**Tasmanian Coastal Waters Permit Linked General Conditions 2014 Season**

**Conditions applying to this Fishing Permit**

In addition to the conditions specified by sub section 32(5) of the *Fisheries Management Act 1991,* and the condition in sub section 42(2) to comply with any log book determination, and the condition to comply with any Direction under s41A in accordance with sub section 32(7A),the following conditions are specified for the purposes of sub section 32(6) sub paragraph (a)(i):

*Note: Under sub section 32(8) these conditions may be varied, revoked or a further condition specified by written notice from AFMA.*

Specifically, section 32(5)(a) of the Act provides that a Fishing Permit is granted subject to conditions that the holder must comply with any obligations imposed by the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* in particular:

Section 45 titled *Purpose of Part 7;*

Section 46 titled *General obligations;*

Section 48 titled *Obligations relating to carrying of fish;*

Section 49 titled *Obligations relating to unloading of fish of a quota species taken under State or Territory permit;*

Section 50 titled *Obligations relating to unloading of fish of a quota species before fishing under State or Territory permit;*

Section 51 titled *Obligations relating to areas in which holder can fish;*

Section 52 titled *Obligations relating to inspection of nominated boat; and*

Section 53 titled *Obligations relating to disposal of fish landed from the fishery.*

By s42B(2) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 1992* providing conditions that apply to this fishing concession in particular:

Regulation 9D: Concession holder to ensure that vessel monitoring system is operational.

Regulation 9F: Concession holder to ensure provision for observer and equipment to be carried.

Regulation 9G: Concession holder to ensure observer enabled to perform functions.

Regulation 9I: Fish to be disposed of to fish receiver permit holder\*

Regulation 9J - 9ZL: Catch limits.\*

Regulation 9ZO: Prohibited ways of processing fish.

Regulation 9ZP: Removal of shark liver.

Regulation 9ZS: No interaction with protected organism.

Regulation 9ZT: Recording and reporting interaction with protected organism.

Regulation 9ZU: Reporting interaction with protected organism if protected organism injured.

Regulation 9ZV: Reporting interaction with protected organism if protected organism killed.

Regulation 9ZX: Nominated boat used for trip.

\* not applicable to some concessions

**Definitions**

Where mentioned in these conditions:

‘Landed’ means the act of having brought fish to land or shore.

**Concession on Board Obligation**

1. This concession or a true copy thereof must be carried on board the boat nominated to this concession at all times whilst on a trip under this concession and must be produced upon demand by an officer appointed under section 83 of the *Fisheries Management Act 1991*.

**Authorised Species**

2. This concession authorises fishing for the following species only:

a) School shark (*Galeorhinus galeus*); and

b) Gummy shark (*Mustelus antarcticus*).

**Finfish obligations**

3. Under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* the holder must not take any tuna or tuna-like species as specified below:

a) Fish of the *Family Scombridae*, except fish of the *Genera Scomberomorus, Acanthocybium, Grammatorcynus* and *Rastrelliger* (commonly known as mackerels); and

b) Fish of the *Families Istiophoridae* (commonly known as marlins) and *Xiphiidae* (commonly known as billfish).

4. Any take of the following Eastern Tuna and Billfish Fishery quota species is to be taken in accordance with the *Eastern Tuna and Billfish Fishery Management Plan 2010*:

a) Albacore tuna (*Thunnus alalunga*)

b) Bigeye tuna (*Thunnus obesus*)

c) Broadbill Swordfish (*Xiphias gladius*)

d) Striped marlin (*Tetrapturus audax*)

e) Yellowfin tuna (*Thunnus albacares*).

5. For the purposes of the condition imposed by sub-regulation 9ZD(4) of the *Fisheries Management Regulations 1992*, the concession holder must not possess on the nominated boat, amongst the total limit of 250kg of specified finfish species, any more than 150 kilograms of the single species of Striped Trumpeter (*Latris lineata)*.

6. The holder must not take more than 250 kilograms of Pink Ling (*Genypterus blacodes*) per calendar day of each trip from waters east of Longitude 147° East within the Southern and Eastern Scalefish and Shark Fishery.

7. If the holder fishes east and west of the Longitude 147° East on the same trip all catches of Pink Ling will be deemed to have been taken from east of Longitude 147° East unless:

a) an AFMA observer is carried on the boat nominated to this concession; or

b) electronic monitoring equipment is installed and operating on the boat nominated to this concession.

8. In this condition, ‘fish’ means:

a) searches for, or takes, fish; or

b) attempts to search for, or take, fish; or

c) engages in any other activities that can reasonably be expected to result in the locating, or taking, of fish.

9. If the holder is intending to fish for Pink Ling east and west of the Longitude 147° East on the same trip without electronic monitoring, before the boat nominated to this concession leaves port the holder must give the AFMA Observer Section at least 72 hours notice of an intention to depart on a fishing trip, by telephone (02 6225 5506, or 0427 016 859) or by email: observers@afma.gov.au.

*Note: Obligations on concession holders relevant to electronic monitoring are specified in Division 9A of the Fisheries Management Act 1991.*

10. The holder must not take flathead less than 280 millimetres in length when measured from the point of the snout to the tip of the tail.

**Shark Obligations**

11. Retained and/or landed School Shark (*Galeorhinus* *galeus*) and Gummy Shark (*Mustelus* *antarcticus*) must exceed 450 millimetres when measured in a straight line from the middle of the posterior edge of the aftermost gill-slit to the ventral insertion of the caudal fin.

12. The holder must not take, or engage in fishing for, the species School Shark (*Galeorhinus galeus*) unless:

a) the holder holds five times more Gummy Shark (*Mustelus antarcticus*) quota (caught and uncaught) than the amount of School Shark that the holder has taken; or

b) at the end of the:

i. first period, the holder has taken less than 250 kilograms of School Shark (trunked weight) in that period;

ii. second period, the holder has taken less than 500 kilograms of School Shark (trunked weight) in that period; or

iii. third period, the holder has taken less than 750 kilograms of School Shark (trunked weight) in that period.

In these conditions:

a) ‘first period’ means the roughly three month period from 1 May through to the last Friday in July of each fishing year;

b) ‘second period’ means the roughly six month period from 1 May through to the last Friday in October of each fishing year; and

c) ‘third period’ means the roughly nine month period from 1 May through to the last Friday in January of each fishing year.

13. For the purpose of determining compliance with these conditions, the holding of caught and uncaught quota of Gummy Shark and amount of School Shark taken must be calculated on each quota and catch balancing date, being:

a) 5pm Eastern Standard Time 12 August of each fishing year, for the first period. If 12 August falls on a weekend or a public holiday, the balancing date moves to the next business day;

b) 5pm Eastern Standard Time on 11 November of each fishing year, for the second period. If 11 November falls on a weekend or a public holiday, the balancing date moves to the next business day; and

c) 5pm Eastern Standard Time on 14 February of each fishing year for the third period. If 14 February falls on a weekend or a public holiday, the balancing date moves to the next business day.

*Note: For example, if, at the end of the first period the person has taken 600 kilograms of School Shark, the holder must hold at least 3 tonnes of Gummy Shark quota (600 kilograms x 5) on the ‘quota and catch balancing date’.*

14. The holder must not retain Harrisson’s Dogfish (*Centrophorus harrissoni*), Endeavour Dogfish (*C. moluccensis*), Southern Dogfish (*C*. *zeehaani*) and Greeneye Spurdog (*Squalus chloroculus)*. If any of these species are taken alive, they must be returned to the water carefully and quickly.

15. The holder must not carry or possess any shark (*Class Chondricthyes*) dorsal, pectoral, caudal, pelvic or anal fins on board the boat nominated to this concession that are not attached to the shark’s carcass.

**Quota Balancing obligations**

16.

a) The holder must not be over quota for any quota species.

b) The holder is not considered to be over quota for a species if, within 28 days of landing an amount (by weight) in excess of their uncaught quota recorded in the Register, the holder acquires a further amount of quota for that species which is equal to or greater than the excess.

c) If the holder is over quota for any quota species AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the *Fisheries Management Act 1991*. In deciding whether to suspend or lift the suspension of this concession AFMA must take account of any written explanation from the holder detailing any exceptional circumstances as to why the holder was over quota.

d) Any dealing in a quota Statutory Fishing Right by the holder of a boat Statutory Fishing Right or Fishing Permit for the purpose of complying with this condition must be lodged with AFMA duly executed and in the form approved by AFMA, on or before the 28th day from which the excess quota species was landed. For the purpose of determining if the holder is over quota under this condition, any acquisition of quota for a species may only be deemed to have been acquired up to 28 days prior to the date of registration of that acquisition of that quota species.

e) If this concession is suspended, unless the holder has acquired and AFMA has then recorded in the Register (but may not deem) an amount of uncaught quota for which the holder is over quota, this concession may, under this condition, again be suspended upon expiration of the earlier suspension.

In this condition:

***Acquire*** means receiving Statutory Fishing Rights by registering a dealing by which an amount of Statutory Fishing Rights are permanently or seasonally transferred to the holder; and ***acquisition*** has a comparable meaning.

***Quota species*** has the same meaning as quota species in the applicable management plan for which this concession has been granted and established under the *Fisheries Management Act 1991*.

***Over quota*** means when the holder lands an amount of quota species in excess of the available uncaught amount recorded for that species in the holder’s name on the Register.

***Register*** means the Register of Statutory Fishing Rights kept by AFMA pursuant to section 44 of the *Fisheries Management Act 1991.*

**Observer/Monitoring Obligations**

17. When directed by AFMA the holder must:

a) give the AFMA Observer Section at least 72 hours notice of an intention to depart on a fishing trip, by telephone (02 6225 5506, or 0427 016 859) or by email: observers@afma.gov.au; and

b) ensure that the boat does not leave port until:

 AFMA has notified the holder, or a person acting on behalf of the holder, whether it directs that an observer is to be carried on the boat; and

 if the boat is equipped with electronic monitoring equipment, an electronic monitoring function test has been completed, AFMA has been notified of the result of the test, and AFMA has notified the holder, or a person acting on behalf of the holder, that it is satisfied that the equipment is working correctly.

*Note 1: These conditions are in addition to the conditions concerning the taking of observers that are prescribed in the Fisheries Management Regulations 1992 (the Regulations). Those conditions are in Schedule 1, Division 3, regulations 9E to 9G*

*Note 2: AFMA may direct under the Regulations that an observer be carried, even if electronic monitoring equipment is installed and is to be operated.*

**Agent Obligations**

18. The holder accepts concurrent liability for all conduct by its servants or agents infringing the *Fisheries Management Act 1991* (or the Regulations, Management Plans or concession conditions made by virtue of that Act) who may be engaged by the holder to conduct on the holder’s behalf activity under this concession.

19. Liability for the conduct of the holder’s servants or agents arises, even if the conduct may be, or actually is, beyond the scope of the servant or agent’s actual or apparent authority where it is a breach that occurs during the conduct of activity authorised by this concession.

20. The holder may avoid concurrent liability for conduct whilst conducting activity under this concession if, but only if, the holder can establish that the infringing conduct could not possibly have been prevented by any action or precaution that the holder might have reasonably taken.

21. The giving of an indemnity by the servant or agent to the holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.

**Direction Obligations**

22. The holder must comply with any Direction that fishing is not to be engaged in in the fishery, or a particular part of the fishery or during a particular period or periods made under sub section 41A of the *Fisheries Management Act 1991*.

**Temporary Orders Obligations**

23. The holder must comply with any Temporary Order made under sub section 43(2) of the *Fisheries Management Act 1991* and to the extent that any provision herein is inconsistent with such Temporary Order sub section 43(9) provides that the provision herein is overridden by the Temporary Order until the Temporary Order ceases to have effect.

**Navigating in Closed Zones**

24. AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the *Fisheries Management Act 1991,* if it reasonably appears by VMS transmission from the nominated boat, that there is a failure by that boat while in a closed zone for the purposes of regulation 37B of the *Fisheries Management Regulations 1992*, to meet the exempting provisions of sub regulations 37C(2), or (3) or sub regulation 37D(2) or (3)*.* Such suspension will then continue until the concession holder provides a full written explanation, to the satisfaction of the delegate responsible for issuing that suspension, of the lawful reason for the boat being in that closed zone at that time, or until the expiration of the suspension under sub section 38(2); whichever is the earlier.

**Concurrent Conditions**

25. This concession must only be used in conjunction with another concession held by the same holder namely a fishing concession issued by the state of Tasmania that authorizes the use of the same fishing equipment allowed under this concession and a Southern and Eastern Scalefish and Shark Fishery Boat Statutory Fishing Right (“that other concession”) such that:

a) The conditions of that other concession apply (to the extent those conditions are not inconsistent and are capable of doing so) as conditions of this concession.

b) A breach, suspension or cancellation of that other concession is a breach, suspension or cancellation of this concession.

c) The conditions of this concession apply (to the extent these conditions are not inconsistent and are capable of doing so) as conditions of that other concession while it is being used in conjunction with this concession.

d) A breach, suspension or cancellation of this concession is a breach, suspension or cancellation of that other concession.

**Area Limitation**

26. The holder must not fish under this concession outside the area of waters described in this document.

27. The holder may only fish both inside 3 nautical miles and outside 3 nautical miles on the same trip if:

a) The boat nominated to this concession is also nominated to a Scalefish Hook Boat Statutory Fishing Right, Shark Hook Boat Statutory Fishing Right or Gillnet Boat Statutory Fishing Right granted under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*;

b) While fishing inside 3 nautical miles all gear on board the nominated boat above the amount specified in these conditions is stowed and secured at all times;

c) Before the nominated boat steams to an area outside 3 nautical miles, a pre departure report is made to AFMA on 02 6225 5395 and all information requested is provided; and

d) Intending to fish inside 3 nautical miles on the return to port, before entering the area, a gear report is made to AFMA on 02 6225 5395 and all information requested is provided.

**Gear Limitations**

28. This concession authorises the use of the following gear only:

a) Gear detailed in Attachment A.

29. If this concession allows fishing by gillnets, the holder must measure a mesh in a net in the following way:

a) Before a measurement is taken, the part of the net to be measured must be soaked in water for at least 5 minutes;

b) Immediately after the net has been soaked the part of the net to be measured must be suspended vertically. The distance between the inside edge of the knot and the inside edge of the knot in the diagonally opposite corner of the mesh immediately above the first knot must be measured;

c) The measurement must be rounded to the nearest 1.6 millimetres; and

d) The average of the 10 measurements must be taken as the size of the mesh in the net.

A mesh in a gillnet must be:

i. greater than or equal to 150 millimetres in width; and

ii. less than or equal to 165 millimetres in width.

**Removal of biological material and offal**

30. If fishing with gillnets, the holder must completely remove all biological material from a gillnet before setting or re-setting the net.

31. The holder must not discard processing waste, including offal, from the nominated boat while a gillnet is being set or re-set.

**Other Obligations**

32. If a boat is nominated to this concession, at all times when the boat is being used under this concession, the holder must have provided to AFMA a current emergency contact facility for the nominated boat.

33. An emergency contact facility must enable AFMA to contact the boat immediately and directly at any time when the boat is at sea, including in the event of an emergency.

34. AFMA must be notified immediately of any change in contact details, by fax sent to (02) 6225 5440 or by email to licensing@afma.gov.au; and the boat must not depart on a fishing trip unless AFMA has been so notified of the change in contact details.

*Note: The emergency contact facility may take the form of a satellite phone number, or skipper or crew member’s mobile phone number - any number that may be used by AFMA to contact the boat while it is at sea at any time, including in the event of an emergency.*