



FISH RESOURCES MANAGEMENT ACT 1994

WEST COAST ROCK LOBSTER MANAGEMENT PLAN AMENDMENT (NO.5) 2011

FD 1064/01 [1052]

Made by the Minister under section 54.

1. Citation

This instrument is the *West Coast Rock Lobster Management Plan Amendment (No.5) 2011*.

2. Management plan amended

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

3. Clause 2 amended

Insert in the correct alphabetical position—

IVR means 'Interactive Voice Response' and refers to the communications system used to make certain nominations;

PIN means 'personal identification number' in respect of an IVR nomination;

post landing nomination means a nomination made by the master of an authorised boat immediately after weighing the last consignment for that fishing trip;

pre fishing nomination means a nomination made by the master of an authorised boat before moving an authorised boat to commence fishing;

pre landing nomination means a nomination made by the master of an authorised boat before entering an approved landing area;

protected species means a listed threatened species or listed migratory species under the *Environmental Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

4. Clause 5C amended

Delete subclause (1) and insert—

(1) A person must not be in possession of any rock lobster consigned for personal consumption unless the tail is clipped or punched in accordance with clause 5B.

5. Clause 9L amended

After subclause (7) insert—

(8) Subclause (5) does not apply to rock lobster held in an approved landing area under clause 9LB.

6. Clause 9LB inserted

After clause 9LA insert—

Rock lobster held in an approved landing area

9LB. (1) The master of an authorised boat must not hold rock lobster on, or attached to, an authorised boat in an approved landing area unless—

(a) all rock lobster held have been weighed immediately upon being brought into the approved landing area in accordance with clause 9N(1); and

(b) the master of the authorised boat has completed Parts 1B, 1C and 1D of the form in a CDR book in respect of the rock lobster held on board.

(2) After completing the requirements of subclause (1), the master of the authorised boat must immediately forward to the Department the original copy of the form in a CDR book in respect of all rock lobster held in the approved landing area.

(3) Where rock lobster held under subclause (1) are to be consigned, the master of the authorised boat must immediately—

(a) provide to the registered receiver the triplicate of the form in a CDR book in respect of the rock lobster to be consigned, prior to allowing the registered receiver to take possession of the rock lobster; and

(b) ensure that all rock lobster are landed at the same time.

7. Clause 9N amended

After subclause (5) insert—

(6) Where an error has occurred in the recording of weights of rock lobster under clauses 15G(4) and 15I(3), the CEO may permit fishing in excess of the entitlement of that licence after taking into account the relevant Policy Guideline issued by the Minister under section 246 of the Act.

(7) Where the CEO permits fishing in excess of the entitlement of a licence under subclause (6), the CEO is to specify in writing the amount of additional rock lobster that may be caught in respect of that licence.

8. Clause 9O amended

After subclause (9) insert—

(10) Subclauses (1), (2), and (7) do not apply to rock lobster held in an approved landing area under clause 9LB.

9. Clause 9P amended

(a) In subclause (1)(h), after “the holding” insert—

or landing

(b) In subclause (2), after “four holding” insert—

or landing

(c) In subclause (3), after “four holding” insert—

or landing

(d) In subclause (4), after each occurrence of “holding”, insert—

or landing

10. Clause 9Q amended

(a) In subclause 6(a), after “four holding” insert—

or landing

(b) In subclause 6(b)(i), after “four holding” insert—

or landing

11. Clause 14K amended

(a) In subclause (1)(a), delete “fish” and insert—

operate

(b) After subclause (3), insert—

(4) This clause does not apply to a person who has received the permission of the CEO under clause 9N(6) to take a specified amount of rock lobster under the authority of a licence in excess of the entitlement of that licence.

12. Clause 14M amended

(a) Delete subclause (2) and insert—

(2) For the purposes of subclauses (1) and (3), the number of units of entitlement conferred by the licence is to be reduced by—

(a) the number one; or

(b) the number obtained by dividing the weight in kilograms of the rock lobster the subject of the offence by—

(i) in the case of a Zone A licence, 100 kilograms;

(ii) in the case of a Zone B licence, 96 kilograms; and

(iii) in the case of a Zone C licence, 102 kilograms,

rounded to the nearest whole number, whichever is the greater.

(b) After subclause (2), insert—

(3) Where a person is convicted of an offence under clauses 9L, 9LA, 9LB, 9M, 9N, 12A, 15F, 15G, 15H, 15J or 20B of this plan, the CEO is to reduce the number of units of entitlement conferred by the licence under the authority of which the lobsters were taken, in accordance with subclause (2).

13. Clause 15G amended

(a) Delete subclauses (1)(f), (g) and (h).

(b) After subclause (1)(e), insert—

(f) whether an interaction with a protected species has occurred as a result of any activity connected with fishing; and

(g) details of any interaction with a protected species as a result of any activity connected with fishing, and whether the organism was alive or dead; and

(h) the number and estimated weight of any fish other than rock lobster retained.

(c) Delete subclauses (2)(b)(i), (ii) and (iii).

(d) In clause (2), after “by accurately recording—” insert—

(i) the pre landing confirmation number, where required under clause 23D; and

- (ii) the landing area; and
 - (iii) the number of rock lobsters or containers of rock lobster on the boat.
- (e) Delete subclause (4) and insert—
- (4) The master of an authorised boat must, immediately after weighing rock lobster, complete Part 1D of the form in the CDR book in respect of all the rock lobster to be consigned, by accurately recording in respect of each consignment—
- (a) the number of the licence under the authority of which the rock lobster were taken; and
 - (b) the master's full name; and
 - (c) the number of containers of rock lobster in each consignment; and
 - (d) the serial numbers of the landing tags attached to the containers in a consignment; and
 - (e) the weight of all containers (including the lids) in the consignment before the rock lobster are added, anything attached to each container, and anything in each container other than rock lobster; and
 - (f) the gross weight and net weight of each consignment; and
 - (g) the time and date the consignments were weighed; and
 - (h) where the rock lobster are to be consigned to registered receivers, the name and registration numbers of the registered receivers; and
 - (i) whether the master or a crew member will be transporting consignments to the premises of a registered receiver; and
 - (j) whether rock lobster in a consignment are for personal consumption; and
 - (k) where rock lobster will be consigned for personal consumption, the names and residential addresses of the persons to whom the rock lobster will be consigned; and
 - (l) the post landing confirmation number; and
 - (m) the name and licensed fishing boat number of the authorised boat used to take the rock lobster; and
 - (n) the master's current telephone number; and
 - (o) the master's signature.
- (f) In subclause (5) delete " Parts 1D and 1E " and insert—
Part 1D

14. Clause 15I amended

- (a) Delete subclause (1) and insert—
- (1) A registered receiver must, immediately upon taking possession of a consignment of rock lobster, complete Part 2A of the triplicate form in a CDR book in respect of that consignment, and accurately record the name and registration number of the registered receiver taking possession of the consignment.
- (b) In subclause (2)(b), delete subparagraph (vii).
- (c) In subclause (3)(c), delete (iii), (iv), (v), (vi) and (vii), and insert—
- (iii) the weight of all containers (including the lids) in the consignment before the rock lobster are added, anything attached to each container, and anything in each container other than rock lobster; and
 - (iv) subject to subclause (2)(b)(iii), the gross weight of the consignment; and
 - (v) the net weight of the consignment; and
 - (vi) the date and time the consignment was weighed; and
 - (vii) the full name and signature of the person receiving the consignment.

15. Clause 20E amended

Delete clause 20E and insert—

20E. All rock lobster that may be held in accordance with this plan in—

- (a) an authorised boat in the Abrolhos Islands area; or
- (b) a designated holding area; or
- (c) both; or
- (d) an authorised boat in an approved landing area under clause 9LB, must be consigned simultaneously.

16. Clause 21A amended

Delete clause 21A and insert—

Offences

21A. A person who contravenes a provision of clauses 4, 4A, 4B, 5, 5A, 5B, 5C(1), 5C(2), 5C(4), 6, 7, 8, 9, 9A, 9C, 9E, 9L, 9LA, 9LB, 9M, 9N, 9O, 9P, 9Q, 9R, 9S, 10, 12, 12A, 13B(3), 14I, 14K, 15C, 15D, 15E, 15F, 15G, 15H, 15I, 15J, 16, 16A, 16B, 19(4), 20A, 20B, 20C, 20D, 20E, 23A, 23B, 23C, 23D or 23E, commits an offence.

17. Clauses 23A to 23E inserted

After clause 22 insert—

Obligations in regard to IVR

23A. (1) All nominations required to be made under this plan must be made by IVR.

(2) A nomination is not validly made until the person making the nomination has acknowledged receipt of a PIN, confirmation number or receipt number by IVR.

(3) A person must not—

- (a) fail to make a nomination required to be made under this plan; or
- (b) provide any false or misleading information in a nomination; or
- (c) permit or assist any person to provide false or misleading information in a nomination; or
- (d) act contrary to any nomination made under this plan.

Obligations of licence holder

23B. (1) The holder of a licence must—

- (a) nominate a person as the master of the authorised boat; and
- (b) obtain and record the temporary master PIN for the nominated master; and
- (c) acknowledge receipt by IVR of the temporary master PIN; and
- (d) provide the temporary master PIN to the person nominated under paragraph (a).

(2) The holder of a licence must not permit a person to operate as the master of the authorised boat under that licence until the holder of the licence has complied with subclause (1).

(3) The holder of a licence may nominate a person as the new master of the authorised boat where—

- (a) a post landing nomination has been made under clause 23E; and
- (b) no further pre fishing nomination has been made under clause 23C.

(4) Where the holder of a licence nominates a new master under subclause (3), the PIN of the previous master is cancelled.

(5) A person must not—

- (a) permit or assist a person who has not been issued a PIN to access IVR; or
- (b) provide a PIN to another person otherwise than as permitted under subclause (1)(c); or
- (c) access or attempt to access IVR where that person has not been issued or provided a PIN under subclause (1)(b) or (c).

Master to make pre fishing nomination

23C. (1) Prior to moving an authorised boat to commence a fishing trip, the master of an authorised boat must—

- (a) make a pre fishing nomination using IVR; and
- (b) record the pre fishing confirmation number in respect of the nomination in Part 1A of the form in a CDR book; and
- (c) acknowledge receipt by IVR of the pre fishing confirmation number in respect of the nomination.

(2) A pre fishing nomination made under subclause (1)(a) remains in effect until—

- (a) a subsequent pre landing nomination is made under clause 23D; or
- (b) rock lobster caught by the authorised boat are consigned to a carrier boat; or
- (c) it is cancelled under subclause (6).

(3) The master of an authorised boat must not—

- (a) operate in the Fishery; or
- (b) have rock lobster on board an authorised boat,
unless a pre fishing nomination has been made under subclause (1)(a).

(4) The master of an authorised boat may vary a pre fishing nomination at any time while the nomination remains in effect.

(5) Where the master of an authorised boat varies a pre fishing nomination under subclause (4), the master of the authorised boat must—

- (a) record the receipt number provided in respect of the variation, in Part 1A of the form in a CDR book; and
- (b) acknowledge receipt by IVR of the receipt number provided in respect of the variation.

(6) The master of an authorised boat may cancel a pre fishing nomination at any time before moving an authorised boat to commence a fishing trip.

(7) Where the master of an authorised boat cancels a nomination under subclause (6), the master of the authorised boat must—

- (a) record the receipt number provided in respect of the cancellation, in Part 1A of the form in a CDR book; and
- (b) acknowledge receipt by IVR of the receipt number provided in respect of the cancellation.

Master to make pre landing nomination

23D. (1) Prior to entering a landing area, the master of an authorised boat must—

- (a) make a pre landing nomination; and
- (b) record the pre landing confirmation number in respect of the nomination in Part 1C of the form in a CDR book; and
- (c) acknowledge receipt by IVR of the pre landing confirmation number in respect of the nomination.

(2) The master of an authorised boat is not required to make a pre landing nomination under subclause (1) where—

- (a) the authorised boat is a Zone A boat; and
- (b) the authorised boat is operating in the Abrolhos Islands area; and
- (c) all the rock lobster on board the authorised boat is consigned to a licensed carrier boat.

Master to make post landing nomination

23E. (1) Immediately upon weighing the last consignment of rock lobster landed from a fishing trip, the master of an authorised boat must—

- (a) make a post landing nomination; and
- (b) record the post landing confirmation number in respect of the nomination in Part 1D of the form in a CDR book; and
- (c) acknowledge receipt by IVR of the post landing confirmation number in respect of the nomination.

(2) Where rock lobster has been consigned to a carrier boat by the master of a Zone A boat operating in the Abrolhos Islands area, the master of the Zone A boat must immediately—

- (a) make a post landing nomination; and
- (b) record the post landing confirmation number in respect of the nomination on the duplicate of the form in a CDR book.

Dated this 10th day of November 2011.

NORMAN MOORE, Minister for Fisheries.
