

In Confidence

Office of the Minister for Fisheries
Chair, Cabinet Legislation Committee

FISHERIES (CO-ORDINATES) AMENDMENT REGULATIONS 2019

Proposal

1. This paper seeks authorisation for submission to the Executive Council for the Fisheries (Co-ordinates) Amendment Regulations 2019.
2. The regulatory amendments correct various minor, and technical inaccuracies in commercial fisheries regulations.

Policy

3. Fisheries New Zealand manages a large portfolio of fisheries regulations that are operational in nature. Amendments to these regulations are required from time to time to ensure they are consistent with best regulatory practice, easily understood, and able to be enforced effectively.
4. Most fisheries regulations relate to specific geographical areas that are described in the regulations by both written descriptions and numerical co-ordinates. The co-ordinates and their descriptions have recently been reviewed to ensure they are technically accurate, and align with their original intent.
5. A number of regulatory amendments are now required to fix minor inaccuracies discovered as part of this review.
6. Inaccuracies in numerical co-ordinates contained in the fisheries regulations have the effect of rendering compliance unenforceable or less effective, as well as impacting on the utility of tools like electronic reporting and global position reporting.
7. Fisheries New Zealand consider the inaccuracies are caused by:
 - 7.1. Transcription errors when reading off charts e.g. misspelling of place names, directions and other typographical errors;
 - 7.2. Chart improvements over the last 30 years e.g. regulations not accurately alignment with official charts;
 - 7.3. Poor quality or unavailable reference boundaries (EEZ, Territorial Sea, primary parcels, LINZ coastline) causing inaccurate distance and bearing measurements e.g. seaward distance from the coast, stated angles and distances; and
 - 7.4. Coastline change (mainly around spits and river mouths) e.g. co-ordinates intended to reference positions on the mean high water mark or on land (if described as such) are out at sea resulting in a boundary that could not be closed.

8. Amendments to correct these inaccuracies have been collated into a package to ensure efficiency through the required Cabinet Legislative Committee and Gazettal stages. This regulatory amendment package requires changes to the following commercial fisheries regulations:
 - 8.1. Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986;
 - 8.2. Fisheries (Benthic Protection Areas) Regulations 2007;
 - 8.3. Fisheries (Central Area Commercial Fishing) Regulations 1986;
 - 8.4. Fisheries (Challenger Area Commercial Fishing) Regulations 1986;
 - 8.5. Fisheries (Commercial Fishing) Regulations 2001;
 - 8.6. Fisheries (South-East Area Commercial Fishing) Regulations 1986; and
 - 8.7. Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986.
9. In amending these regulations, changes will be kept to a minimum and use existing defined areas as the reference where possible. For example, if the description stated a landmark, then this landmark will be used.
10. As these amendments do not require new policy decisions, I consider them to be minor, technical, and routine in nature. Therefore, they can be progressed directly to the LEG Committee for authorisation¹.

Timing and 28-day rule

11. The amendment regulations are anticipated to come into force on 29 January 2020, more than 28 days after publication in the Gazette.

Compliance

12. The amendments to the regulations listed in paragraph 7 above, are consistent with:
 - 12.1. The principles of the Treaty of Waitangi;
 - 12.2. The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 12.3. The principles and guidelines set out in the Privacy Act 1993;
 - 12.4. Relevant international standards and obligations;
 - 12.5. The Legislation Guidelines (2018 edition).

Regulations Review Committee

13. I consider that there are no grounds under Standing Order 319 for the proposed amendment regulations to be brought to the special attention of the House of Representatives.

¹ Cabinet Manual 2017, section 7.91 (d), 'If the regulations are routine and do not require new policy decisions, the Minister may authorise drafting without reference to Cabinet'.

Certification by Parliamentary Counsel

14. The Parliamentary Counsel Office has certified the attached amendment regulations as being in order for submission to Cabinet.

Impact Analysis

15. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper 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.

Publicity

16. It is expected that there will be a low level of interest in the proposed changes.
17. The decision relating to these regulatory amendments will be publicly notified via Gazette Notice.

Proactive release

18. Following Cabinet consideration I intend to release of this paper in full.

Consultation

19. Fisheries New Zealand has not undertaken external consultation as these amendments are minor and are considered to have no, or minor impacts, on businesses and individuals.

Recommendations

The Minister of Fisheries recommends that the Cabinet Legislation Committee:

1. Note that the regulatory amendments referred to in this paper do not require new policy decisions and therefore do not require Cabinet Economic Development Committee approval;
2. Note that corrections to minor and technical inaccuracies to the spatial co-ordinates and area descriptions are proposed to the following fisheries regulations:
 - 2.1. Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986;
 - 2.2. Fisheries (Benthic Protection Areas) Regulations 2007;
 - 2.3. Fisheries (Central Area Commercial Fishing) Regulations 1986;
 - 2.4. Fisheries (Challenger Area Commercial Fishing) Regulations 1986;
 - 2.5. Fisheries (Commercial Fishing) Regulations 2001;
 - 2.6. Fisheries (South-East Area Commercial Fishing) Regulations 1986; and
 - 2.7. Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986.
3. Note that Fisheries (Co-ordinates) Amendment Regulations 2019 will give effect to the corrections referred to in Recommendation 2, above.
4. Authorise the submission to the Executive Council of the Fisheries (Co-ordinates) Amendment Regulations 2019;
5. Note that the Fisheries (Co-ordinates) Amendment Regulations 2019 are intended to come into force on 29 January 2020.

Authorised for lodgement

Hon Stuart Nash
Minister of Fisheries