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FISH RESOURCES MANAGEMENT ACT 1994

**WEST COAST ROCK
LOBSTER FISHERY
MANAGEMENT PLAN
AMENDMENT 2005**

FISH RESOURCES MANAGEMENT ACT 1994
WEST COAST ROCK LOBSTER FISHERY MANAGEMENT
PLAN AMENDMENT 2005

FD 1064/01 [705]

Made by the Minister under section 54.

1. Citation

This instrument may be cited as the *West Coast Rock Lobster Fishery Management Plan Amendment 2005*.

2. Management plan amended

The amendments in this instrument are to the *West Coast Rock Lobster Management Plan 1993**.

3. Clause 2 amended

(1) Clause 2 is amended by deleting the definition of “season” and inserting the following definition—

“**season**” in relation to a zone has the same meaning as in clause 6(1); ”.

(2) Clause 2 is amended by inserting in the appropriate alphabetical position the following definitions—

“**authorised boat**” means—

- (a) that licensed fishing boat of which the name, licensed fishing boat number and length are specified in a licence; or
- (b) a boat specified in a written authority under regulation 132 where that boat is to be used in place of a boat described in paragraph (a);

“**bait a pot**” means the activity of inserting any bait in, or attaching any bait to, a pot;

“**closure period**” in relation to a zone means a period of time when operating or baiting a pot or pulling a pot is prohibited in that zone under any of clauses 9A(3), 9A(4) or 9B;

“**Zone A boat**” means an authorised boat under a licence that authorises fishing in Zone A;

“**Zone B boat**” means an authorised boat under a licence that authorises fishing in Zone B;

“**Zone C boat**” means an authorised boat under a licence that authorises fishing in Zone C.

”.

(3) Clause 2 is amended by deleting “and” from the end of the definition of “usual entitlement”.

(4) Clause 2 is amended by deleting the fullstop at the end of the definition of “zone” and inserting instead a semicolon.

4. Clause 6 amended

(1) Clause 6(1) is repealed and the following subclauses are inserted instead—

“

(1) The season in—

- (a) Zone A and Zone B is the period commencing on 15 November in any year and ending on 30 June of the following year; and
- (b) Zone C is the period commencing on 25 November in any year and ending on 30 June of the following year.

(1a) A person must not operate in a zone of the Fishery at any time other than during the season.

(1b) Subclause (1a) does not apply to the soaking or baiting of a pot in accordance with clause 8.

”.

(2) Clause 6(2) is amended by deleting “a pot in the Fishery—” and inserting the following instead—

“a pot in a zone of the Fishery—”.

5. Clause 7 amended

Clause 7(3) is amended by deleting paragraph (a) and inserting the following instead—

“(a) upon the application of the holder of the licence made on or before 15 November 2005; ”.

6. Clause 7A inserted

After clause 7 the following clause is inserted—

“

Zone A and Zone B licences may be varied

7A. The Executive Director may vary a licence that relates to Zone A by varying the zone endorsed on that licence to Zone B and at the same time vary a licence that relates to Zone B by varying the zone endorsed on that licence to Zone A—

- (a) upon the application of both licence holders;
- (b) at any time other than during a season;
- (c) provided that the usual entitlement of each licence is not less than 63 units;

- (d) provided that there is no entitlement that has been temporarily transferred to, or from, either licence; and
- (e) provided that the number of usual entitlements of the licences are equal.

”.

7. Clause 8 replaced

Clause 8 is repealed and the following clause is inserted instead—

“

Soaking and baiting outside the season

8. (1) A person must not soak a pot in a zone of the Fishery during the period commencing on 1 July in any year and ending on the day in November that is 7 days before the commencement of the season in that year.

(2) A person must not bait a pot or set a baited pot in a zone of the Fishery during the period commencing on 1 July in any year and ending on the day in November that is 2 days before the commencement of the season in that year.

(3) A person must not bait a pot in a zone of the Fishery on the day before the start of the season in that year at any time before 0430 hours or after 1930 hours on that day.

”.

8. Clauses 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H and 9I inserted

After clause 9 the following clauses are inserted—

“

Restrictions on fishing

9A. (1) A person must not operate in the waters of Zone B of the Fishery at any time during the period commencing on 15 January and ending on 8 February in any year.

(2) A person must not pull a pot in the waters of Zone B of the Fishery on 9 February in any year.

(3) A person must not pull or bait a pot in the waters of Zone B of the Fishery on any Sunday during the period commencing on 15 March and ending on 30 June in any year.

(4) A person must not pull or bait a pot in the waters of Zone A, Zone B or Zone C of the Fishery on 25 December or 1 January in any year.

Full Moon and Easter closures in Zone C

9B. (1) The Executive Director may, by notice published in the Gazette—

- (a) specify not more than a total of 5 closure times during the period commencing on 1 February and ending on 30 June in any year; and
- (b) prohibit the baiting and pulling of pots in Zone C of the Fishery during those closure times.

(2) For the purposes of subclause (1), a closure time specified in a notice must be for a period of time that—

- (a) includes a full moon or Good Friday, Easter Saturday and Easter Sunday; and
- (b) does not extend for more than three consecutive days.

(3) A person must not bait or pull a pot in Zone C of the Fishery during any closure time specified in a notice made under subclause (1).

Restrictions on the use of boats

9C. (1) Where an authorised boat is in a zone of the Fishery the master of the boat must ensure that, immediately prior to the commencement of any closure period relating to that zone, the boat is securely moored or anchored within half a nautical mile of the high water mark of the mainland or any of the Abrolhos Islands.

(2) A person must not steam, sail or otherwise move an authorised boat in the circumstances specified in Part 1 of Schedule 8.

(3) The master of an authorised boat must ensure that no rock lobster is—

- (a) brought onto;
- (b) stored or transported on; or
- (c) landed or unloaded from,

the boat in the circumstances specified in Schedule 8.

(4) The master of an authorised boat must ensure that no pot is—

- (a) brought onto; or
- (b) stored or transported on,

the boat in the circumstances specified in items 1, 3, 5 and 6 of Part 2 of Schedule 8.

Exception to restrictions on the use of boats—unloading rock lobster

9D. Subclauses 9C(3)(b) and (c) do not apply—

- (1) in the circumstances specified in Part 1 of Schedule 8 during the first 10 hours of the period to which the circumstances relate; or
- (2) in respect of a Zone A or Zone B boat in the circumstances specified in item 3 of Part 2 of Schedule 8 during the first 10 hours of the period to which the circumstances relate.

Exception to restrictions on the use of boats—rock lobster pots on board a boat that is moored or anchored

9E. Subclause 9C(4) does not apply where the authorised boat is securely moored or anchored within half a nautical mile of the high water mark of the mainland or any of the Abrolhos Islands.

Exception to restrictions on the use of boats—usual port in another zone

9F. (1) Subclauses 9C(3)(b) and (c) and subclause 9C(4) do not apply in respect of a Zone B boat in the circumstances specified in items 1 and 6 of Part 2 of Schedule 8 where the boat is moored at a port in Zone C or is being steamed, sailed or otherwise moved through the waters of Zone C to or from a port in Zone C—

- (a) by the shortest practicable and most direct route from or to the place of fishing in Zone B to or from the port in Zone C, as the case requires; and
- (b) in accordance with the established and ordinary course of fishing under the relevant licence.

(2) Subclauses 9C(3)(b) and (c) and subclause 9C(4) do not apply in respect of a Zone C boat in the circumstances specified in items 3, 4 and 5 of Part 2 of Schedule 8 where the boat is moored at a port in Zone B or is being steamed, sailed or otherwise moved through the waters of Zone B to or from a port in Zone B—

- (a) by the shortest practicable and most direct route from or to the place of fishing in Zone C to or from the port in Zone B, as the case requires; and
- (b) in accordance with the established and ordinary course of fishing under the relevant licence.

Exception to restrictions on the use of boats—maintenance or repair

9G. Subclause 9C(2) does not apply where—

- (a) the authorised boat is being steamed, sailed or otherwise moved through the waters of the Fishery to a qualified repairer's shipyard for the purpose of immediate maintenance or repair and by the shortest practicable and most direct route;
- (b) the master of the boat has on board the boat at all times a copy of a written appointment with the operator of the shipyard for the repair or maintenance of the boat;
- (c) the steaming, sailing or otherwise moving of the boat is necessary during the relevant closure period for the purposes of the appointment referred to in paragraph (b);
- (d) the master of the boat has the written acknowledgement of the Executive Director for having given written notice to the Executive Director of the time during which the boat will be steaming, sailing or otherwise moving to the shipyard; and
- (e) the boat is steamed, sailed or otherwise moved during the time specified in the written notice referred to in paragraph (d) above.

Exception to restrictions on the use of boats—refuelling or provisioning

9H. (1) Subclauses 9C(2) and (4) do not apply where—

- (a) the authorised boat was secured to a mooring, anchorage, harbour pen, jetty or wharf that is within 1000 metres of a—
 - (i) service jetty or facility;
 - (ii) fuel dolphin; or
 - (iii) port;
- (b) the boat is steamed, sailed or otherwise moved by the shortest practicable and most direct route from the place where it was secured to the—
 - (i) service jetty or facility;
 - (ii) fuel dolphin; or
 - (iii) port; and
- (c) the steaming, sailing or otherwise moving of the boat is necessary for the purpose of refuelling or provisioning of the boat.

(2) Subclause 9C(2) and (4) do not apply where—

- (a) the authorised boat has been steamed, sailed or otherwise moved in the circumstances provided for in subclause (1); and
- (b) the boat has been refuelled or provisioned,

and the boat is then steamed, sailed or otherwise moved by the shortest practicable and most direct route to the mooring, anchorage, harbour pen, jetty or wharf to which subclause (1)(a) applied.

Exception to restrictions on the use of boats—rescue or emergency

9I. Clause 9C(2) does not apply where the boat is being steamed, sailed or otherwise moved solely for the purposes of a maritime rescue or in connection with an emergency, and the boat is used solely for that purpose.

9. Clause 14 amended

Clause 14 is amended by deleting subclause (1) and inserting the following instead—

“

(1) On or before 11 November 2005 the combined capacity of Zones A and B of the Fishery is 27,506 pots.

(1a) On and after 12 November 2005, and subject to subclauses (2), (3) and (4), the combined capacity of Zones A and B of the Fishery is—

- (a) during the period commencing on 12 November in any year and ending on 14 March in the following year 24,570 pots; and
- (b) during the period commencing on 15 March in any year and ending on 31 October in that year 27,506 pots.

”.

10. Clause 14E amended

Clause 14E is amended by inserting after subclause 2 the following—

“

(3) Despite subclause (1), at any time during the period commencing on 15 March in any year and ending on 15 April in that year the unit value of a class A unit of entitlement is 90 % of the unit value determined under subclause (1).

”.

11. Clause 14G amended

Clause 14G is amended by deleting paragraph (a) and inserting the following instead—

“(a) upon the application of both licence holders made on or before 15 November 2005;”.

12. Clause 21A amended

Clause 21A is amended by inserting after “9,” the following—

“9A, 9B, 9C, ”.

13. Schedule 8 inserted

After Schedule 7 the following Schedule is inserted—

“

Schedule 8**Part 1**

Clauses 9C(2) and (3) apply in the circumstances where—

- (1) a Zone A boat is in the waters of the Fishery at any time during a closure period that relates to zone A;
- (2) a Zone B boat is in the waters of the Fishery at any time during a closure period that relates to zone B;
- (3) a Zone C boat is in the waters of the Fishery at any time during a closure period that relates to zone C.

Part 2

Clauses 9C(3) and (4) apply in the circumstances where the authorised boat is—

- (1) a Zone A or Zone B boat in the waters of Zone C of the Fishery during the period commencing on 15 November in any year and ending on 24 November in that year;
- (2) a Zone C boat in the waters of Zone C of the Fishery during the period commencing on 19 November in any year and ending on 24 November in that year;
- (3) in the waters of Zone A or Zone B during the period commencing on 15 January in any year and ending on 8 February in that year;
- (4) in the waters of Zone A or Zone B on 9 February in any year;
- (5) a Zone C boat in the waters of Zone B on any Sunday to which clause 9A(3) applies;
- (6) a Zone A or Zone B boat in the waters of Zone C during any closure time to which clause 9B relates.

”.

*[*Published in the Gazette of 2 November 1993. For amendments to 31 October 2005 see Notice No. 684 published in the Gazette of 25 November 1994, Notice No. 688 published in the Gazette of 13 December 1994, Notice No. 706 published in the Gazette of 12 May 1995, Notice No. 731 published in the Gazette of 29 September 1995, the West Coast Rock Lobster Management Plan Amendment 1996 published in the Gazette of 5 November 1996, the West Coast Rock Lobster Management Plan Amendment 1997 published in the Gazette of 21 February 1997, the West Coast Rock Lobster Management Plan Amendment (No. 2) 1997 published in the Gazette of 30 September 1997, the West Coast Rock Lobster Management Plan Amendment 1998 published in the Gazette of 13 November 1998, the West Coast Rock Lobster Management Plan Amendment (No. 2) 1999 published in the Gazette of 12 November 1999, the West Coast Rock Lobster Management Plan Amendment 2000 published in the Gazette of 29 August 2000, the West Coast Rock Lobster Fishery Management Plan Amendment 2001 published in the Gazette of 10 August 2001, the West Coast Rock Lobster Fishery Management Plan Amendment (No. 2) 2001 published in the Gazette of 12 October 2001, the West Coast Rock Lobster Fishery*

Management Plan Amendment 2002 published in the Gazette of 22 January 2002, the West Coast Rock Lobster Fishery Management Plan Amendment 2003 published in the Gazette of 11 July 2003, the West Coast Rock Lobster Fishery Management Plan Amendment (No. 3) 2003 published in the Gazette of 21 October 2003, the West Coast Rock Lobster Fishery Management Plan Amendment (No. 2) 2003 published in the Gazette of 28 October 2003, the West Coast Rock Lobster Fishery Management Plan Amendment (No. 4) 2003 published in the Gazette of 7 November 2003, the West Coast Rock Lobster Fishery Management Plan Amendment 2004 published in the Gazette of 22 June 2004 and the West Coast Rock Lobster Fishery Management Plan Amendment (No. 2) 2004 published in the Gazette of 19 October 2004.

See regulation 183 of the Fish Resources Management Regulations 1995 concerning the citation of notices in force under the Fisheries Act 1905 immediately before the commencement of those Regulations.]

Dated this 9th day of November 2005.

JON FORD, Minister for Fisheries.

