

Chair
Cabinet Legislation Committee

Fisheries (Electronic Monitoring on Vessels) Amendment (No 2) Regulations 2019

Proposal

1. I seek the Committee's agreement to an amendment to the Fisheries (Electronic Monitoring on Vessels) Regulations, to change the dates that the Regulations apply to the rollout of electronic monitoring across vessels.

Background

2. The Fisheries (Electronic Monitoring on Vessels) Regulations 2017 (the Regulations) impose obligations on fishers to install and operate on-board cameras. The Regulations came into force on 1 October 2018. They provide for a staged rollout of electronic monitoring of commercial fishing vessels using on-board cameras.
3. On 29 January 2019, Cabinet agreed to change the date from which the Regulations apply to 1 August 2019 for the first three steps identified in schedule 1 of the Regulations [CAB-19-MIN-0008]. The amendments came into effect on 31 January 2019.

Policy

4. In May 2019, I proposed a new risk-based and staged introduction of on-board cameras, based on the fisheries management and compliance risks, and the benefits cameras offer to the management of these risks. Cabinet agreed to Stage One of the implementation plan, which will:
 - 4.1. take effect on 1 November 2019; and
 - 4.2. include those vessels using the highest risk methods operating in the highest risk locations that generally overlap with Māui dolphin habitat on the West Coast North Island (General Fishing Statistical Areas 40-42, 45 and 46) [DEV-19-MIN-0109].
5. The Committee also invited me to issue drafting instructions to amend the commencement date in the Regulations to 1 November 2019 for vessels in Stage One, and to 1 July 2020 as a holding position for all other vessels. The draft Fisheries (Electronic Monitoring on Vessels) Amendment (No 2) Regulations 2019 are attached.

6. For Stage One the Crown will be supplying the cameras. In order to identify which vessels will need to have cameras installed prior to the obligations taking effect, the policy focuses on the supply of cameras to those vessels which have actually operated in the area (at least once) over the period 1 October 2017- 30 September 2018. This will be determined via the returns that fishers are obliged to file. Only those vessels will be subject to the obligations in Stage One.

Next steps

7. I will be coming back to Cabinet shortly with options for a broader rollout of on-board cameras, and seeking agreement to consult publically on these options. Following consultation, I intend to seek Cabinet's agreement to the implementation plan for other vessels. Further amendment to the Regulations will then be needed to change the 1 July 2020 date to the dates agreed by Cabinet.

Impact Analysis

8. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions given effect to by this amendment are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not for profit entities.

Compliance

9. The amendment to the Regulations complies with:
 - a) The principles of the Treaty of Wai āngi.
 - b) The rights and freedoms contained in the New Zealand Bill of Rights Act 1990.
 - c) The principles and guidelines set out in the Privacy Act 1993.
 - d) Relevant international standards and obligations.
 - e) The Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

10. The Treasury was consulted in the development of the policy. Fisheries New Zealand has informed the Department of Conservation, Ministry for the Environment, Ministry of Justice, Maritime New Zealand, Te Puni Kōkiri and the Department of Prime Minister and Cabinet.

Commencement and the 28-day rule

11. The amendment to the Regulations needs to be made prior to 1 August 2019, the date on which the obligations will otherwise first take effect. The proposed Commencement Date of the Fisheries (Electronic Monitoring on Vessels) Amendment (No 2) Regulations 2019 is 1 August 2019.
12. If the Committee agrees to the amendments, I propose to gazette them on 27 June 2019. As this is more than 28 days before 1 August, I do not seek a waiver of the 28-day rule.

Proactive Release

13. Following Cabinet consideration I intend to consider the release of this paper, with redactions as appropriate, in line with the Official Information Act 1982 and within 30 business days of it being considered by Cabinet.

Proactively Released

Recommendations

The Minister of Fisheries recommends that the Committee:

1. **Note** that the Fisheries (Electronic Monitoring on Vessels) Regulations 2017 came into force on 1 October 2018 and provide for a staged rollout of electronic monitoring of commercial fishing vessels using on-board cameras;
2. **Note** that on 13 May 2019 Cabinet agreed to Stage One of the implementation plan, which will:
 - a. take effect on 1 November 2019; and
 - b. include those vessels using the highest risk methods operating in the highest risk locations that generally overlap with Maui dolphin habitat on the West Coast North Island (General Fishing Statistical Areas 40-42, 45 and 46) [DEV-19-MIN-0109];
3. **Note** that on 13 May 2019 Cabinet also agreed to amend the commencement date in the Regulations to 1 November 2019 for vessels in Stage One, and to 1 July 2020 as a holding position for all other vessels;
4. **Note** that the Minister of Fisheries intends to report to Cabinet, following consultation, with a proposed implementation plan for other vessels;
5. **Authorise** the submission to the Executive Council of the Fisheries (Electronic Monitoring on Vessels) Amendment (No 2) Regulations 2019;
6. **Note** that the Fisheries (Electronic Monitoring on Vessels) Amendment (No 2) Regulations 2019 will come into effect on 1 August 2019.

Authorised for lodgement

Hon Stuart Nash
Minister of Fisheries