

OFFICE OF HON **Jim Anderton**

Minister of Agriculture, Minister for Biosecurity, Minister of Fisheries, Minister of Forestry,
Associate Minister of Health, Associate Minister for Tertiary Education, Minister responsible for Public Trust

29 November 2006

Dear Stakeholder

Regulatory Measures for 1 April 2007

This letter outlines my decisions relating to proposed regulatory measures for 1 April 2007. My Ministry released three initial position papers during July and August this year outlining each issue.

A number of the issues relate to a commitment I made to the recreational sector to review the top ten amateur fishing regulations that the New Zealand Recreational Fishing Council identified as priorities. In 2005 four items were reviewed, in 2006 three further items are being reviewed and, to meet my 2005 commitment, there is likely to be a review of another three recreational regulations in 2007.

The other issues relate to a number of proposed regulatory amendments to better provide for utilisation opportunities, manage sustainability concerns and in one case improve administrative management for the registration of commercial fishing permits and automatic location communicators.

I would like to take this opportunity to acknowledge all submissions we received from stakeholders on this year's review. I appreciate the time taken to provide submissions on the various proposals. The information within these submissions was valuable in the consideration of each proposal.

In reaching my final management decisions for 2006-07, 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 and regulatory provisions for each of the proposals considered.



A copy of MFish's Final Advice Paper (FAP) is available on MFish's website at www.fish.govt.nz.

Where I have approved the progression of proposed regulatory measures, I will be seeking Cabinet approval to progress these measures with a likely enactment of 1 April 2007.

Schedule 5 Species (45% Aggregation Limits)

I have agreed that a 45% quota aggregation limit be applied to those species in which enterprises catching those species are required or would benefit from holding enough quota to achieve economies of scale. This will be achieved by including named species on the 5th Schedule of the Fisheries Act 1996. I reviewed all QMS species (except paua, rock lobster and bluenose) to determine if increasing the limit 45% was warranted. I was satisfied that this was the case, and that the risks of unacceptable effects of quota aggregation were low, for the following species:

ANC ANCHOVY	GSP PALE GHOST SHARK	QSC QUEEN SCALLOP
BYA FRILLED VENUS SHELL	HOR HORSE MUSSEL	RBY RUBYFISH
CDL CARDINALFISH	KIC KING CRAB	RIB RIBALDO
CHC RED CRAB	KWH KNOBBED WHELK	SAE TRIANGLE SHELL
DAN RINGED DOSINIA	LDO LOOKDOWN DORY	SBW SOUTHERN BLUE WHITING
DSU SILKY DOSINIA	MDI TROUGH SHELL	SCI SCAMPI
EMA BLUE (ENGLISH) MACKEREL	MMI LARGE TROUGH SHELL	SPR SPRATS
FRO FROSTFISH	PDO DEEPWATER TUATUA	SSK SMOOTH SKATE
GSC GIANT SPIDER CRAB	PIL PILCHARD	WWA WHITE WAREHOU
GSH GHOST SHARK	PZL DEEPWATER KING CLAM	

I agreed with several submissions that no species should be removed from the Schedule unless there were compelling reasons to do so. Industry may have made business decisions on the assumption that quota aggregation would remain at the 45% level, even if holdings of individual companies were below the 35% level. Therefore, I have decided to retain all existing species on the Schedule, including:

BAR BARRACOUTA	LIN LING	SKI GEMFISH
BYX ALFONSINO	OEO OREOS	SQU ARROW SQUID
HAK HAKE	ORH ORANGE ROUGHY	SWA SILVER WAREHOU
HOK HOKI	PHC PACKHORSE ROCK LOBSTER	WAR COMMON (BLUE) WAREHOU
JMA JACK MACKEREL	RCO RED COD	

I note that several submitters proposed other species for 45% aggregation. I have carefully considered these arguments, and believe that the list of species to be included on the Schedule represents the best balance between providing increased discretion to industry while ensuring that the likelihood of unwanted effects is minimised. I have therefore also agreed to the analytical framework to be used in future assessments of species' suitability for Schedule 5. This is a process that examines if:

- extraction or processing requires substantial investment;
- substantial science investment is required to demonstrate the viability of a fishery or extraction method; or
- competitiveness in the international market requires concentration of quota ownership.

The process then assesses the possibility of unwanted effects, including:

- a monopolisation of the supply of ACE required to cover bycatch in related fisheries;
- the diminishment of a possible entry point into the business of fishing generally; and
- a reduction of the pool of competitive buyers for the fishing rights of those minority stakeholders in a particular fishery who may choose to exit the fishery in the future, or who depend on the sale of ACE.

I acknowledge that some submitters rejected or questioned the framework given its subjective nature. However, there is no way to objectively make an assessment of this kind (e.g. to objectively determine if substantial investment is required to harvest or process the species), and I am comfortable with the balancing and weighing of information that must occur to make a final judgement.

Restriction on the Possession and Disposal of Live Brown Bullhead Catfish

Brown bullhead catfish (catfish) are considered an undesirable introduced species because of their adverse effects on other freshwater species and on the aquatic environment. There are several risks involved with people possessing live catfish including the establishment of new populations in areas where catfish were previously absent. To reduce these risks I have decided there is a need to implement measures for the use of this species by both non-commercial and commercial fishers.

Non-commercial fishers will be required to kill all catfish caught immediately on capture, such that only dead catfish may be possessed. I believe this requirement is able to be adopted easily as non-commercial fishers take smaller catches than commercial fishers. Similarly I do not consider that the requirement to kill catfish on capture would result in a marked reduction in fish quality prior to the catch being eaten.

I have decided to propose measures to allow the possession of live catfish by commercial fishers until the first point of sale, which in almost all instances will be the licensed fish receiver. A requirement that catfish should be killed on capture is likely to be too onerous for the industry as a mandatory measure. This is because of the quantities that can be caught in some places over a short period of time. Nevertheless, I appreciate that the industry are likely to take voluntary steps as part of a code of practice, as outlined below, to kill this species as is practicable.

In making my decision about how catfish may be handled by commercial fishers, I have taken into account the economic impacts associated with the sale of live catfish and the current market familiarity with this product. I consider on balance that the lost economic return is not outweighed by the risks posed by allowing this species to be sold in a live state.

I support the development of a code of practice to avoid transfers of all catfish lifestages into other waterways. Specifically I support measures involving the cleaning of fishing gear and vessels, and other measures to reduce the risks of catfish spreading.

The range of management measures outlined will mitigate the risks to the aquatic environment associated with the use of the catfish resource.

Inclusion of Otago Cockles (COC 3) and Surf Clams on to Schedule 6

I have decided that it is appropriate recommend to the Governor General to add Otago cockles (COC 3) and surf clams to the sixth schedule of the Act. This will allow any non-saleable catch to be returned to the sea if likely to survive. In the case of Otago cockles, not only does this action address an anomaly between COC 3 and all other cockle fisheries, but there are clear benefits to both utilization and the value that can be attained from the fishery.

In the case of surf clams, I note that developments in harvest technology have the potential to largely eliminate the problem of post harvest mortality and dramatically

improve the survivability of surf clams returned to the sea. Also, I am re-assured that the uptake of this technology is to be monitored. Further, it is apparent that the addition to the Sixth Schedule will assist with the development of the surf clam fisheries and improve the value that can be attained from them.

CRA 8 Rock Lobster Fishery – proposal to allow the sale of Southland Concession Area rock lobster in New Zealand

I have decided to defer making a decision on a request by the CRA 8 Management Committee Incorporated to allow the domestic sale of concession-size rock lobsters harvested from the Southland Concession Area. I would like to reconsider the request as part of a wider review of the Southland Concession Area provisions.

I accept that removing the export-only rule would provide the CRA 8 industry with greater flexibility to seek higher prices for concession-size lobsters. However, I do not consider it appropriate to look at the domestic sale issue in isolation. The Southland Concession Area provisions were introduced as interim measures in 1989. The measures sought to provide commercial fishers with time to adjust to a change in the measuring system for lobsters, while managing the risks allowing access to lobsters smaller than the national minimum legal size posed.

I am also aware increasing the presence of lobsters less than the national minimum legal size on the domestic market would exacerbate risks of illegal take in all lobster fisheries. These risks would arise from increased opportunities for fish thieves to traffic undersize lobsters - in particular at the dealer-in-fish point in the supply chain, a complex area in which to detect illegal activity. The rock lobster fishery is very valuable to New Zealanders economically, socially and culturally, and any proposal that exacerbates illegal fishing risks must be considered carefully.

Considering industry's request in the context of a wider review of the Southland Concession Area provisions would provide an opportunity to revisit the need for the concession, and consider improvements to the regime that address any compliance risks while providing opportunities for commercial stakeholders to maximise their economic returns. I am aware a review of the Southland Concession Area would need to involve all relevant stakeholders. Therefore, I have asked the Ministry to discuss this matter with the National Rock Lobster Management Group at the earliest opportunity.

Removal of South Island Freshwater Eel Stocks from the Second Schedule

The Second Schedule of the Fisheries Act 1996 lists stocks whose abundance is highly variable and allows me to consider an in-season increase to the total allowable catch (TAC) for a stock so listed. Six South Island eel stocks were listed on this Schedule as part of their introduction into the quota management system on 1 October 2000. The rationale for listing these stocks has been reviewed.

Except for ANG 13, freshwater eel stocks are not highly variable in their abundance and in-season TAC increases are not necessary. Therefore, I have decided to recommend to

the Governor General to remove South Island freshwater eel stocks ANG 11, ANG 12, ANG 14, ANG 15 and ANG 16 from the Second Schedule of the Fisheries Act 1996.

The change in the start of the fishing year for ANG 13 (the Lake Ellesmere fishery), to 1 February, addressed the variability of this stock in part and may, in the longer term, remove the need for listing this stock on the Second Schedule. However, I am comfortable that this stock can be retained under the Second Schedule listing for the foreseeable future while management of this stock is further considered.

Maximum size limit for commercially fished freshwater eels in the North Island and Chatham Islands.

I have decided to propose regulatory measures for a maximum size limit for commercially fished freshwater eels in the North Island and Chatham Islands. A 4 kg maximum size limit will ensure consistency with the maximum size limit already in place in the South Island.

Despite the introduction of recent catch limits, additional management measures are necessary to enable longfin eel populations to rebuild. Eels only breed once at the end of their life, and this means that they are vulnerable to over-exploitation of the spawning biomass.

Adoption of a 4 kg maximum size limit nationwide for commercial fishing of eels will provide a level of protection to large eels that may otherwise continue to be susceptible to commercial eel fishing before they can escape to spawn. This should in turn contribute to the rebuilding of the longfin eel fishery.

I have noted that some submitters considered that a maximum size limit of less than 4 kg should be implemented, and that a maximum size limit should also be extended to other sectors. The maximum size limit is one of three measures used to ensure sustainability of the eel fishery. The combination of catch limits, catchment closures and size limits need to be considered in total rather than in isolation. The maximum size limit is part of a series of measures designed to rebuild the eel fishery. I anticipate that fisheries plans will lead to further management measures to complement this control in the future.

PAUA (PAU) 6 Fishery – Review of the Eighth Schedule minimum annual holdings of Annual Catch Entitlement

I have decided to recommend to the Governor General to amend the Eighth Schedule of the Fisheries Act 1996 to reduce the PAU 6 minimum annual catch entitlement (ACE) holding from 1 tonne to 100 kilograms. This will provide greater flexibility to quota share owners wishing to utilise their PAU 6 ACE.

Under a 1 tonne minimum ACE holding, the options available to PAU6 quota share owners to use the ACE generated from their quota shares are limited. The current PAU6 total allowable commercial catch (TACC) is just 1 tonne so all quota share owners would need to sell all their ACE to the same fisher to achieve the 1 tonne minimum ACE

holding. If quota share owners do not sell their ACE to the same fisher, the PAU6 commercial fishery cannot be harvested and quota share owners cannot realise any value from their quota shares.

The new minimum ACE holding of 100 kilograms means quota share owners that hold 10% or more of the current TACC will be able to fish or sell their ACE without recourse to other quota share owners. I am confident this reduction will not significantly impact administration or compliance costs due to the fact the PAU6 fishery is small. Nor will it affect sustainability of the fishery as no changes to catch limits are proposed.

Recreational issues related to taking bag limits

Undersize fish and the daily bag limit

The Fisheries (Amateur Fishing) Regulations 1986 (the Regulations) require that all undersize fish must be returned to the sea, and this has historically been applied so that undersize fish do not count towards the daily bag limit. However, this intention is not explicit in the Regulations and there is a level of uncertainty amongst the recreational sector about the rule. I have agreed to clarify in the Regulations that the recreational daily bag limit only applies to fish taken of legal size.

Releasing fish above the minimum legal size

If a bag limit applies to a species, the Regulations require that every legal sized fish caught counts against that bag limit, even if the fish is released alive. It is clear, however, that the current and historical practice of most recreational fishers is that when they return a fish to the sea alive, they generally don't count it towards their daily bag limit. Many fishers consider that potential yield benefits can be gained by leaving fish to spawn several times prior to harvesting. In many cases there is a real benefit associated with this practice. In recognition of this, I have decided to amend the Regulations so that the daily bag limit does not apply to finfish returned immediately to the waters from which they were taken and that are likely to survive. To minimise any mortality associated with releasing fish, I have also directed MFish to develop and distribute fish handling guidelines to recreational fishers.

Tagging and releasing fish for research purposes

By amending the Regulations so that the bag limit does not apply to fish that are returned to the sea alive and are likely to survive, any fish that are tagged and released as part of a recognised tagging programme will not count towards recreational fishers' daily bag limits.

Changes in recreational size limits

These issues were raised by recreational fishers and arise from their perceptions of how to obtain the best value from their fisheries. I also understand that requesting a recreational minimum legal size for red gurnard and trumpeter is an expression of the increased responsibility that recreational fishers are taking for the impacts of their activities on fisheries. I encourage this participation in, and responsibility for, fisheries management.

Red Gurnard

Recreational fishers have expressed concern about the number of small red gurnard they have observed being landed in some areas, and perceive that a minimum legal size (MLS) will be beneficial to their fishery. I have agreed to propose a 25cm MLS for the species, which I am advised is biologically appropriate. At the local level, especially in predominantly recreational fishery areas, a MLS is likely to contribute to an improved quality of fishing for red gurnard in the longer term.

Trumpeter

MFish consulted on the introduction of a 45cm MLS for trumpeter. This size is thought to represent the age of maturity for the species, however information related to New Zealand stocks is limited. While most stakeholders supported the introduction of a MLS for trumpeter, many recreational fishers were concerned that a limit of 45 cm would effectively exclude them from the fishery.

As an interim measure, I have decided to propose a 35 cm MLS for trumpeter until more reliable information on size at maturity is available for New Zealand stocks. This measure will allay the concerns of recreational fishers about small fish being taken, it will maintain reasonable access for recreational inshore fishers to the trumpeter fishery and it will improve the yield per fish. The measure will be reviewed at a later date when results of research on the biological characteristics of trumpeter become available.

Blue Cod

In 1993 the national MLS for blue cod was increased from 30 to 33 cm. This adjustment was based on data obtained from the South Island blue cod fishery where fish are known to become mature at a larger size than in more northern waters. Many recreational fishers consider that the MLS of 33 cm is inappropriately high in the north. I have decided to propose a reduction in the blue cod MLS from 33 cm to 30 cm in BCO 1, which is a more biologically appropriate size in this area.

Recreational Scallop Season

I have agreed to propose the changing of the amateur scallop closed season from 15 February - 14 July (inclusive) to 1 April – 31 August (inclusive) in the area from North Cape to Cape Runway. This will leave early season scallops to improve condition and potentially spawn prior to being harvested, and allow recreational fishers to take advantage of scallops in good condition in late February and March. The new arrangements will take effect from 1 September 2007, which will mark the opening day of the new season in the north-east area.

The existing closed seasons throughout the rest of the country will remain unchanged. I note that specific concerns about the sustainability of scallops in north-west fisheries were raised during consultation on this issue. I have therefore directed MFish to consult next year on refining the recreational scallop season for the north-west coast.

Regulation 19A

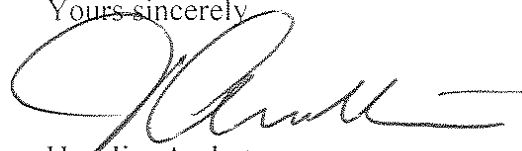
In December 2005, the Regulations were amended allowing divers to take up to two extra bag limits of scallops or dredge oysters when safety people are on board their vessel. However, the way that the Regulations were amended had an unforeseen consequence, where even slightly exceeding the daily bag limit was classified as a serious non-commercial offence. I have decided to propose amendments to the Regulations to ensure that when a diver takes less than three times their individual entitlement under r19A when safety people are on board their vessel, it is not considered to automatically be a serious non-commercial offence.

Application Fees for five year permits and automatic location communicators (ALCs)

The Fisheries Act 1996 allows for permits and vessel registrations (to which ALCs are associated) to be issued for a period of up to five years. However due to certain risks commercial fishers are currently required to apply annually for a fishing permit and ALC (if required). After review I have decided to amend that policy as I believe that enabling longer registrations does not increase the risk to the current fisheries management framework.

To accommodate the flexibility in registration for periods up to 5 years the current application fee structure must be amended. The proposed fee for permits are the existing fee (\$112), which covers the first year, plus an additional \$27 for each subsequent year. Similarly the proposed fee for ALCs is for the existing fee (\$180), which covers the first year, plus an additional \$45 for each subsequent year. The application fee is designed to recover the cost of providing the service.

Yours sincerely



Hon Jim Anderton
Minister of Fisheries