

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 January 2014.

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 16

Regulation 16—delete the regulation and substitute:

16—Individual catch quota system—Western Zone

(1) In this regulation—

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 Western Zone Abalone Fishery;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 January;

unit entitlement, in relation to a licence in respect of the fishery and a class of abalone, means the number of abalone units for the time being allocated to the licence in respect of that 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 subject to conditions fixing abalone quota entitlements in respect of the same class of abalone, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that 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 exceeds 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 exceeds 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 exceeds 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 under the licence in respect of a class of abalone,the conditions of the licence may be varied so as to reduce the quota entitlement under the licence in respect of that class of abalone 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 particular quota period is 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 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 if the unit entitlement under the licence in respect of a 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	25
Greenlip Abalone	27.5

- (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 20—Catch and disposal records

- (1) Regulation 20(2)(a)(i)—delete "50" wherever occurring and substitute in each case:
200
- (2) Regulation 20(2)(b)—delete paragraph (b) and substitute:
- (b) he or she must ensure—
- (i) that the abalone to which the completed Part A of the CDR1 form relates that are to be delivered or consigned to the registered premises of the fish processor specified on the form are transported in bags or bins of a kind approved by the Minister; and
- (ii) that within 200 metres of the place of landing the abalone, a bag or bin containing abalone is sealed with a tag of a kind approved by the Minister; and
- (iii) that if a tag is broken while a bag or bin is being sealed—
- (A) the bag or bin is sealed with a replacement tag; and
- (B) the broken tag is attached to the bag or bin by threading it through the replacement tag; and
- (C) the number of the replacement tag is recorded on the CDR1 form; and
- (iv) if a tag is lost—that the Minister is immediately notified of the loss;
- (v) that the 3 copies of the completed CDR1 form are transported to the registered premises of the fish processor together with the abalone to which the form relates.
- (3) Regulation 20(3)—after the penalty provision insert:
Expiation fee: \$315.

6—Variation of regulation 21—Periodic returns

Regulation 21(2)—delete subregulation (2) and substitute:

- (2) If the holder of a licence takes no abalone of a particular class under the licence during a particular calendar month, he or she is required by subregulation (1) to furnish a return in respect of that period indicating that no such abalone were taken unless—
 - (a) the total catch of abalone of that class during previous months in the same calendar year equalled the quota entitlement under the licence in respect of that class of abalone for the quota period ending during that calendar year; and
 - (b) the holder of the licence complied with subregulation (1) in respect of the calendar month in which abalone of that class were last taken under the licence.

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 19 December 2013

No 284 of 2013

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