



Fisheries New Zealand

Tini a Tangaroa

Amendments to Regulations to Support

Digital monitoring and innovative trawl technologies in the commercial fishing sector



Fisheries New Zealand Discussion Paper 2018/01

May 2018



Publisher
Fisheries New Zealand
PO Box 2526, Wellington, 6140
New Zealand
0800 00 83 33
www.fisheries.govt.nz

Fisheries New Zealand Discussion Paper 2018/01
ISSN No: 2624-0165 (online)
ISBN No: 978-1-77665-815-2 (online)

© Crown Copyright – Fisheries New Zealand May 2018

Disclaimer

While every effort has been made to ensure the information is accurate, the Fisheries New Zealand does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information. Any view or opinion expressed does not necessarily represent the view of the Fisheries New Zealand.

Contents

1. Purpose	2
2. Making a Submission	2
2.1 Submissions are Public Information	2
3. Summary	3
4. Background	4
4.1 Digital Monitoring	4
4.2 Enabling Innovative Trawling Technologies	4
5. Proposals for Changes to Regulations	6
5.1 Structure of the Consultation Document	6
6. Fisheries (Reporting) Regulations 2017: Proposed Amendments to Protect Information on Fishing Marks that may have Commercial Value	7
6.1 The issue	7
Option 1 – Status quo	8
Option 2 – Amendment to separate reporting obligations	8
Option 3 – Amendment to create a new defence	8
7. Technical Amendments to Regulations	10
7.1 Technical Amendments to Support Electronic Catch Reporting	10
7.2 Technical Amendments to Support Geospatial Position Reporting	18
7.3 Rollout of new requirements	21
7.4 Technical Amendments to Support Innovative Trawl Technologies	22
8 Implementation	24
9 Monitoring, Evaluation and Review	25

1. Purpose

This consultation document sets out a number of proposed technical amendments to the various fisheries regulations that relate to:

- **Digital Monitoring** of commercial fishing, previously known as Integrated Electronic Monitoring and Reporting System (IEMRS); and
- **Enabling Innovative Trawl Technologies**, sometimes referred to as EITT.

Now that the frameworks for Digital Monitoring and Enabling Innovative Trawl Technologies have been established, minor amendments are considered necessary to improve a number of areas. This reflects

feedback Fisheries New Zealand has received since the regulations were made. The proposed changes primarily address practical implementation matters. Through this consultation process, Fisheries New Zealand is seeking specific feedback on the feasibility of the various proposals for amendments and particularly whether there are any unforeseen impacts.

This consultation relates to regulations for electronic catch reporting and position reporting. It does not relate to proposals for commercial fishing activities using on-board cameras.

2. Making a Submission

Fisheries New Zealand invites written submissions from interested parties on the proposed technical amendments outlined in this document.

Your submission should be emailed directly to:
fisheries.review@mpi.govt.nz

Alternatively, should you wish to provide a hard copy submission, please send it to the following address:

Digital Monitoring Submission
Fisheries New Zealand
P O Box 2526
Wellington 6140
New Zealand

All written submissions, whether by email or in hard copy, must be received by Fisheries New Zealand no later than **5.00pm on Wednesday 6 June 2018**.

If you have any questions about this consultation please email **fisheries.review@mpi.govt.nz** allowing enough time for Fisheries New Zealand to respond before submissions close.

Fisheries New Zealand will consider all relevant material provided in submissions so you are encouraged to include as much supporting information as possible.

Please make sure you include the following information in your submission:

- the title of the consultation document;
- your name and title;
- your organisation's name (if you are submitting on behalf of an organisation, and whether your submission represents the whole organisation or a section of it); and
- your contact details (such as phone number, address, and email).

2.1 Submissions are Public Information

Please note that your submission is public information. Submissions may be the subject of requests for information under the Official Information Act 1982. The Act specifies that information is to be made available to requesters unless there are sufficient grounds for withholding it, as set out in the Act.

Submitters may wish to indicate grounds for withholding specific information contained in their submission, such as if the information is commercially sensitive or if they wish personal information to be withheld. The Ministry for Primary Industries (MPI) will take such indications into account when determining whether or not to release the information.

3. Summary

There are currently two key regulatory change projects that contribute to the goal of ensuring the long-term sustainable use of New Zealand's fisheries:

- **Digital Monitoring** – the first phase of this centres on implementing electronic catch and position reporting, providing more accurate, integrated and timely data on commercial fishing activities to enable better informed fisheries management decisions. A second phase involving electronic monitoring of commercial fishing activities using cameras is under consideration, and is not part of this consultation.
- **Enabling Innovative Trawl Technologies** – this establishes a process for approving innovative trawl technologies for use in New Zealand's commercial fisheries (i.e. non-traditional trawl equipment that did not meet pre-existing legal requirements).

In 2016 the public was consulted on a number of regulations and amendments intended to support the introduction of Digital Monitoring and Enabling Innovative Trawl Technologies. The associated regulations came into force from 1 October 2017.

Since the regulations were made, Fisheries New Zealand has been working with industry and other stakeholders to address the practical, operational and technical matters necessary for a smooth transition for commercial fishers to operating under new electronic catch and position reporting regulations.

A number of practical issues have been identified that require amendments to regulations. These are of a technical or minor nature, and are designed to clarify

how fishers are to apply the requirements and to enable the industry to do so without undue disruption, making implementation smoother.

In respect of Digital Monitoring, this paper proposes:

- a number of technical amendments to the electronic catch and position reporting regulations to support smooth implementation;
- a minor amendment to the electronic catch reporting regulations to ensure appropriate protection (within fisheries databases) of information about fishing locations (marks) held by commercial fishers that have the potential to be commercially valuable;
- a phased rollout of new requirements under the electronic catch and position reporting regulations.

In respect of Enabling Innovative Trawl Technologies, this paper proposes two amendments to the Fisheries (Commercial Fishing) Regulations 2001. These are required to improve the administration of the new process for approving innovative trawl technologies.

The proposals outlined in this consultation document are intended to be pragmatic and operationally viable for the fishing industry. Through this consultation process Fisheries New Zealand seeks feedback in order to ensure transparency and to fully appreciate any impacts on industry or others.

4. Background

Fisheries New Zealand wishes to ensure the long-term sustainable use of New Zealand's fisheries. Two key regulatory change projects that contribute to this goal are the subject of this consultation:

- **Digital Monitoring** – the first phase of this relates to implementing electronic catch and position reporting; providing more accurate, integrated and timely data on commercial fishing activities to enable better informed fisheries management decisions.
- **Enabling Innovative Trawl Technologies** – this establishes a process for approving new trawl technologies for use in New Zealand's commercial fisheries (i.e. non-traditional trawl equipment that did not meet pre-existing legal requirements).

4.1 Digital Monitoring

The Digital Monitoring programme is transitioning New Zealand's commercial fishers to a modernised reporting and monitoring regime that provides more accurate, integrated and timely data on commercial fishing activities. Digital Monitoring enables better informed fisheries management decisions to be made and enhances our ability to verify and encourage compliance. This contributes to the sustainability of our fisheries by fostering behaviours that reduce waste and support compliance.

The first phase of Digital Monitoring has two components, both of which have required regulatory changes to support their implementation:

- **Electronic Reporting** – which replaces the current paper-based catch reporting system with a more accurate and timely electronic system with event-based catch reporting.
- **Geospatial Position Reporting** – which requires automated position reporting of each vessel or land-based commercial fisher (for example, to support verification of catch records submitted via Electronic Reporting).

A more detailed overview of the full programme can be found in the digital monitoring regulatory change consultation document released in November 2016.

The Digital Monitoring work programme is now well progressed with the introduction of a number of new regulations in 2017 relating to:

- Fisheries (Reporting) Regulations 2017 (**Electronic Reporting**);
- Fisheries (Geospatial Position Reporting) Regulations 2017 (**Geospatial Position Reporting**); and
- Fisheries (Electronic Monitoring on Vessels) Regulations 2017 (**Electronic Monitoring** using on-board cameras).

Electronic catch and position reporting (the regulations in the first two bullet points above) was implemented for trawlers that are over 28 metres in length on 1 October 2017.

As announced by the Minister of Fisheries on 10 November 2017, the start of electronic catch and position reporting for the remaining commercial fishers has been deferred. It is proposed that electronic catch and position reporting for these fishers will take effect in a phased rollout commencing on or after 1 October 2018.

Electronic Monitoring Regulations do not come into force until 1 October 2018. The Minister of Fisheries is considering a range of issues that have been raised in relation to cameras and has yet to announce decisions relating to these regulations.

4.2 Enabling Innovative Trawling Technologies

The purpose of Enabling Innovative Trawl Technologies is to facilitate innovation in the design of trawl equipment in New Zealand's commercial fisheries. It does this by providing a decision-making process for approving the use of non-traditional trawl equipment.

Allowing the commercial use of innovative trawl technologies has the potential to improve both the overall sustainability of fisheries and the ability of fishers to derive maximum benefit from their efforts by improving catch quality. These could result from:

- reducing the bycatch of undersized or non-target fish or protected species, or minimising adverse effects on benthic habitats; or
- minimising damage to fish caught in trawls (e.g. through contact with other fish or the gear).

Pre-existing trawl net regulations, in the Fisheries (Commercial Fishing) Regulations 2001, included detailed specifications with which all trawl nets had to comply¹. No pathway existed for approving alternative trawl net designs that did not meet the specifications. In response the regulations were updated through the Fisheries (Trawling) Amendment Regulations 2017.

The amended regulations set criteria that Fisheries New Zealand will consider when assessing an application for approval of innovative trawl nets. The criteria include a comparison of the performance of the new trawl net against traditional trawl nets in respect to fish size and species composition, and its impact on protected and benthic species. A new trawl net cannot be approved unless it performs at least as well as an existing trawl

¹ Such as mesh net size requirements; the exclusion of any structural features that might alter the effect of mesh sizes (e.g. net sleeves, liners, flappers) and controls regarding the types of materials that can be used (mesh net material).

net in providing for the utilisation of fisheries resources while ensuring sustainability. If a trawl net is approved, its approval may be subject to terms and conditions for the new trawl net's use.

For a more detailed overview of Enabling Innovative Trawl Technologies refer to the EITT regulatory change consultation document also issued in November 2016.



5. Proposals for Changes to Regulations

As outlined in the Background section, work to develop and implement the Digital Monitoring and Enabling Innovative Trawl Technologies change programmes is well progressed with new regulations in place since 2017. Since then, Fisheries New Zealand has been working with industry to address the practical, operational and technical matters necessary for a smooth transition for commercial fishers to the new reporting regulations.

A number of practical issues have been identified that require further amendments to regulations. These are of a technical or minor nature, chiefly aimed at clarifying how fishers are to apply the requirements and to enable them to do so without undue disruption.

The proposals are summarised as follows:

- changes to ensure appropriate protection of fishing knowledge within the fisheries databases on catch locations that is potentially commercially valuable, and which could otherwise be accessible by permit holders by default under the more precise catch reporting requirements;
- technical amendments necessary to support the introduction of the electronic catch and position reporting components of Digital Monitoring, including:
 - enabling MPI to respond appropriately in different operational circumstances, e.g. equipment failure at sea;
 - amending the timing of reporting obligations to avoid, for example, any clash with operating fishing gear;
- consequential new offences and penalties for new reporting requirements;
- amending some offences and penalties to provide for infringement penalties that more correctly reflect the severity of breaches;
- providing the Director-General with the power to amend, add or remove conditions of an approval for

the use of a new trawl net after an approval has been issued; and

- changing the regulations that support the Enabling Innovative Trawl Technologies approval process so that one fisher's actions do not invalidate the approval for the use of a new trawl net for other compliant fishers.

The proposed amendments relate to the following regulations:

- Fisheries (Reporting) Regulations 2017;
- Fisheries (Geospatial Position Reporting) Regulations 2017;
- Fisheries (Commercial Fishing) Regulations 2001; and
- Fisheries (Infringement Offences) Regulations 2001.

The proposals outlined in this consultation document are intended to be pragmatic and operationally viable for fishers. Through this consultation process, Fisheries New Zealand seeks feedback in order to ensure transparency and to fully appreciate any impacts on industry and others.

5.1 Structure of the Consultation Document

Changes to the electronic catch reporting regulations to increase protection of potentially commercially valuable fishing knowledge are addressed separately in Section 6. The remainder of the proposals, being of a technical nature, have been grouped and addressed in tables in sections:

- 7.1 - Electronic catch reporting;
- 7.2 - Electronic position reporting;
- 7.3 - Rollout of new requirements; and
- 7.4 - Enabling Innovative Trawl Technologies.

6. Fisheries (Reporting) Regulations 2017: Proposed Amendments to Protect Information on Fishing Marks that may have Commercial Value

6.1 The issue

As with the previous reporting requirements, the new reporting requirements in Part 1 of the Electronic Reporting Regulations² require the permit holders to “record”, “complete”, and “provide” the location of fish catch (fishing marks) and other events.³

In order to meet their reporting obligations, permit holders have access to catch and effort reports made by commercial fishers operating on their behalf. Under paper-based reporting, this was typically at the level of one minute of latitude and longitude (1 nautical mile/1.8km) or statistical area (multiple nm²/km²).

However, for 17 fisheries groups⁴ the new regulations require permit holders to report location to a much finer-scale of 4 decimal places which is the equivalent of 11m.

In an estimated 15 percent of commercial fishing carried out where the fisher is not the permit holder⁵, the requirement to provide higher resolution catch location data could reveal more detailed fishing mark information that fishers often consider to be commercially valuable or sensitive. In particular, this issue arises because of the following aspects of how the Electronic Reporting Regulations are currently imposed:

- Part 1 of the Electronic Reporting Regulations requires permit holders to provide fish catch reports to MPI each time they fish under their permit.
- As Part 1 also requires fish catch report data to be recorded during each fishing event for practical reasons (i.e. because the permit holder may not be the fisher) it is the fishers who record this data, including the 4 decimal places location of each fish catch event.

² More specifically, the requirement to provide location data to 4 decimal places is set out in the Technical Specifications Circular, which provides the more detailed technical requirements that permit holders must meet in order to comply with reporting requirements in Part 1 of the new Fisheries (Reporting) Regulations 2017.

³ Permit holders must also record and provide to the Director-General of MPI non-fish species or protected fish species catch reports, processing reports, disposal reports and landing reports under regulations 8 to 11.

⁴ Rock lobster; Paua; All other hand gathering or diving; Eels; Anything taken from a sub 6 metre boat; Dahn lining; Trolling; Danish Seining; Lampara; Ring net; Dip net; Scoop net; Any form of potting; Dredging; Mechanical harvesting; Handlining; and, Pole and line

⁵ Instances where the fisher is engaged by the permit holder to fish their permit for them on a contractor basis (i.e. where the fisher is not an employee). Where a fisher is an employee of the permit holder their actions are legally deemed to be the actions of the permit holder (i.e. in other words the permit holder and the fisher are treated as the same person).

- As the primary obligation to record and provide fish catch data sits with the permit holder (who has the right to access fish), they must have access to all reported data provided by the fisher in order to verify it is accurate and complete (and therefore that their reporting obligations are met).
- As a consequence of the above, permit holders would be able to see the precise location of fishing marks as events reported by fishers on their behalf. Fishers may be concerned they could lose any commercial advantage they previously had because of the disclosure of their fishing marks, which they may have created using their skill and experience over a long period of time.

This is potentially a more significant issue in the inshore sector where there tends to be a higher degree of sensitivity around precise geographical location of productive fishing spots and a greater proportion of contract fishers. Many of the fishers who may work for different permit holders would view their knowledge of fishing marks as the foundation of their commercial advantage. This could be compromised if made available to others.

Note that this issue relates to the visibility of more precise fine-scale catch location data for report verification purposes within the fisheries database system. It is distinct from the systems and processes established under the Official Information Act 1982, as it concerns the visibility of data between the fisher and the permit holder – not how information may be released if requested.

Fisheries New Zealand has considered the above implications of requiring contract fishers to record to 4 decimal places, and based on that assessment, identified the following possible options for addressing the issue:

Option 1 – Status quo

Under the status quo permit holders would be able to access fine-scale data to four decimal places provided to FishServe by fishers, and any perceived issues about commercial sensitivity could be resolved through:

- fishers negotiating with permit holders to secure the necessary contractual terms to protect their commercial knowledge, as occurs now (e.g. clauses that restrict what the permit holder can or cannot do with fishing mark information outside of their reporting requirements); and/or
- fishers registering as permit holders to become directly and exclusively accountable for the information they provide. This assumes they are willing and able to: purchase Annual Catch Entitlement (ACE) from others; establish a relationship with a Licensed Fish Receiver; and, take on the administrative responsibilities.

Based on discussions with industry, Fisheries New Zealand believes that the following considerations are relevant to this option:

- It is not clear how this would affect existing contracts between fishers and permit holders at the time the Electronic Reporting Regulations are implemented, because:
 - fishers may not have had sufficient opportunity to negotiate the contractual terms needed to protect their commercial fishing knowledge; and
 - permit holders may not be willing to amend existing contracts as fishers become obligated to report under new Electronic Reporting Regulations, thereby potentially giving away commercial information.
- Fishers could enter negotiations with permit holders at a disadvantage as:
 - the regulations currently require disclosure of their knowledge by default, placing fishers in a starting position of reduced bargaining power; and
 - in practice, many fishers may be unable to negotiate effective contracts that adequately protect their interests and would likely often lack the resources required to monitor and enforce provisions related to non-disclosure.

Option 2 – Amendment to separate reporting obligations (Preferred)

Under this option, Part 1 of the Electronic Reporting Regulations would be amended to create two sets of parallel reporting obligations, whereby under one set:

- the fisher is required to enter catch location data for the relevant event reports (including fish catch reports) to 4 decimal places and there is a new associated offence created for non-compliant reporting;
- the permit holder becomes responsible for “ensuring that” the catch location data required under Part 1 is recorded, completed and provided to MPI but the permit holder can only ‘see’ the data to 1 decimal place.

This shifts part of the existing reporting requirements from the permit holder to the fisher creating a legal obligation on the fisher to provide the full details of the location information (which would carry an offence and penalty for a failure to comply).

Option 3 – Amendment to create a new defence

Under this option, the obligation to report catch location data to 4 decimal places would continue to sit with the permit holder (as currently drafted in the regulations and circular). The Electronic Reporting Regulations would however be amended by creating a new defence for the permit holder, which allows them to report to 1 decimal place (i.e. as opposed to the required 4 decimal places) in circumstances where the permit holder is not the fisher (i.e. where the fisher is an independent contractor). Where the defence applies the permit holder would only have to verify such data to 1 decimal place (while the fisher still reports data to MPI at 4 decimal places), and in all other cases the permit holder would still be required to provide data at 4 decimal places.

Comparison of regulatory approaches (Options 2 and 3)

In Option 2, responsibility for providing actual catch location reports to 4 decimal places is transferred onto the fisher (and it becomes an offence for the fisher not to report at that resolution) and the permit holder's responsibility is to ensure the fisher is providing the reported catch location information for activities under their permit.

In order to verify the report had been provided, the permit holder would have access to data limited to 1 decimal place by default, unless authorised by the fisher to view at a higher resolution.

In Option 3, ultimate responsibility for reporting still rests with the permit holder to provide data to 4 decimal places, but there is a defence from prosecution if the report is verified at 1 decimal place where the permit

holder is not the fisher (and the fisher has provided the report to MPI at 4 decimal places).

Following some initial discussions with industry representatives, Fisheries New Zealand prefers Option 2 because it is simpler and more clearly expresses the relevant obligation than Option 3.

Options 2 and 3 would require a technical update to be implemented in FishServe so that the permit holder can only access location data at a lower resolution (e.g. 1 decimal place) by default unless the fisher has provided authorisation. This update to FishServe is relatively simple to incorporate technically, but needs to be supported by the proposed amendment to the regulation.

Fisheries New Zealand has identified Option 2 as a preferred outcome and invites feedback, particularly in comparison to the status quo.

Consultation Questions:

- Do you agree that a fisher's commercial knowledge of fishing marks should be further protected from access by permit holders through an amendment to regulations, or is the status quo preferred?
- Do you support making the fisher legally responsible for entering the location of catch data (to four decimal places) while fishing, with new associated offences for non-compliance?
- Are there any issues with the preferred option?



7. Technical Amendments to Regulations

The following tables incorporate the proposed technical amendments to the electronic catch and position reporting and Enabling Innovative Trawl Technologies regulations, which are necessary to support smooth implementation and minimise disruption. They also incorporate some corrections and changes consequential on other amendments. The impacts of these proposals should make implementation easier overall, improving both the clarity and effectiveness of requirements.

The proposed amendments refine the substantive proposals implemented in regulations in 2017. Fisheries New Zealand does not expect there to be any significant negative impacts for fishers who would have to implement the requirements and is testing that through this consultation process.

7.1 Technical Amendments to Support Electronic Catch Reporting

The proposed amendments to the Fisheries (Reporting) Regulations 2017 (“Electronic Reporting Regulations”) are set out below:

Issue	Proposed Electronic Reporting Regulations Changes	Options
1. Clarification of definitions used in regulations and circulars	A: Add a definition of “product state”: This definition would refer to the state of fish or fish product after any processing of the fish since it was caught. B: Clarify that the meaning of landing includes fish removed from a vessel to a holding contained on land.	Option One – current state The product state definition could remain in the circulars because circulars sit underneath the regulations and are a mechanism for technical detail. The meaning of “landing” would not reflect the status of fish landed to include fish removed to holding containers on land and reporting obligations would remain ambiguous... Option Two – transfer the definition of product state from the circular to the regulation and clarify the meaning of “landing” in the regulations (preferred option) The definition of product state would be inserted into the Electronic Reporting Regulations. This: • creates a clearer obligation to provide product state information alongside other key reporting definitions; and • provides a clear link between the more general obligation to record and provide product state information in the regulations, and the specific product state recording and reporting obligations in the circulars. Clarify that the meaning of landing: • creates a clearer obligation to report fish removed to holding containers on land; and • provides a clear link between the more general obligation to record all fish that have been landed and the specific landing codes in the circulars. These changes should have no practical impact on the permit holder.

Issue	Proposed Electronic Reporting Regulations Changes	Options
2. “Permit holder” definition too wide Regulation 3 currently provides that “permit holder”: a) means— i) a person who holds a fishing permit issued under section 91 of the Act; ii) a person who holds a high seas fishing permit issued under section 113H of the Act; and b) includes a person who acts as an employee or agent of a person described in paragraph (a) The extended definition of permit holder in (b) includes a broader class of persons (e.g. a forklift driver employed by a permit holder) who have no role in reporting. Deleting (b) would better suit the specific purpose of reporting, by including only those people who need to be subject to the reporting requirements.	Amend the “permit holder” definition. This would be amended by deleting (b) of the definition in regulation 3, which extends the definition of permit holder to include: “a person who acts as an employee or agent of a person described in paragraph (a)”. To support this change, it is proposed that permit holder reporting obligations in Part 1 are also amended so that the permit holder obligations to “record”, “complete” and “provide” information” are clear.	Option One – current state: This option retains consistency with the wider definition that applies to other permit holder obligations. In the context of the reporting requirements the reference to employees or agents could create unnecessary legal uncertainty. Option Two – amend the definition (preferred option): Delete part (b) of the definition so that the revised definition is limited to part (a). Fisheries New Zealand prefers this option as it aligns the definition of permit holder with the intent of these particular regulations.
3. Timing of fishing trips unclear Fisheries New Zealand requires timely and accurate information to: - accurately link catch to landings; and - clearly identify how all reported activity associated with a fishing trip links together. This information has always been required to be reported, but there is currently a lack of clarity over reporting the timing of fishing activity.	Add a requirement to provide two separate reports: “trip start report” and “trip end report”	Option One – current state (included in circular but not regulation) Technical specifications in circulars could specify that trip start and trip end records are to be provided. However, specific requirements for the type of information to be provided would normally be stated in regulation. Having some requirements for the type of information in regulation and others in circulars means it is potentially unclear when a fishing trip starts and ends, which may affect understanding of the fishing activities that the reporting obligations relate to. Option Two – amend Part 1 of the reporting regulations preferred option) Amend the regulations to require a “trip start report” and a “trip end report” to be provided under Part 1 of the regulations. This option: - is more consistent with best practice; and - ensures all reporting obligations can be found more easily as they are in one place. This change would not result in any additional compliance costs as permit holders have been required to provide this information under existing operational processes set up to implement these regulations. This change is consistent with the previous paper-based reporting requirements.

Issue	Proposed Electronic Reporting Regulations Changes	Options
4. Other timing requirements impractical Changes have been suggested to the timing requirements for fish catch, catch of Non-fish Protected Species (NFPS), processing and landing reports: - to align the timeframes across reports, so the same timeframe would apply where there is a linkage between the information that is to be recorded, completed and/or provided in each report; - in response to industry feedback that the current timing requirements do not account for the practical realities that fishers are subject to, and as a result, in many cases, they would be difficult to comply with; and - in response to industry feedback that some of the timing requirements are ambiguous and difficult to understand, and in some cases tend to be interpreted in a manner that does not align with what was intended. [The regulations affected are regulations 7 (3) (a), 8 (3), 9 (3), 10 (3) and 11.] A further concern, relating to the Landing Report requirements, is the difficulty in establishing when a permit holder is late recording and providing the Licensed Fish Receiver information under 11(3). Whether a failure to provide Licensed Fish Receiver information is an offence, and the penalty that such an offence attracts, is based on establishing the date on which the report became overdue.¹ A 5 day cut-off time for providing the landing report information has been proposed, to improve the ability to monitor compliance and maximise the opportunity for fishers to have complete records for any one fishing trip.	Amend a number of timing requirements associated with recording, completing and providing the following reports: Fish Catch Report Timing Changes Change the obligation to record the type of fish the permit holder intends to take, and, the date, time and location for where and when fishing starts and ends: From: immediately after the fishing starts and ends; To: immediately fishing starts and ends (i.e. delete "after"). Change the obligation to record additional information that the circular instructs permit holders to record (i.e. estimated catch): From: within 4 hours after fishing ends; and To: within 8 hours after fishing ends. NFPS Report Timing Changes Change the 8(1) obligation to provide a Non-fish Protected Species report "every time" a permit holder catches a Non-fish Protected Species to an obligation to: - if fishing: provide one report for all Non-fish Protected Species caught between when fishing starts and ends; and - if not fishing: provide one report per capture (e.g. deckstrike) event. Change the obligation to complete and provide a Non-fish Protected Species report to the Director-General so that if the Permit holder becomes aware of the Non-fish Protected Species catch: during fishing: the report must be completed and provided when the fish catch report is due; and when not fishing: then the report must be completed and provided before the close of the day on which the permit holder became aware.	The following options relate to all proposed changes to timing: Option One – current state Retaining the current requirements will: - make some of the reporting obligations more difficult to comply with than is necessary; and - increase the difficulties for Fisheries New Zealand when overseeing and administering the regulations. Option Two – amend the regulations as recommended (preferred option) The amendments to timing requirements are proposed because: - this would better align the regulatory requirement with the practical constraints of the operating environment many commercial fishers are subject to, and thus, makes them more workable; - the changes align reporting requirements across a range of information that is linked; - the revised wording better reflects the intention that reporting obligations are as practicable as possible in the circumstances; - it will promote the adoption of practices that can take account of the level of risk to the health and safety of those developing their operating procedures to allow them to comply; and - it clarifies the requirements and creates a more standardised set of requirements across the various activity reports. Some of the information required to complete landing reports is reliant on the details from the Licensed Fish Receiver. The information on landed product should be readily available and easily able to be provided to a fisher to meet a 5 day cut-off time. These changes would not result in any additional costs to industry as the amendment would simply clarify and better align the requirements in the regulations.

Note: 1 Regulation 48 provides that a permit holder commits an offence that attracts: (a) a medium penalty when landing reports are provided "late, but within 14 days after the date on which it was due" (regulation 48(b)); and (b) a high penalty where landing reports are not provided "before, on, or within 14 days after the date on which it was due" (regulation 48(g)).

Issue	Proposed Electronic Reporting Regulations Changes	Options
	Processing Report Timing Changes Change the requirement to complete and provide a processing report to the Director-General: From: before the close of the day covered by the report, or if the processing starts on one day and ends on another day, before the close of the day on which the processing ends; To: before the close of the day following the day covered by the report, or if the processing starts on one day and ends on another day, before the close of the day following the day on which the processing ends Disposal Report Timing Changes Change the obligation to complete and provide a disposal report to the Director-General such that: • for vessels that are required to provide processing reports, the report must be completed and provided daily at the same time the relevant processing report is due; or • for all other fishers, one disposal report needs to be completed and provided for all disposal incidents associated with fish caught during a fish catch event at the same time the relevant fish catch event report is due.	
	Landing Report Timing Changes Change the obligations to record, complete and provide the Director-General a landing report so that they: • require all landing report information except for Licensed Fish Receiver information to be recorded and completed as soon as landing is finished; • require all landing report information except for Licensed Fish Receiver information to be provided to the Director-General by the end of the day on which it was recorded; and • require Licensed Fish Receiver information to be recorded, completed and provided as soon as practicable but no later than five (5) days after the close of the day on which the landing was finished.	

Issue	Proposed Electronic Reporting Regulations Changes	Options
5. Electronic provision of Monthly Harvest Returns Around 80% of fishers are already providing Monthly Harvest Returns (MHRs) electronically. The change to electronic reporting by all commercial fishers means all information will be supplied electronically, including the information from catch reports that is used to complete MHRs. In effect the new electronic reporting requirements will allow MHRs to be generated automatically. Allowing the returns to be provided on paper is inconsistent with the electronic reporting end goal of completing the move to digital reporting and streamlining reporting.	Require MHRs to be provided electronically. Amend Part 2 to require Monthly Harvest Returns to be completed and provided electronically.	Option One – current state Retain the ability to provide MHRs on paper. This would not be consistent with the objective of Digital Monitoring as: - the purpose of the Electronic Reporting Regulations is to shift from paper to electronic catch reporting; and - it requires FishServe and Fisheries New Zealand to maintain paper-based MHR reporting processes for the increasingly small number of permit holders who still elect to provide paper-based MHRs. Option Two – remove paper based reporting for Monthly Harvest Returns (preferred option) The proposed amendment: - eliminates the need to maintain a separate paper-based reporting system for the 20% of fishers who still supply paper MHRs; - recognises that it is cheaper to provide MHRs electronically than manually; and - recognises that under new electronic reporting requirements, fishers will already be electronically supplying the information required for MHRs; a paper MHR would require fishers to manually complete and provide information that duplicates what could be generated automatically. This change would reduce the administrative burden on those fishers currently completing and providing paper-based MHRs and reduce the costs of this service to industry through FishServe charges.
6. Fish that should not be recorded in a Monthly Harvest Return Regulation 14(3)(a) currently provides that a Monthly Harvest Return (MHR) “need not record – fish that is recorded in another report under these regulations and for which the appropriate destination type code is specified in a circular”. It has become apparent that the wording in this regulation is ambiguous. The intent of regulation 14(3)(a) was to provide that where the circular lists specific fish that do not need to be recorded in a MHR, then fishers required to provide a MHR should not record those species (i.e. should not list the fish codes for these species in the MHR).	Clarify the fish that a MHR does not need to record as the current wording has created confusion for fishers. This will be done by making it clear and unambiguous that regulation 14(3)(a) simply intends to provide that a MHR should not record those fish that the circular instructs not to record in the MHR.	Option One – current state Reporting errors arise from confusion over what fish is and is not required to be reported on an MHR, placing additional cost on fishers and Fisheries New Zealand. Non-regulatory mechanisms to provide guidance and education for fishers would be used to reduce confusion and reporting errors by clarifying what this regulation requires. This option is not favoured as it would not provide a definitive solution and would require ongoing education and clarification. Option Two – amend to clarify what not to record (preferred option) Amend the regulation 14(3)(a) wording as proposed. Fisheries New Zealand prefers this option as it ensures that the intended requirement is unambiguous. This change would not adjust what is required of fishers in practice. As such, this proposed amendment would not increase the cost of compliance for fishers. Fisheries New Zealand would provide guidance and education to fishers to clarify what this regulation requires.

Issue	Proposed Electronic Reporting Regulations Changes	Options
7. Unnecessary retention of copies of reports Under the electronic reporting system set up through these regulations, there is no longer a need to retain copies of all reports because Fisheries New Zealand will hold the originals provided by the permit holder.	Remove the requirement to retain copies of reports for seven years.	Option One – current state The current requirement would remain, resulting in a now redundant obligation imposing on-going costs on commercial fishers. Option Two – amend by removing the requirement (preferred option) Regulation 39 would be deleted in its entirety. This option is preferred because it removes an obligation that is no longer necessary, thereby reducing the cost of compliance on fishers. Fishers will continue to have the ability to access their own information via FishServe and the records fishers retain for their own business management purposes.
8. Response when there is an accident, or a mechanical or technical failure Regulation 43 imposes an obligation to notify the Director-General when an “accident, or a mechanical or technical failure” prevents compliance with the reporting. These regulations are, however, silent as to how the fisher should operate once a notification has been made and what steps MPI can take. This means the regulations do not: - impose an obligation on MPI to respond; or - give a fisher or MPI any clear course of action about how to a fisher is to meet their reporting obligations in a way that: - is reasonable for the circumstances; and - does not undermine the intent of the reporting requirements and the need for the information provided.	Clarify the fisher’s obligations and MPI’s powers to respond when there is an accident, or a mechanical or technical failure Amend regulation 43 so that it continues to require a fisher to notify MPI of an accident, or mechanical or technical failure and include a new provision that allows for the Director-General of MPI to: - acknowledge receipt of the notification that reporting is not occurring and give directions to the operator on to how to proceed; and - set the conditions associated with any direction issued as a result of the notification e.g. continue to record information (manually or electronically depending on the nature of the failure) and submit on returning to port, ensure equipment reporting correctly before next fishing trip etc.	Option One – current state No change to regulations to clarify how fishers are to operate in the event of accidents or equipment failure. This creates uncertainty, and risks for fishers and MPI as to what actions are reasonable in the circumstances and how the integrity of catch reported data is maintained. Option Two – provide for MPI to give instructions to fishers that notify of an accident, or mechanical or technical failure (preferred option) The proposed amendment would provide clarity for fishers and MPI about how reporting obligations are to be addressed while the equipment is out of action. This option is preferred because it: - enables MPI to respond to and manage the risks associated with a technical failure; - provides industry with certainty as to what MPI requires of them as a temporary mechanism to allow them to meet reporting obligations; and - is consistent with existing operational practices for responding to and managing reporting failures put in place under the Fisheries (Satellite Vessel Monitoring) Regulations 1993 and refined since that time.

Issue	Proposed Electronic Reporting Regulations Changes	Options
		The potential impact on fishers depends on how MPI addresses an equipment failure. The response could range from a temporary exemption from reporting requirements to allow fishing to continue (which would have no impact), to a requirement to have the device fixed or alternative reporting options in place before fishing continues (which may have a more significant impact). Operational practices are already in effect for Geospatial Position Reporting failures, for example, from New Zealand vessels operating on High Seas Fishing Permits. These are relevant to understand the proposed approach to electronic catch reporting failures. The appropriate approach would need to be considered on a case by case basis to reflect factors including: • the intended length of the fishing trip; • the location of the vessel and any sustainability or other risks associated with the fishery and/or fishing location; • whether an observer is on board; • any relevant history of non-compliance; and • the ability to report using alternative mechanisms. Since position reporting has been in place for trawlers over 28 metres in length and those operating in certain fisheries and locations (e.g. orange roughy), there have been no vessels that have had to stop fishing to repair their position reporting equipment; alternative arrangements have been agreed with the operators concerned. This is a similar situation for equipment failure for electronic catch reporting which has been in place on a voluntary basis for some years.
9. Adding criteria for vessels required to provide processing reports Currently, the regulations do not enable a circular to include the vessel as a criterion for which permit holders are required to provide processing reports. This means more people could be required to provide processing reports than is needed. For example, Fisheries New Zealand's main interest is in processing carried out on large factory vessels.	Amend the wording relating to the obligation to provide processing reports, by adding a reference to vessel size or class to regulation 9(1).	Option One – current state No change to the wording of the regulations would mean a circular could not include vessel characteristics such as size as a criterion for providing processing reports. This could impose an unnecessary reporting requirement on some permit holders. Option 2 – add reference to size or class of vessel (preferred option) Under this option regulation 9(1) would be amended to enable a circular to refer to vessel size in the context of vessels that are required to provide processing reports.

Issue	Proposed Electronic Reporting Regulations Changes	Options
10. Changes needed to offences and penalties Changes are required to offences and penalties as a consequence of some of the changes to electronic catch reporting.	Make amendments to the offences provision (regulation 48): • create a new offence for failure to provide a trip report; • create a new offence for failing to comply with instructions following an accident, or a mechanical or a technical failure; • remove the offence of failing to retain reports for seven years; • add references to other regulations to make non-compliance an offence.	Option One – current state No change to offence provisions in regulation 48. Fisheries New Zealand is not in favour of this option as it would result in: • an inability to enforce those requirements not mentioned in regulation 48 (i.e. as failure to comply is not deemed an offence); • redundant offences and penalties; • some errors remaining unresolved; and • some penalties not consistent with the consequences of a breach for certain offences (and therefore are not consistent with other penalties).
Some offences have been omitted unintentionally. The penalties for some offences need to be adjusted to ensure a consistent approach across similar obligations.	Make consequential changes to Schedule 3, amending the Fisheries (Infringement Offences) Regulations 2001.	Option Two – make the necessary adjustments to the offence provisions (preferred option) The bulk of these changes: • are updates to the offence provisions as a consequence of the proposed amendments to regulations; • correct errors; and • ensure penalties are in line with the severity of the breach and consistently reflected.

Consultation Questions:

Do you have any comments on the preferred options with respect to:

- 1) Need for a “product state” definition;
- 2) “Permit holder” definition too wide;
- 3) Timing of fishing trips;
- 4) Other timing requirements impractical;
- 5) Electronic provision of Monthly Harvest Returns;
- 6) Fish that should not be recorded in a Monthly Harvest Return;
- 7) Unnecessary retention of copies of returns;
- 8) Response when there is an accident, or a mechanical or technical failure;
- 9) Adding criteria for vessels required to provide processing reports; or
- 10) Changes needed to offences and penalties?

If you disagree with any of the analysis set out in the table, please explain why and provide supporting information so we can better understand your perspective.

7.2 Technical Amendments to Support Geospatial Position Reporting

The proposed amendments to the Fisheries (Geospatial Position Reporting) Regulations 2017 (“Geospatial Position Reporting Regulations”) are set out below:

Issue	Proposed Geospatial Position Reporting Regulation Changes	Options
1. Ambiguity as to when a Geospatial Position Reporting device must be operated Regulation 5(3) currently provides that an operator and master of a vessel “must ensure that the geospatial reporting device carried on that vessel operates continuously while that vessel is being used for fishing or transportation”. Similarly, regulation 5(4) states that commercial fishers who are fishing without a vessel must ensure their Geospatial Position Reporting device “operates continuously from immediately before the fishing trip starts until that fishing trip ends”. The terms “fishing”, “transportation” and “fishing trip” are broad and potentially go further than the intent of this reporting obligation. Further clarification is needed to provide for different operating circumstances such as might apply to specific kinds of vessel (e.g. trailered boats, tenders and non-vessel fishers). Operating requirements are currently tailored to different kinds of vessel by the circular. However, such clarification would have the effect of altering the legislative definition. It also creates difficulty for industry to interpret as the regulation and circular may create ambiguity. MPI considers that it would be more appropriate to include an enabling provision in regulations to allow the circular to describe the technical operating requirements in their entirety.	Remove ambiguity from Regulation 5(3) and 5(4) as to when commercial fishers are required to operate a Geospatial Position Reporting device.	Option One – current state Regulations 5(3) and (4) would be unchanged and the definition of device operating times (when these regulations apply to different fishing methods) would remain in the circulars. This option is not preferred as it relies on a circular, which is a tertiary legislative instrument, affecting the interpretation of a term defined in regulation (i.e. secondary legislation). Option Two – amend the regulations to allow the circulars to specify the device operating requirements for different kinds of vessel (preferred option) Under this option the requirements for when a device is required to be operated would be stated clearly and fully in the circular. This option is preferred because it enables different fishing operations to have clearly articulated obligations as to when they are required to operate a Geospatial Position Reporting device, and removes any ambiguity between the regulation and the circular. This option would not change current operational requirements.

2. Response when a geospatial position reporting device fails to work properly

Regulation 8(e)(ii) requires fishers to notify the Director-General when a Geospatial Position Reporting device failure prevents compliance with one or more of the Geospatial Position Reporting Regulations.

These regulations do not, however, impose an obligation on MPI to respond or give a fisher a clear course of action once a notification has been received.

In the absence of any express authority to respond to a regulation 8(e)(ii) notice, MPI is unable to properly manage and mitigate the risks that a technical failure creates for either the fisher or MPI.

Clarify the fisher's obligations and MPI's powers to respond when there is an accident, or a mechanical or technical failure.

Amend regulation 8 so that it continues to require a fisher to notify MPI of an accident, or mechanical or technical failure and include a new provision that allows for the Director-General of MPI to:

- acknowledge receipt of the notification that reporting is not occurring and give directions to the operator on to how to proceed; and
- set the conditions associated with any direction issued as a result of the notification.

Option One – current state

Regulation 8(e)(ii) would remain unchanged.

This option is not favoured as it would continue to leave the fisher with uncertainty as to how to comply and MPI without means of adequately addressing any risks created by a technical failure.

Option Two – amend Regulation 8(e)(ii) (preferred option)

Amendments would be made to:

- give MPI authority to respond to notifications of a technical failure that make it unreasonable or impracticable for a person to comply with one or more requirements under the Geospatial Position Reporting Regulations;
- give MPI the power to provide directions with conditions. The response would depend on the specific circumstances and could allow fishing to continue under certain conditions including alternative reporting methods or to have gear repaired prior to fishing. Factors to consider on a case by case basis include:
 - the intended length of the fishing trip;
 - the location of the vessel and any sustainability or other risks associated with the fishery and/or fishing location;
 - whether an observer is on board;
 - any relevant history of non-compliance; and
 - the ability to report using alternative mechanisms; and
- set out the process and timing requirements needed to support the above.

This option is preferred because it:

- enables MPI to respond to and manage the risks associated with a technical failure;
- provides industry with certainty as to what MPI may require of them when a technical failure occurs;
- provides the process to be followed when an equipment failure occurs; and
- is in line with the previous operational practices for responding to and managing technical failures for position reporting equipment.

Since position reporting has been in place for trawlers over 28 metres in length and those operating in certain fisheries and locations (e.g. orange roughly), there have been no vessels that have had to stop fishing to repair their position reporting equipment; alternative arrangements have been agreed with the operators concerned. This proposal enables a similar operational approach to that applied under the pre-existing Fisheries (Satellite Vessel Monitoring) Regulations 1993.

This would not result in a material change for fishers.

Issue	Proposed Geospatial Position Reporting Regulation Changes	Options
3. Changes needed to offences and penalties Changes are required to offences and penalties as a consequence of some of the changes to geospatial position reporting.	Make amendments to the offences provision (regulation 9): • Create new offences for failing to notify the chief executive when a device fails and for failing to comply with instructions following such a failure; • Add references to other regulations to make non-compliance an offence.	Option One – current state No change to offence provisions in regulation 9. This is not the preferred option as it would result in: • an inability to enforce those requirements not mentioned in regulation 48 (i.e. as failure to comply is not deemed an offence); • redundant offences and penalties. Option Two – make the necessary adjustments to the offence provisions (preferred option) These changes: • are updates to the offence provisions as a consequence of the proposed amendments to regulations; • correct errors; and • ensure penalties are in line with the severity of the breach and consistently reflected.

Consultation Questions:

Do you have any comments on the preferred options with respect to:

- 1) ambiguity as to when a Geospatial Position Reporting device must be operated;
- 2) MPI's ability to give clarity as to how fishers can comply when there is a technical failure; or
- 3) clarity needed for offences and penalties.

If you disagree with any of the analysis set out in the table, please explain why and provide supporting information so we can better understand your perspective.

7.3 Rollout of new requirements

Issue	Proposed Geospatial Position Reporting Regulation Changes	Options
1. Need to roll out requirements The electronic catch and position reporting regulations both provided a two-step commencement of their requirements. The first tranche, including trawlers over 28 metres in length, were required to comply from 1 October 2017, while other fishers could comply with the former regulations until 31 March 2018. A temporary exemption was issued for these fishers so that they could continue to comply with the former regulations until 30 September 2018. Imposing the new requirements on all remaining fishers from 1 October 2018 carries risks for successful implementation.	Amend Schedule 1 of both the Electronic Reporting and Geospatial Position Reporting Regulations to roll out the requirements of the new regulations across fishers, who are not currently required to comply, on a phased basis. This would allow technology vendors time to support the remaining vessels in the commercial fleet and land-based commercial fishers, and will also allow Fisheries New Zealand to further build its own capability and capacity to support the new requirements. The timing and basis on which the rollout would occur has not yet been determined. Criteria are being developed to guide the sequencing of the rollout of the new requirements.	Option One – current state Delays in preparation mean that the current date of 1 October 2018 is very ambitious. There would be very little time for fishers to source appropriate devices, receive training from providers in the use of newly installed systems and implement operating procedures to meet new requirements. Fisheries New Zealand would also have little time to embed its required new or amended operational policies and procedures. The lack of time to prepare would mean high risks to successfully and smoothly implementing the new requirements. Option Two – set a new date for compliance with the requirements A new date from which fishers would need to comply, after 1 October 2018, would allow more time for fishers to source appropriate devices, receive training from providers in the use of newly installed systems and implement operating procedures to meet new requirements. Fisheries New Zealand would have a greater opportunity to work with fishers to improve the level of understanding of new requirements and how to comply, reducing the level of implementation issues likely to need resolution during and beyond rollout. It would also have more time to embed its required new or amended operational policies and procedures. The chosen date of the rollout would have different impacts on fishers, depending on the fishery and the fishing season they operate in. Some may be more easily able to incorporate changes with their maintenance cycles than others.
Consultation Questions: Do you agree that the requirements of the new regulations should be phased in across fishers who are not already complying with them? Do you have any views on the criteria that should be used to guide the sequencing of the rollout?		Option Three – a phased rollout of the requirements (preferred option) A new start date with a phased rollout across different fishers and/or fisheries would also allow fishers and Fisheries New Zealand with more time to prepare, as for Option 2. For some fishers, the new reporting requirements represent more of a change than for others, so a phased rollout could allow such fishers with additional time to prepare. In addition, a phased rollout could allow fishers to better incorporate changes with their fishing seasons and maintenance cycles. A phased rollout could also enable some implementation issues to be resolved before more fishers began reporting electronically.

7.4 Technical Amendments to Support Innovative Trawl Technologies

The proposed amendments to the Fisheries (Commercial Fishing) Regulations 2001, which are proposed to support the implementation of the Fisheries (Trawling) Amendment Regulations 2017 (“Enabling Innovative Trawl Technologies Regulations”), are set out below:

Issue	Proposed Enabling Innovative Trawl Technologies Regulation Changes	Options
1. Responding to previously unknown issues with approved trawl nets Regulation 71A currently gives the Director-General power to impose terms and conditions when granting an approval, but does not provide a subsequent power to amend, add or revoke an approval’s terms or conditions. This could: - place excessive reliance on the outcomes of the trial phase as effective in identifying all issues and variables associated with the performance of an innovative trawl technology (as trial conditions may not align with the actual operating environment); and - prevent Fisheries New Zealand being able to respond to new information on the approved net’s performance.	Give Fisheries New Zealand the ability to amend, add or remove the terms and conditions of a trawl net approval granted under regulation 71A. This would apply to approvals granted prior to the amendment coming into effect. This would give Fisheries New Zealand the power it needs to adequately respond to previously unknown issues and variables not known at the time the approval is granted. This is important as all decisions are based on the information available at the time the approval is given. In this case, the approval process relies heavily on short term trials.	Option One – current state: No change to regulation 71A. This would mean that, once an innovative trawl net has been approved for use under regulation 71A, Fisheries New Zealand will have no power to amend, add or remove an approval term or condition if new information regarding its performance becomes available. This is not a preferred option because it does not allow Fisheries New Zealand to respond appropriately if there are risks to sustainability. Option Two – amend regulation 71A (preferred option) The proposed provision would be added to Regulation 71A. This option is preferred because it: - provides a mechanism to address issues that arise after the net is approved; - provides flexibility needed to avoid Fisheries New Zealand being overly cautious and restrictive when granting an approval in the first instance (e.g. because once granted there is no ability to amend or revoke); and - would lead to a more robust and effective approval regime that is better placed to manage the risk associated with approving new trawl technologies. The potential impact on fishers depends on how Fisheries New Zealand addresses a new issue with an approved net. Fisheries New Zealand would consider the legislative obligation of sustainable use in deciding how to respond, and try to mitigate any adverse impacts on fishers using the new trawl net.

Issue	Proposed Geospatial Position Reporting Regulation Changes	Options
2. Implications of a breach of a trawl net condition At present regulation 71A(3)(c) reads: "The approval – is no longer in effect if any of those terms and conditions are not complied with" Many fishers are interpreting the above wording to mean that, if any of the terms and conditions associated with a regulation 71A approval are breached by any person, the approval in its entirety is void and could not be relied on by anyone (i.e. those other fishers who rely on the approval but have not breached any of its conditions).	Clarify who is entitled to rely on trawl net approvals under regulation 71A and what happens when a trawl net approval condition is breached. In particular, amend regulation 71A so that it makes it clear that: • al fishers can rely on an approval (i.e. not just the person that applied for it); and • where one fisher does not comply with an approval's conditions, this only voids the non-compliant person's legal entitlement to rely on the approval (i.e. it doesn't void all other compliant fishers' entitlement to rely on the approval). A minor amendment would clarify the intent of this regulation, and reduce or avoid the misinterpretation of this provision.	Option One – current state No change to regulation 71A. Fisheries New Zealand does not favour this approach because the wording is confusing and does not clearly express what is intended. Option Two – amend regulation 71A(3)(c) (preferred option) The proposed amendments would be made. This option is preferred as it: • Aligns the wording of this provision with what was intended; and • Helps guard against a costly misapplication of the regulation. There would be no practical impact on fishers.
3. Creating an offence for breaching a trawl net condition Breaching a trawl net condition can result in the approval becoming void, as noted above. This could have a significant impact on the fisher, but there is no other compliance tool available.	Create a new offence (in regulation 84) for failing to comply with any terms and conditions set in a trawl net approval given under regulation 71A. This would enable penalties to be set in line with the severity of the breach.	Option One – current state No change to offence provisions in regulation 84. This is not the preferred option as it would mean that the only remedy available for breaching a trawl net condition would be to make the approval void, which may have serious consequences for a relatively minor breach. Option Two – create a new offence (preferred option) Option Two – create a new offence (preferred option) This enables penalties to be set in line with the severity of a breach, as an alternative to making an approval void. This would have a lesser impact on fishers than the status quo.
Consultation Questions: Do you have any comments on the preferred options with respect to: 1) Fisheries New Zealand's ability to respond to previously unknown issues with approved trawl nets; 2) The implications of a breach of a condition of a trawl net approval; or 3) Creating an offence for breaching a trawl net condition? If you disagree with any of the analysis set out in the table, please explain why and provide supporting information so we can better understand your perspective.		

8 Implementation

Obligations under the Electronic Reporting Regulations and the Geospatial Position Reporting Regulations are already being implemented for trawl vessels over 28 metres in length. Obligations under the proposed amendments to these regulations would be implemented in a similar way for the remaining vessels (28 metres and under) and commercial land-based fishers as part of the same process. An Implementation Plan that included Electronic Reporting and Geospatial Position Reporting was proposed in MPI's 2016 consultation document "Integrated Electronic Monitoring and Reporting System".

MPI's Implementation Plan for Electronic Reporting and Geospatial Position Reporting contains a number of steps to ensure that the industry can meet the new obligations, with the minimum disruption to their business, and that MPI can continue to carry out its duties and functions under the Fisheries Act effectively and efficiently. The changes to be implemented extend the current position reporting to smaller vessels and (land-based) commercial fishers, and the move from paper-based to electronic reporting. There are only limited changes to the actual data to be reported. This means implementation can build on, and make of lessons learned, from existing processes.

The steps include:

- Stakeholder engagement and communications, including opportunities to explain the new requirements to fishers and liaising with equipment suppliers, to ensure the availability and testing of products, and training in its use.

- Discussing opportunities with fishers for more detailed trialling and testing of the new reporting requirements during fishing operations.
- Assessing and planning for business preparedness within MPI business groups, to ensure that MPI is in a position to carry out its expanded duties and functions under the amended regulations.
- Considering how best to phase the introduction of the electronic and position obligations across the remaining fleet and (land-based) commercial fishers, so that any implementation issues can be more easily managed by the sector and MPI.
- Monitoring how fishers are reporting under the new regime and seeking feedback from fishers.

On 27 March 2018, the Director-General of MPI issued a temporary exemption for all fishers, other than trawl vessels over 28 metres in length, so the obligations under the Electronic Reporting Regulations and the Geospatial Position Reporting Regulations do not apply to them until 1 October 2018. A phased implementation approach is proposed, with the new obligations applying to different parts of the sector on different dates after 1 October 2018.

Proposed changes to the Enabling Innovative Trawl Technologies Regulations would be brought into force without delay, to minimise the potential for the risks identified in chapter 6 to materialise. No implementation plan is required.

Consultation Questions:

Are there other issues you think should be considered in implementing the proposed changes to the Electronic Reporting Regulations and/or the Geospatial Position Reporting Regulations set out in this paper?

9 Monitoring, Evaluation and Review

A programme for monitoring, evaluation and review that included Electronic Reporting and Geospatial Position Reporting was also proposed in the 2016 consultation document “Integrated Electronic Monitoring and Reporting System”.

Obligations under the Electronic Reporting Regulations and the Geospatial Position Reporting Regulations have been in force for trawl vessels over 28 metres in length since 1 October 2017. A survey of the masters of these vessels was completed in early 2018 to find out their experience of complying with the new reporting regulations and to identify issues. The main findings were that the new data entry requirements were straightforward (as most of them already used electronic

reporting), but that meetings with fishers on the changes were important. In particular:

- more time was needed for training on the software and for testing devices, prior to commencement; and
- training should be with people on the vessels and from those who understand the industry.

In addition, the reporting timeframes were challenging and required some operational changes on board. This information will inform the final implementation phase and a similar survey would be carried out.

Monitoring, evaluation and review of the proposed amendments would be carried out as part of this wider programme.



Fisheries New Zealand
PO Box 2526
Wellington 6140
New Zealand
0800 00 83 33
www.fisheries.govt.nz

New Zealand Government