

THE FISHERIES (SATELLITE VESSEL MONITORING) REGULATIONS 1993

CATHERINE A. TIZARD, Governor-General
ORDER IN COUNCIL

At Wellington this 27th day of October 1993

Present:
Her Excellency the Governor-General in Council

PURSUANT to sections 89 and 92 of the Fisheries Act 1983, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement---(1) These regulations may be cited as the Fisheries (Satellite Vessel Monitoring) Regulations 1993.

(2) These regulations shall come into force on the 28th day after the date of their notification in the Gazette.

2. Interpretation---In these regulations, unless the context otherwise requires,---

``The Act" means the Fisheries Act 1983:

``Automatic location communicator" means a device that complies with the appropriate standards and requirements specified by the Director-General under regulation 4 of these regulations:

``Fisheries Communication Centre" means the Communication Centre of the Ministry of Agriculture and Fisheries located at Greta Point, Wellington:

``Foreign Chartered Fishing Vessel" means a vessel registered with the consent of the Director-General under section 57 (8) of the Act:

- “Foreign Licensed Fishing Vessel” means a foreign fishing craft licensed under section 15 of the Territorial Sea and Exclusive Economic Zone Act 1977:
- “New Zealand Fishing Vessel” means any fishing vessel registered under section 57 (3) of the Act:
- “Trawling” means the use of a trawl net:
- “Trawl net” means any net or part of a net (including any warp, rope, chain, material, or device used in conjunction with or attached to the net) that---
- (a) Has a buoyancy system on the top edge; and
 - (b) Is weighted on the bottom edge; and
 - (c) Is operated by being drawn over the bed of any waters or through any waters by one or more vessels underway--- but does not include a Danish seine net:
- “Type approval” means an approval given by the Director-General under regulation 5 of these regulations.

3. Vessels required to carry and operate automatic location communicators---(1) On and after the 1st day of April 1994, an automatic location communicator shall be carried and operated on board---

- (a) Foreign licensed fishing vessels; and
- (b) Foreign chartered fishing vessels capable of engaging in trawling for fish; and
- (c) New Zealand fishing vessels exceeding 43 metres in overall length and capable of engaging in trawling for fish; and
- (d) Fishing vessels of any class, being New Zealand fishing vessels or foreign chartered fishing vessels, specified by the Director-General by notice in the Gazette given for the purposes of this regulation after consultation with the New Zealand Fishing Industry Board; and
- (e) Individual New Zealand fishing vessels specified by the Director-General by notice in writing to the person who registered the vessel under section 57 of the Act.

(2) If a vessel ceases to be registered under section 57 of the Act or licensed under section 15 of the Territorial Sea and Exclusive Economic Zone Act 1977, as the case may be, an automatic location communicator shall no longer be required to be carried and operated on board the vessel.

(3) The Director-General may in like manner amend or revoke any notice given under subclause (1) of this regulation.

4. Circulars specifying standards and requirements relating to automatic location communicators---(1) The Director-General may from time to time, after consultation with the New Zealand Fishing Industry Board, issue circulars specifying the standards and requirements applying in respect of automatic location communicators.

(2) Different standards and requirements may be so specified in respect of different types of automatic location communicators.

(3) Without limiting the generality of subclause (1) of this

regulation, any such circular may specify all or any of the following:

- (a) The place in which an automatic location communicator is to be installed and the method of installation:
- (b) Requirements as to the form, frequency, and detail of information to be supplied to the Director-General in relation to vessels required to carry such a device and the places and times at which such information is to be supplied:
- (c) The manner in which such devices are to be registered in accordance with regulation 6 of these regulations:
- (d) The approved organisations who are authorised to test such devices:
- (e) The minimum standards and requirements for the operation of such devices.

5. Type approvals may be granted in individual cases---(1) On payment of the prescribed fee (if any), any person may apply to the Director-General for a type approval in respect of any automatic location communicator.

(2) If the automatic location communicator submitted for approval complies with the appropriate standards and requirements specified under regulation 4 (1) of these regulations, the Director-General may grant a full type approval in respect of that device.

(3) If the automatic location communicator submitted for approval does not comply in all respects, but complies in some respects, with the appropriate standards and requirements specified under regulation 4 (1) of these regulations, the Director-General may grant a provisional type approval in respect of that device.

(4) A provisional type approval shall have effect for such period as the Director-General may specify in the approval and the Director-General may at any time, by notice in writing to the holder, increase or reduce any specified period.

(5) Where the Director-General grants a provisional type approval, he or she may, but is not required to, do either or both of the following:

- (a) Specify the reasons for granting that kind of approval:
- (b) Specify a period within which the device must comply with the appropriate standards and requirements specified under regulation 4 (1) of these regulations, before a full type approval may be issued in respect of the device.

(6) Any automatic location communicator of the same type as one approved under subclause (2) or subclause (3) of this regulation shall be regarded as complying with the relevant standards and requirements specified under regulation 4 (1) of these regulations.

(7) The Director-General shall, by notice in the Gazette, notify every type approval granted under subclause (2) or subclause (3) of this regulation.

(8) The Director-General may, by notice in the Gazette, revoke or amend any type approval granted under subclause (2) or subclause (3) of

this regulation.

(9) The Director-General shall cause all type approvals to be recorded in a register. The register shall be open to the public at such times and places as the Director-General shall appoint and any person may, on payment of the prescribed fee (if any), obtain an extract from the register.

6. Registration of automatic location communicators---(1) The Director-General shall, on an application made in writing on an approved form, register an automatic location communicator if the Director-General is satisfied that the device is of the same type as a type approved under regulation 5 of these regulations.

(2) Every application for registration shall be accompanied by the prescribed fee (if any) and be supported by---

- (a) Such information as may be specified for the purpose under regulation 4 (1) of these regulations; and
- (b) Such additional information as the Director-General may specify in writing to the applicant.

(3) The Director-General may make the registration of any automatic location communicator subject to such reasonable conditions as he or she may specify in writing to the applicant, and may at any time cancel the registration of any automatic location communicator if he or she is satisfied that it no longer complies with the appropriate standards or requirements specified under regulation 4 of these regulations.

7. Responsibilities of fishing permit holder and master---Where the holder of a fishing permit issued under section 63 or section 64 of the Act is operating a fishing vessel that is required by these regulations to carry and operate an automatic location communicator, the holder of the permit and the master of the vessel shall---

- (a) Ensure that an automatic location communicator is carried on board the vessel in accordance with requirements specified under regulation 4 (1) of these regulations; and
- (b) Ensure that the automatic location communicator carried on board the vessel transmits information in accordance with---
 - (i) The standards and requirements specified by the Director-General under regulation 4 (1) of these regulations; and
 - (ii) The manufacturer's specifications; and
- (c) Ensure that the automatic location communicator carried on board the vessel operates continuously; and
- (d) Ensure that the automatic location communicator carried on board the vessel is registered under regulation 6 of these regulations; and
- (e) Ensure that, by the most practicable means and at the first reasonable opportunity,---
 - (i) The Director-General is notified if an automatic location communicator is removed from the vessel; or
 - (ii) The Fisheries Communication Centre is notified if an automatic location communicator on board the vessel fails to

work properly.

8. Offences and penalties---(1) Every person commits an offence who,---

- (a) Without the approval of the Director-General, removes from a fishing vessel any automatic location communicator that is required to be carried and operated on board the vessel; or
- (b) Interferes with any automatic location communicator to such an extent that the device---
 - (i) No longer complies with the type approval granted in respect of the device; or
 - (ii) No longer operates in accordance with the manufacturer's specifications; or
- (c) Fails to notify the Director-General of any matter required by or under these regulations to be notified to the Director-General; or
- (d) Supplies false or misleading information to the Director-General for the purposes of these regulations; or
- (e) Fails to comply with any other provision of these regulations.

(2) Every person who commits an offence against these regulations is liable on summary conviction to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$500 for each day during which the offence is continued.

9. Defences---It is a defence to prosecution for an offence against regulation 8 (1) of these regulations if the defendant proves that---

- (a) The offence occurred as a result of an accident, or a mechanical or technical failure (other than a mechanical or technical failure of a nature that could have been avoided with adequate maintenance); and
- (b) The defendant acted reasonably in the circumstances.

10. Dispensations---(1) Where the Director-General is satisfied that it is unreasonable or impracticable for any person or vessel to comply with any requirements prescribed by or under these regulations, the Director-General may, on such conditions as the Director-General thinks fit, authorise that person or vessel to operate without complying with all or any of those requirements to the extent that compliance therewith is unreasonable or impracticable in the case of that person or vessel.

(2) Every authorisation granted under subclause (1) of this regulation shall be in writing and have effect according to its tenor, and may be amended or revoked, as the case may require, to reflect changed circumstances.

MARIE SHROFF,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in Gazette: 29 October 1993.

These regulations are administered in the Ministry of Agriculture and Fisheries.