfish (FLA7)
- Oysters (OYS7)

MFish fisheries managers, in consultation with stakeholders, will establish an initial list of stocks for potential review in February 2009

Regulatory Measures

Current Regulation Round Proposals – as at December 2008

The April 2009 and June 2009 regulation rounds are now well advanced. All regulatory proposals are subject to consultation with stakeholders and consideration by the Minister of Fisheries and, if approved by the Minister, by Cabinet also.

The expert panel has prioritised proposals for regulations to be reviewed in the October 2009 regulation round and decisions on which proposals will be reviewed are being finalised.

Proposals listed for April 2010 and October 2010 are those that have been identified for far. More proposals will be added to these lists prior to the prioritisation step in the process. Stakeholders should note that

Regulations being reviewed for April 2009

1. *Ngati Porou regulation*
Regulations resulting from the Ngati Porou Foreshore and Seabed settlement Act
2. *Te Uri O Hau Oyster Regulations*
Regulations to give effect to Te Uri O Hau settlement Act

Regulations being reviewed for 1 June 2009

1. *Amendment to correct co-ordinate errors in the Southland Commercial and Amateur regulations*
Minor amendments to errors in existing regulations relating to co-ordinates
2. *Amendment to Freshwater reporting codes*
Proposals to include new reporting codes for certain freshwater species
3. *Freshwater net mesh minima*
Proposals to review and amend net mesh size limits for freshwater fishing
4. *High seas Permitting regulations*
Proposals to move conditions currently contained on High seas permits into regulation
5. *Non-defined landed states*
Proposals to clarify revised conversion factors for specified landed states
6. *Observer Fees*
Proposals to amend current Observer fees

7. Potting definitions

Proposals to clarify potting definitions for species other than rock lobster

8. Recreational Charter vessel

Proposals to require the registration of amateur charter vessels and activity and catch reporting from such vessels

9. Akaroa Taiapure regulations

A proposal to establish regulations recommended by the Akaroa Taiapure management committee

Regulations proposed for review for 1 October 2009

1. Amateur paua accumulation limits with supporting personal export prohibitions
Establishing a limit on the amount of paua amateur fishers can possess.

2. CRA7 concession area

A proposal to amend the current closed season in the Otago rock Lobster Concession area

3. Catch documentation scheme for southern bluefin tuna

Proposals to implement a Catch Documentation Scheme for southern bluefin tuna, including the requirement for tagging, consistent with international obligations agreed by the Commission for the Conservation of Southern Bluefin Tuna

4. Carton weights

Proposals to revise recordkeeping and reporting rules for large processing vessels

5. Seabird mitigation

Proposals to provide flexible methods for chief executive imposed seabird mitigation methods

6. Catch effort EDT

Proposals to allow for electronic transmission of catch effort and landing data

7. Recreational Set Net mesh size harmonisation

Proposals to standardise recreational set net mesh sizes

8. Pukerua Bay closed area

A proposal to close Pukerua Bay to all fishing following repeated temporary closures under s186A of the Fisheries Act 1996.

9. MLS for paua in Taranaki

A proposal to change minimum legal sizes limits of paua stocks in the Taranaki area

10. Danish Seining

A proposal to review current regulations in regards to commercial Danish Seining

11. Recreational Minimum legal size for FLA species

A proposal to harmonise current minimum legal sizes for flatfish

12. Infringement regulations

A proposal to correct inconsistencies in current infringement offences

13. Rock lobster lasso and amateur potting

Proposed review the methods and rules allowed for amateur rock lobster fishing

14. Co-ordinate review for Central amateur and commercial regulations

Proposed minor amendments to errors in co-ordinates in existing regulations

15. Fiordland blue cod closure

Proposals to continue the current closures in the Fiordland area to blue cod fishing (which are scheduled to expire)

16. Chatham Island paua

Proposals to consider the use of underwater breathing apparatus for paua fishing in the Chatham Islands

17. Chatham Island paua

A proposal to require reporting of paua catch to meatweight instead of greenweight in the Chatham Islands

18. East Otago Taiapure Regulations

A proposal to establish regulations recommended by the East Otago Taiapure management committee

19. Catch documentation scheme for European Union

Proposals to manage new requirements for importation of NZ seafood into the European Union

20 SPRFMO regulations

Regulations to give effect to interim South Pacific Regional Fisheries Management Organisation proposals agreed to by NZ

Regulations proposed for review for 1 April 2010

1. Reporting of Port Landing Prices

Proposals to require fishers and processors to report information related to price received for landed fish

Regulations proposed for review for 1 October 2010

1. Revision of Forms

Proposals to amend current information requirements on Trawl Catch Effort Processing returns