

South Australia

Fisheries Management (Abalone Fisheries) Variation Regulations 2013

under the *Fisheries Management Act 2007*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries Management (Abalone Fisheries) Variation Regulations 2013*.

2—Commencement

These regulations will come into operation on 1 September 2013.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Fisheries Management (Abalone Fisheries) Regulations 2006*

4—Substitution of regulation 15

Regulation 15—delete the regulation and substitute:

15—Individual catch quota system—Southern Zone

(1) In this regulation—

abalone fishing area means an area defined in Schedule 2;

abalone quota entitlement or *quota entitlement*, in relation to a licence in respect of the fishery and a class of abalone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence during a quota period, being the product of—

(a) the unit entitlement under the licence in respect of that class of abalone; and

(b) the unit value for that class of abalone and quota period,

subject to any variation applying during that quota period;

fishery means the Southern Zone Abalone Fishery;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 September in any year;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone;

unit value means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for a class of abalone and a quota period.

(2) The Minister—

(a) must determine—

(i) the number of kilograms of abalone meat that is to be the value of an abalone unit for a class of abalone and each quota period; and

(ii) the conversion value for a class of abalone; and

(b) may, from time to time, vary the conversion value for a class of abalone.

- (3) The Minister may vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences, the conditions of those licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of a particular class of abalone and decrease the unit entitlement under the other licence in respect of that class of abalone by a corresponding number of units;
 - (b) if the total catch of abalone of a particular class taken by the holder of a licence during a quota period exceeded the abalone quota entitlement under the licence in respect of that class of abalone and quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement in respect of that class of abalone—
 - (i) if the catch exceeded the quota entitlement by not more than 50 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by more than 50 kilograms but not more than 100 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (c) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing an abalone quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 100 kilograms of abalone meat in excess of the quota entitlement,the conditions of the licence may be varied so as to decrease the abalone quota entitlement under the licence in respect of the class of abalone that was taken for 3 quota periods following the conviction by 1 kilogram for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed;
 - (d) if the total catch of abalone of a particular class taken by the holder of a licence during a quota period was less than the abalone quota entitlement under the licence in respect of that class of abalone and quota period, the Minister may vary the conditions of the licence so as to—

- (i) increase the quota entitlement in respect of that class of abalone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota entitlement (but in any case by not more than 50 kilograms); and
 - (ii) prohibit any additional abalone units allocated to the licence as a result of the increase in the quota entitlement made under this paragraph from being transferred to another licence;
 - (e) if—
 - (i) the holder of a licence has assisted in the carrying out of research work under the Act or repealed Act in relation to the fishery; and
 - (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,
the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;
 - (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (a) or (c)) must be expressed to apply only for the quota period during which the variation is made.
- (4) For the purposes of subregulation (3)(d), in determining whether the total catch of abalone during a particular quota period was less than the abalone quota entitlement under the licence in respect of that quota period, any increase in the quota entitlement applying during that period as a result of a variation made under that subregulation must be disregarded.
- (5) An application to vary unit entitlements must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (6) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone of any class if the unit entitlement under the licence in respect of either class of abalone specified in column 1 of the following table falls below the number specified alongside in column 2.
Maximum penalty: \$5 000.
Expiation fee: \$315.

Column 1	Column 2
Class of abalone	Unit entitlement
Blacklip Abalone	100
Greenlip Abalone	5

- (7) For the purposes of subregulation (6), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

5—Variation of regulation 18—Use of registered masters in fishing activities

- (1) Regulation 18(1)—at the foot of subregulation (1) insert:
- Maximum penalty: \$5 000.
Expiation fee: \$315.
- (2) Regulation 18(2)—delete subregulation (2) and substitute:
- (2) Subregulation (1) does not prevent—
- (a) 1 other (and only 1 other) registered master from engaging in fishing activities under a licence in respect of the Southern Zone Abalone Fishery on the same day as the first registered master provided that the 2 registered masters are not diving at the same time; or
- (b) 1 other (and only 1 other) registered master who is a trainee diver from engaging in fishing activities under a licence in respect of an abalone fishery on the same day as the first registered master provided that—
- (i) at all times while engaged in fishing activities, the trainee diver is under the direct supervision of the first registered master; and
- (ii) the trainee diver does not engage in fishing activities under the licence on more than 10 days in any quota period for the abalone fishery.

6—Insertion of Schedule 2

After Schedule 1 insert:

Schedule 2—Southern Zone abalone fishing areas

Area 1

The waters of or near Robe contained within and bounded by a line commencing at Point 1 (36°35'06" South, 139°40'28" East), then easterly to the line of Mean High Water Springs closest to Point 2 (36°35'06" South, 139°49'52.27" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 3 (37°13'48.90" South, 139°46'56.46" East), then westerly to Point 4 (37°13'44" South, 139°37'34" East), then north-westerly to Point 5 (37°09'50" South, 139°34'08" East), then northerly to Point 6 (36°50'53" South, 139°34'08" East), then easterly to Point 7 (36°50'53" South, 139°40'28" East), then northerly to the point of commencement.

Area 2

The waters of or near Robe contained within and bounded by a line commencing at Point 4 (37°13'44" South, 139°37'34" East), then easterly to the line of Mean High Water Springs closest to Point 3 (37°13'48.90" South, 139°46'56.46" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 8 (37°26'01.92" South, 139°57'00.20" East), then west south-westerly to Point 9 (37°27'00" South, 139°49'17" East), then north-westerly to the point of commencement.

Area 3

The waters of or near Beachport contained within and bounded by a line commencing at Point 9 (37°27'00" South, 139°49'17" East), then east north-easterly to the line of Mean High Water Springs closest to Point 8 (37°26'01.92" South, 139°57'00.20" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 10 (37°29'09.15" South, 140°03'41.58" East), then south-westerly to Point 11 (37°31'59" South, 139°53'55" East), then north-westerly to the point of commencement.

Area 4

The waters of or near Beachport contained within and bounded by a line commencing at Point 11 (37°31'59" South, 139°53'55" East), then north-easterly to the line of Mean High Water Springs closest to Point 10 (37°29'09.15" South, 140°03'41.58" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 12 (37°33'54.60" South, 140°06'28.06" East), then south-westerly to Point 13 (37°35'44" South, 139°57'29" East), then north-westerly to the point of commencement.

Area 5

The waters of or near Southend contained within and bounded by a line commencing at Point 13 (37°35'44" South, 139°57'29" East), then north-easterly to the line of Mean High Water Springs closest to Point 12 (37°33'54.6" South, 140°06'28.06" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 14 (37°38'30.98" South, 140°12'18.48" East), then west south-westerly to Point 15 (37°39'37" South, 140°01'11" East), then north-westerly to the point of commencement.

Area 6

The waters of or near Millicent contained within and bounded by a line commencing at Point 15 (37°39'37" South, 140°01'11" East), then east north-easterly to the line of Mean High Water Springs closest to Point 14 (37°38'30.98" South, 140°12'18.48" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 16 (37°51'16.48" South, 140°21'25.38" East), then westerly to Point 17 (37°51'18" South, 140°16'25" East), then north-westerly to Point 18 (37°45'33" South, 140°10'34" East), then north-westerly to Point 19 (37°43'37" South, 140°05'48" East), then north-westerly to the point of commencement.

Area 7

The waters of or near Tantanoola contained within and bounded by a line commencing at Point 17 (37°51'18" South, 140°16'25" East), then easterly to the line of Mean High Water Springs closest to Point 16 (37°51'16.48" South, 140°21'25.38" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 20 (37°53'54.88" South, 140°22'31.48" East), then south-westerly to Point 21 (37°56'52" South, 140°17'48" East), then north north-westerly to the point of commencement.

Area 8

The waters of or near Tantanoola contained within and bounded by a line commencing at Point 21 (37°56'52" South, 140°17'48" East), then north-easterly to the line of Mean High Water Springs closest to Point 20 (37°53'54.88" South, 140°22'31.48" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 23 (37°55'09.05" South, 140°23'48.16" East), then south-westerly to Point 24 (38°00'13" South, 140°18'52" East), then north north-westerly to the point of commencement.

Area 9

The waters of or near Tantanoola contained within and bounded by a line commencing at Point 24 (38°00'13" South, 140°18'52" East), then north-easterly to the line of Mean High Water Springs closest to Point 23 (37°55'09.05" South, 140°23'48.16" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 25 (37°56'58.29" South, 140°27'58.60" East), then south-westerly to Point 26 (38°01'24" South, 140°22'46" East), then west north-westerly to the point of commencement.

Area 10

The waters of or near Tantanoola contained within and bounded by a line commencing at Point 26 (38°01'24" South, 140°22'46" East), then north-easterly to the line of Mean High Water Springs closest to Point 25 (37°56'58.29" South, 140°27'58.60" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 27 (37°59'23.62" South, 140°31'01.72" East), then south-westerly to Point 28 (38°02'49" South, 140°27'27" East), then west north-westerly to the point of commencement.

Area 11

The waters of or near Blanche Bay contained within and bounded by a line commencing at Point 28 (38°02'49" South, 140°27'27" East), then north-easterly to the line of Mean High Water Springs closest to Point 27 (37°59'23.62" South, 140°31'01.72" East), then beginning south-easterly along the line of Mean High Water Springs to the location closest to Point 29 (38°03'30.05" South, 140°40'20" East), then south to Point 30 (38°07'23" South, 140°40'20" East), then north-westerly to the point of commencement.

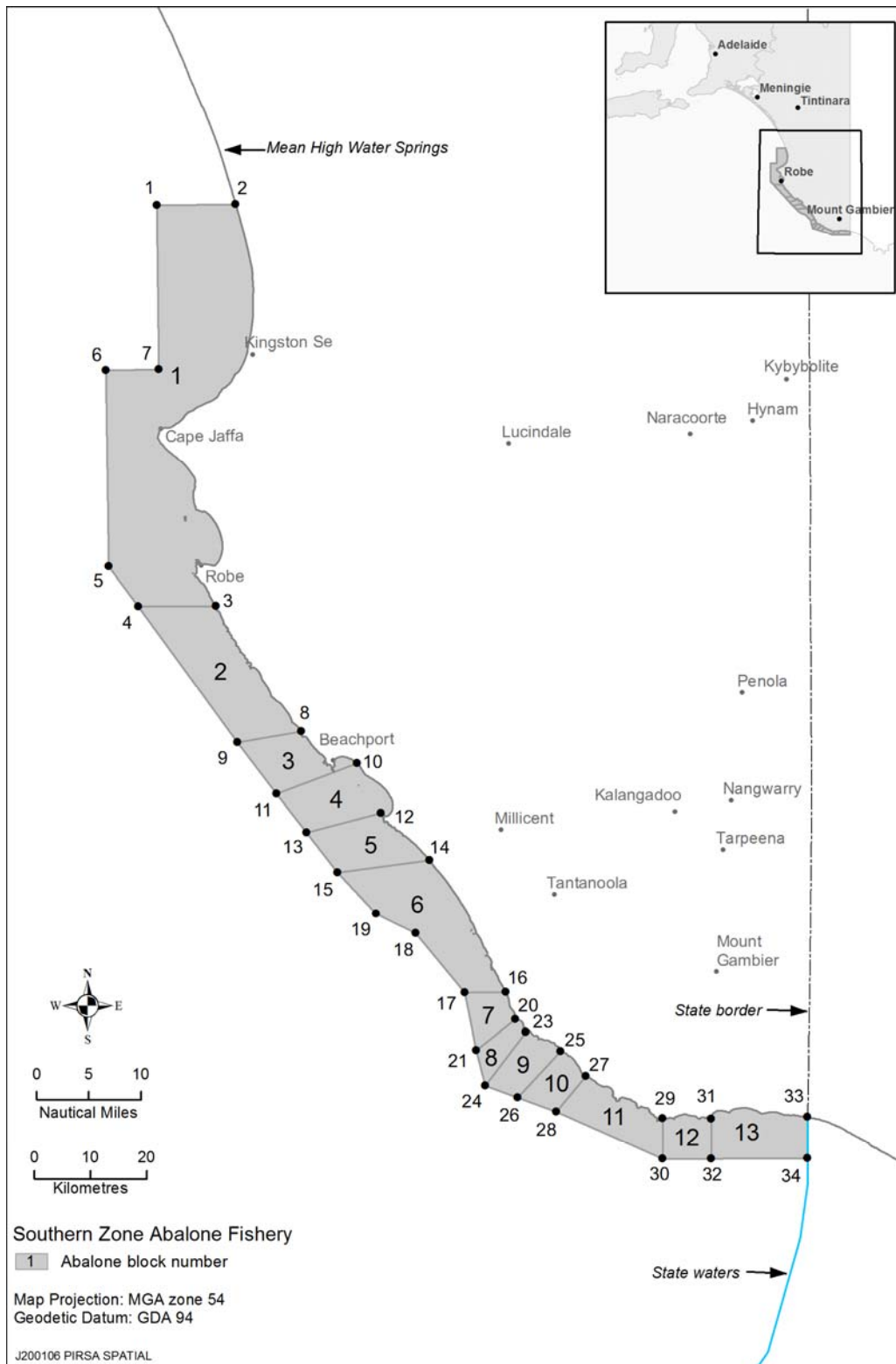
Area 12

The waters of or near Port MacDonnell contained within and bounded by a line commencing on the line of Mean High Water Springs closest to Point 29 (38°03'30.05" South, 140°40'20" East), then beginning easterly along the line of Mean High Water Springs to the location closest to Point 31 (38°03'32.82" South, 140°46'13.84" East), then south to Point 32 (38°07'23" South, 140°46'14" East), then west to Point 30 (38°07'23" South, 140°40'20" East), then north to the point of commencement.

Area 13

The waters of or near Port MacDonnell contained within and bounded by a line commencing on the line of Mean High Water Springs closest to Point 31 (38°03'32.82" South, 140°46'13.84" East), then beginning easterly along the line of Mean High Water Springs to the eastern border of the State of South Australia (Point 33 (38°03'23.18" South, 140°57'57.71" East), then southerly along the border of the State to the boundary of the State waters, then southerly along that boundary to Point 34 (38°07'23" South, 140°57'56.92" East), then west to Point 32 (38°07'23" South, 140°46'14" East), then north to the point of commencement.

Fisheries Management (Abalone Fisheries) Variation Regulations 2013
 Part 2—Variation of *Fisheries Management (Abalone Fisheries) Regulations 2006*



Note—

The map is provided for convenience of reference only.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 29 August 2013

No 215 of 2013

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