

FI403*

FISH RESOURCES MANAGEMENT ACT 1994
MACKEREL MANAGED FISHERY MANAGEMENT PLAN 2011

CONTENTS

PART 1 — PRELIMINARY

1. Citation
2. Commencement
3. Interpretation
4. Procedure before this plan may be amended or revoked

PART 2 — THE FISHERY

5. Identification and declaration of the Fishery

PART 3 — LICENCES

6. Licences
7. Criteria for the grant of a licence
8. Duration of licences
9. Fees
10. Matters to be specified on a licence
11. Grounds to refuse to transfer a licence

PART 4 — CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENT

12. Capacity of Areas of the Fishery
13. Scheme of entitlement
14. Conferral of entitlement
15. Unit value
16. Minimum number of units to be held
17. Surrender of licence and reallocation of usual entitlement
18. Grounds to refuse to transfer part of an entitlement
19. Temporary transfer of an entitlement

PART 5 — APPROVED ALCs AND NOMINATIONS AND NOTIFICATIONS

20. Requirement for approved ALC to be installed in an authorised boat
21. Nomination to fish for mackerel
22. Notification of taking a boat out of the waters of the Fishery

PART 6 — USE OF BOATS

23. Use of boats
24. Auxiliary boats

PART 7 — LANDING OF MACKEREL

25. Landing of mackerel
26. Notification of entering a port area
27. Determination of weight of mackerel taken out of or landed in the Fishery
28. Issue of CDRs and replacements
29. Obligations in respect of CDRs and records
30. Whole weight of mackerel

PART 8 — GENERAL REGULATION OF FISHING

31. Persons prohibited from fishing in the Fishery
32. Closure of areas within the Fishery
33. Prohibition on fishing outside Area specified on licence
34. Prohibition on fishing methods
35. Prohibition on selling, purchasing or dealing in mackerel
36. Prohibition on having mackerel on board
37. Prohibition on having fish other than mackerel on board
38. Exceptions to clauses 21, 23, 25 and 26
39. Defence to s.74 of the Act
40. Offences and major provisions

SCHEDULES

- Schedule 1—Description of the Fishery
- Schedule 2—Areas of the Fishery
- Schedule 3—Port areas
- Schedule 4—Conversion factors
- Schedule 5—Fees
- Schedule 6—Maximum number of units conferred by licences

FISH RESOURCES MANAGEMENT ACT 1994
MACKEREL MANAGED FISHERY MANAGEMENT PLAN 2011

FD 431/09 [942]

Made by the Minister under section 54.

PART 1—PRELIMINARY

1. Citation

This plan is the *Mackerel Managed Fishery Management Plan 2011*.

2. Commencement

This plan comes into operation on 1 January 2011.

3. Interpretation

In this plan, unless the contrary intention appears—

approved ALC means an approved automatic location communicator as defined in regulation 55A;

approved directions has the same meaning as in regulation 55A;

associated primary boat means, where the term is used in connection with an auxiliary boat, the primary boat specified on the same licence as that auxiliary boat;

authorised boat means—

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

auxiliary boat means the licensed fishing boat that is specified on a licence as an auxiliary boat under clause 10(2);

broad-barred Spanish mackerel means fish of that common name described by the scientific classification opposite that name in Column 2 of Schedule 7 of the regulations;

CDR means the Catch and Disposal Record book issued in respect of a licence, for recording information regarding the consignment of mackerel taken in the Fishery;

current entitlement means the usual entitlement conferred by a licence as—

- (a) increased by any entitlement transferred to the licence under section 141 of the Act; or
- (b) decreased by any entitlement transferred from the licence under section 141 of the Act;

Fishery means the Mackerel Managed Fishery as declared in clause 5;

fillet means—

- (a) a fillet of mackerel other than broad-barred Spanish mackerel; or
- (b) a fillet of broad-barred Spanish mackerel; or
- (c) a fillet of fish other than mackerel to which the skin is not attached;

fishing boat licence has the same meaning as in the regulations;

Gascoyne Demersal Scalefish Managed Fishery means the fishery to which the *Gascoyne Demersal Scalefish Management Plan 2010* relates.

hand line means a fishing line which when used for fishing has one end in constant contact with a boat, or is attached to a fishing rod or reel, or is held in the hand;

length means the measured length of a boat as defined by and determined in accordance with the Department of Transport Instruction to Surveyors notice 7/87 effective 21 September 1994, as revised or superseded from time to time;

licence means a managed fishery licence authorising a person to fish for mackerel in the Fishery;

licence period means the year commencing on 1 January in any year and ending on 31 December the same year;

licensed fishing boat number has the same meaning as in the regulations;

mackerel means all fish of the genera *Scomberomorus*, *Grammatorcynus* and *Acanthocybium*;

plan means the *Mackerel Managed Fishery Management Plan 2011*;

port area means an area as described in Schedule 3;

regulations means the *Fish Resources Management Regulations 1995*;

troll line means a handline that is towed by a boat;

unit value means the value of a unit of entitlement, in terms of kilograms of mackerel (whole weight), determined in accordance with clause 15(2);

usual entitlement means the entitlement conferred by a licence without regard to any entitlement temporarily transferred to or from the licence under section 141 of the Act;

West Coast Demersal Scalefish (Interim) Managed Fishery means the fishery to which the *West Coast Demersal Scalefish (Interim) Management Plan 2007* relates.

4. Procedure before this Plan may be amended or revoked

For the purposes of section 65 of the Act, the licence holders are the persons to be consulted before this plan is amended or revoked.

PART 2 — THE FISHERY

5. Identification and declaration of the Fishery

(1) The Fishery to which this plan relates is the fishing for mackerel by any means in the waters described in Schedule 1.

(2) The Fishery is a managed fishery, and may be referred to as the Mackerel Managed Fishery.

(3) The Fishery is divided into the Areas described in Schedule 2.

PART 3 — LICENCES

6. Licences

A licence may authorise fishing for mackerel in a specified Area or Areas of the Fishery.

7. Criteria for the grant of a licence

(1) The criteria to be satisfied before the CEO may grant a person a licence to fish in an Area of the Fishery are that—

(a) at midday on 31 December 2011 the applicant was the holder of an interim managed fishery permit issued in accordance with the *Mackerel Fishery (Interim) Management Plan 2004* in respect of that Area; and

(b) the application is made on or prior to 29 February 2012.

(2) Only one licence may be granted under subclause (1) in respect of any interim managed fishery permit.

(3) Notwithstanding subclause (1), the CEO may grant a person a licence to fish in an Area of the Fishery if—

(a) the CEO is satisfied that an application would be made under section 140 of the Act to transfer usual units of entitlement to the licence, if it is to be granted, from another licence; and

(b) the application referred to in paragraph (a) would be in respect of a total of not less than the minimum unit holding for the relevant Area as determined under clause 16.

(4) For the purposes of subclause (3) a reference to an application to transfer units of entitlement shall be taken to include an application made in connection with the surrender of a licence pursuant to clause 17.

8. Duration of licences

A licence expires on 31 December next following the date of grant or renewal.

9. Fees

The fee set out in Schedule 5 is the fee to be paid in respect of the grant of a licence in accordance with clause 7(1).

Note: Where a licence is granted in accordance with clause 7(3) the fee relating to the units being transferred may be taken to have been paid by the transferor in respect of those units.

10. Matters to be specified on a licence

(1) A licence granted or renewed in respect of the Fishery must specify—

(a) the name and business address of the holder of the licence;

(b) the name, licensed fishing boat number and length of any licensed fishing boat which may be used as the primary boat for or in connection with fishing in the Fishery under the authority of that licence;

(c) the licence number;

(d) the date on which the licence was granted or renewed;

(e) the date on which the licence expires;

(f) the name of the Fishery to which the licence relates;

(g) the Area or Areas of the Fishery in which fishing for mackerel is authorised;

(h) the usual units of entitlement conferred by the licence, and the class of those units;

(i) the current units of entitlement conferred by the licence, and the class of those units;

- (j) the unit value;
- (k) the amount of—
 - (i) mackerel other than broad-barred Spanish mackerel; and
 - (ii) broad-barred Spanish mackerel,
 that may be taken (in kilograms whole weight) under the authority of the licence; and
- (l) any conditions imposed on the licence by the Chief Executive Officer.

(2) A licence that authorises fishing in Area 1 of the Fishery may specify the name, licensed fishing boat number and length of any licensed fishing boat which may be used as an auxiliary boat for or in connection with fishing in an Area of the Fishery.

11. Grounds to refuse to transfer a licence

The CEO may refuse to transfer a licence on the grounds that the total fee has not been paid in respect of the licence to be transferred.

PART 4—CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENT

12. Capacity of Areas of the Fishery

For any period ending on 31 December in any year, the maximum quantity of mackerel (whole weight) that may be taken from—

- (a) Area 1 of the Fishery is—
 - (i) 205,000 kilograms of mackerel other than broad-barred Spanish mackerel;
 - (ii) 60,000 kilograms of broad-barred Spanish mackerel;
- (b) Area 2 of the Fishery is—
 - (i) 126,000 kilograms of mackerel other than broad-barred Spanish mackerel;
 - (ii) 60,000 kilograms of broad-barred Spanish mackerel;
- (c) Area 3 of the Fishery is—
 - (i) 79,000 kilograms of mackerel other than broad-barred Spanish mackerel;
 - (ii) 60,000 kilograms of broad-barred Spanish mackerel.

13. Scheme of entitlement

- (1) The entitlement to fish for mackerel in the Fishery under the authority of a licence shall be expressed as a number of units.
- (2) Units shall be described as class 1A, 2A or 3A, or class 1B, 2B or 3B.
- (3) A class 1A unit shall confer an entitlement to take an amount of mackerel other than broad-barred Spanish mackerel from Area 1.
- (4) A class 2A unit shall confer an entitlement to take an amount of mackerel other than broad-barred Spanish mackerel from Area 2.
- (5) A class 3A unit shall confer an entitlement to take an amount of mackerel other than broad-barred Spanish mackerel from Area 3.
- (6) A class 1B unit shall confer an entitlement to take an amount of broad-barred Spanish mackerel from Area 1.
- (7) A class 2B unit shall confer an entitlement to take an amount of broad-barred Spanish mackerel from Area 2.
- (8) A class 3B unit shall confer an entitlement to take an amount of broad-barred Spanish mackerel from Area 3.
- (9) The maximum number of units conferred by all licences for an Area of the Fishery is specified in Schedule 6.

14. Conferral of entitlement

Where a licence is granted in accordance with subclause 7(1) the licence shall, at the time it is granted, confer usual units of entitlement equal in number and class to the number of usual units of entitlement conferred by the relevant interim managed fishery permit as at midday on 31 December 2011.

Note: Where a licence is granted in accordance with subclause 7(3) the entitlement conferred by the licence will be the entitlement transferred to the licence in accordance with section 140 of the Act.

15. Unit value

- (1) The sum of the entitlements to fish for mackerel that may be conferred by all the licences authorising fishing in an Area of the Fishery is equal to the capacity for that Area as determined in accordance with clause 12.
- (2) The extent of the entitlement to fish in an Area of the Fishery arising from time to time from a unit (the unit value) shall be determined in accordance with Schedule 7 and be limited by reference to a number of kilograms (whole weight) of mackerel that may be taken.
- (3) The holder of a licence, or a person acting on the licence holder's behalf, must not fish in an Area of the Fishery unless the amount of mackerel (whole weight) as determined in accordance with clause 27 and taken from that Area of the Fishery under the authority of that licence during the period for

which the licence has been granted or renewed is less than the amount determined by multiplying the unit value for each class of unit specified on a licence by the number of units of that class conferred by that licence.

(4) For the purposes of this plan any fillets on board, or landed ashore from, an authorised boat, and to which the skin and scales are not attached, shall be taken to be mackerel other than broad-barred Spanish mackerel.

(5) Subclause (4) does not apply in respect of fillets other than mackerel—

- (a) taken under the authority of; and
- (b) recorded as having been taken under the authority of—
 - (i) a Gascoyne Demersal Scalefish Fishery managed fishery licence; or
 - (ii) a West Coast Demersal Scalefish Fishery interim managed fishery permit; or
 - (iii) a fishing boat licence as specified in the Prohibition on Fishing By Line From Fishing Boats (Pilbara Waters) Order 2006.

16. Minimum number of units to be held

(1) Subject to subclause (2), a person must not fish under the authority of a licence at any time that the current entitlement specifies less than—

- (a) 218 class 1A units, in respect of Area 1; or
- (b) 153 class 2A units, in respect of Area 2; or
- (c) 86 class 3A units, in respect of Area 3.

(2) A person must not fish in Area 1 of the Fishery at any time under the authority of a licence—

- (a) that was not granted to that person under clause 7(1); and
- (b) where the current entitlement on that licence specifies less than 435 class 1A units.

17. Surrender of licence and reallocation of usual entitlement

(1) Subject to subclauses (2) and (3), the CEO may increase the entitlement conferred by a licence—

- (a) upon the application of the holder of a licence; and
- (b) where another licence has been surrendered under section 144 of the Act; and
- (c) where the holder of the licence referred to in paragraph (b) has consented to the application referred to in paragraph (a).

(2) The entitlement of a licence must not be increased by more than the usual entitlement of the surrendered licence.

(3) Subclause (1) applies only once in regard to the surrender of a licence.

18. Grounds to refuse to transfer part of an entitlement

The CEO may refuse to transfer any part of an entitlement under a licence on the grounds that—

- (a) the proposed transfer is not for a whole number of units; or
- (b) if the transfer were given effect the number of units conferred by a licence, disregarding any temporary transfer of units to or from the licence, would be less than one; or
- (c) the value of the current units of entitlement (in kilograms whole weight) for the relevant class of unit that would be conferred by the licence after the transfer would be less than the total quantity of mackerel (whole weight) relevant to that class of unit taken under the authority of the licence during the period for which the licence has been granted or renewed; or
- (d) the total fee has not been paid in respect of the licence from which the units are to be transferred.

19. Temporary transfer of an entitlement

The whole or part of an entitlement conferred by a licence may be temporarily transferred to another licence for a period ending at the time that the licence expires, provided that—

- (a) the value of the current units of entitlement (in kilograms whole weight) for the relevant class of unit that would be conferred by the licence after the transfer would not be less than the total quantity of mackerel (whole weight) relevant to that class of unit taken under the authority of the licence during the period for which the licence has been granted or renewed; and
- (b) the transfer is of a whole number of units; and
- (c) the total fee has been paid in respect of the licence from which the units are to be temporarily transferred.

PART 5 — APPROVED ALCs AND NOMINATIONS AND NOTIFICATIONS

20. Requirement for approved ALC to be installed in an authorised boat

(1) A person must not use an authorised boat in the Fishery unless an approved ALC has been installed in that boat in accordance with the approved directions and is operating effectively.

(2) A person must not use an authorised boat in the Fishery unless the approved ALC installed in that boat has been tested, and is being used, in accordance with the approved directions.

- (3) The master of an authorised boat must not use that boat in the Fishery unless—
- (a) there is on board that boat a means of communication capable of providing communication between the master of the boat and the CEO at all times; and
 - (b) the CEO is notified of an appropriate form of identification enabling the master to be contacted at any time by that means of communication.

21. Nomination to fish for mackerel

- (1) The master of an authorised boat must not—
- (a) allow a person to fish from that boat in the Fishery under the authority of a licence issued in accordance with this plan; or
 - (b) allow any mackerel or fillets to be on, or landed from, that boat in the waters of the Fishery,
- unless a nomination to fish has been made and is in effect in respect of that boat.
- (2) Subclause (1)(b) does not apply in respect of fish other than mackerel—
- (a) taken under the authority of; and
 - (b) recorded as having been taken under the authority of—
 - (i) a Gascoyne Demersal Scalefish Fishery managed fishery licence; or
 - (ii) a West Coast Demersal Scalefish Fishery interim managed fishery permit; or
 - (iii) a fishing boat licence as specified in the *Prohibition on Fishing By Line From Fishing Boats (Pilbara Waters) Order 2006*.
- (3) A nomination to fish must—
- (a) specify the licence under which fishing will be carried out; and
 - (b) specify the Area or Areas of the Fishery where fishing will occur; and
 - (c) be made—
 - (i) where a fishing trip commences from outside the Fishery, immediately upon entering the waters of the Fishery; or
 - (ii) where the boat is in the waters of the Fishery, from a port area and not more than 2 hours prior to the boat commencing a fishing trip from the port area; and
 - (d) be made in respect of each fishing trip undertaken under the authority of a licence.
- (4) A nomination made contrary to subclause (3) is of no effect.
- (5) A nomination under subclause (1) must be made by the approved ALC in accordance with the approved directions and is taken to have been made only when a confirmation message that the nomination is effective is received by the master through the ALC.
- (6) Despite subclause (5), where the messaging facility of an approved ALC is not operating and the master has made a nomination by message to the Vessel Monitoring System Messaging Service in accordance with the approved directions, a nomination will be taken to have been made under subclause (1).
- (7) The holder of a licence or a person acting on the holder's behalf may, in accordance with subclause (3), make a new nomination which, if received by way of an approved ALC, revokes any previous nomination made for that licence period.
- (8) The master of an authorised boat must not allow that boat to be used in contravention of a nomination made under this clause.
- (9) A nomination made in accordance with subclause (3) or (7) ceases to be of effect—
- (a) at the time the relevant authorised boat leaves the waters of the Fishery;
 - (b) subject to subclause 38(3), at the time the relevant authorised boat enters an Area of the Fishery in which fishing from that boat under the authority of the relevant licence is not permitted;
 - (c) when the entitlement conferred by the relevant licence is exhausted;
 - (d) when the relevant licence is transferred under s.140 of the Act;
 - (e) when the relevant licence expires; or
 - (f) where a master nominates to operate under a different licence.

22. Notification of taking a boat out of the waters of the Fishery

- (1) The master of an authorised boat—
- (a) used to fish in the Fishery under the authority of a licence; and
 - (b) or which a nomination made in accordance with clause 21 is in effect,
- must not allow that boat to be taken out of the waters of the Fishery unless—
- (i) the requirements of clause 27 have been completed; and
 - (ii) a notification of taking the boat out of the waters of the Fishery has been made and is in effect.
- (2) A notification under subclause (1) must—
- (a) be made by the use of an approved ALC in accordance with the approved directions for use; and

- (b) be made not less than 6 hours prior to the boat being taken out of the waters of the Fishery; and
 - (c) specify the whole weight of—
 - (i) broad-barred Spanish mackerel; and
 - (ii) mackerel other than broad-barred Spanish mackerel,
 that will be taken out of the waters of the Fishery.
- (3) A notification made—
- (a) prior to completing the requirements of clause 27; or
 - (b) contrary to subclause (2),
- is of no effect.
- (4) The master of an authorised boat must not allow any fishing to occur at any time that a notification made in accordance with this clause is in effect.

PART 6—USE OF BOATS

23. Use of boats

- (1) A person fishing under the authority of a licence must not use a boat to fish in the Fishery unless the boat is an authorised boat.
- (2) A person must not be, or act as, the master of an authorised boat unless that person is the holder of the relevant licence, or is authorised by the holder of the relevant licence to act for or on the licence holder's behalf.
- (3) The master of an authorised boat must not permit any mackerel or fillet to be transferred—
- (a) to another boat from; or
 - (b) from another boat to,
- the authorised boat while that boat is at sea in the waters of the Fishery.
- (4) Subclause (3) does not apply when mackerel or fillets are being transferred from an auxiliary boat to the associated primary boat.
- (5) The master of an authorised boat must not fish, or permit a person to fish, from an authorised boat in an Area of the Fishery that is not specified on the licence.
- (6) Subject to clause 22, the master of an authorised boat which has been used to fish for mackerel in the Fishery, must not depart the Fishery in that boat unless all fish taken with the use of the boat have first been landed at a port area.
- (7) Subject to clauses 22 and 25(2), the master of an authorised boat which has been used to fish for mackerel in an Area of the Fishery, must not depart that Area in that boat unless all fish taken with the use of the boat have first been landed at a port area within that Area.
- (8) The master of an authorised boat must not store or transport any mackerel on board that boat at any time that the boat is in the waters of the *Gascoyne Demersal Scalefish Managed Fishery* or the *West Coast Demersal Scalefish (Interim) Managed Fishery*, other than—
- (a) whole mackerel;
 - (b) mackerel that has had its head removed or has been gutted; or
 - (c) mackerel that has had its head removed and has been gutted.
- (9) Where a nomination to fish for mackerel is in effect in accordance with clause 21 the master of the relevant authorised boat must not allow that boat to be in any Area of the Fishery other than a port area or an Area of the Fishery specified in that nomination.
- (10) The master of an authorised boat must not store or transport any mackerel on board that boat in any part of the Fishery where fishing under the relevant licence is prohibited in that part of the Fishery.
- (11) The master of an authorised boat must not allow any mackerel or fillet to be on board the boat unless the whole weight (determined in accordance with clause 27) of all the mackerel and fillets taken or landed under the authority of the licence on which that boat is specified is less than the amount determined by multiplying the unit value for each class of unit specified on a licence by the number of units of that class conferred by that licence.

24. Auxiliary boats

- (1) A person may use a boat as the auxiliary boat in Area 1 of the Fishery under the authority of a licence where—
- (a) in the case of a licence granted in accordance with subclause 7(1), the auxiliary boat was specified on the interim managed fishery permit; or
 - (b) in the case of a licence granted in accordance with subclause 7(2), the licence specifies an authorised boat which is equal to or greater than 6.5 metres in length; and
 - (i) at the time the licence is granted, the holder of the licence also holds a fishing boat licence specifying the details of a boat which is less than 6.5 metres in length and the licence holder, at the time of applying for the licence, had applied to have that boat specified on the licence as the auxiliary boat; and
 - (ii) licence conditions numbered—

- (I) 16, 17 and 18; or
- (II) 16, 17, 18 and 54; or
- (III) any one of, or any combination of, licence conditions numbered 25, 54, 85 or 112, are specified on the fishing boat licence at the time of the application.

(2) A person must not use an auxiliary boat to fish in Area 2 of the Fishery unless the relevant licence authorises fishing in Area 1 of the Fishery and the auxiliary boat is specified on the licence under clause 10(2).

(3) A person must not use an auxiliary boat in the Fishery if that boat is greater than, or equal to, 6.5 metres in length.

(4) The master of an auxiliary boat must not permit that boat to be—

- (a) more than 5 nautical miles from the associated primary boat at any time it is being used in the waters of the Fishery; or
- (b) used in conjunction with any primary boat other than the associated primary boat.

PART 7—LANDING OF MACKEREL

25. Landing of mackerel

(1) Subject to clause 22, the master of an authorised boat must not, at any time that a nomination to fish made under clause 21 is in effect and the boat has been used to take fish—

- (a) in Area 1 only, allow any mackerel to be unloaded from that boat other than in a port area that is within Area 1; or
- (b) in Area 2 only, allow any mackerel to be unloaded from that boat other than in a port area that is within Area 2; or
- (c) in Area 3 only, allow any mackerel to be unloaded from that boat other than in a port area that is within Area 3.

(2) Subject to clause 22, the master of an authorised boat must not, at any time that a nomination to fish made under clause 21 is in effect and the boat has been used to take fish in more than one Area of the Fishery on the same trip, allow any mackerel to be unloaded from that boat other than in a port area that is within one of the Areas of the Fishery in which the boat has been used for fishing on that trip.

(3) The master of an authorised boat must not allow any mackerel to be unloaded from that boat in the port areas of Denham, Point Quobba (Blow Holes) or Carnarvon other than—

- (a) whole mackerel;
- (b) mackerel that has had its head removed or has been gutted; or
- (c) mackerel that has had its head removed and has been gutted.

26. Notification of entering a port area

(1) The master of an authorised boat used for the purpose of taking mackerel on a fishing trip must not enter a port area at any time when a nomination to fish made under clause 21 is in effect in respect of that boat, unless notice of entering a port area has been made by the use of an approved ALC in accordance with the approved directions, and received by the Department.

(2) A notice made under subclause (1) must—

- (a) be made not less than 4 hours before entering a port area in Area 1; and
- (b) be made not less than 2 hours before entering a port area in Area 2 or Area 3; and
- (c) specify if any fish or fillets are to be unloaded; and
- (d) specify the port area at which the fish are to be unloaded.

(3) A person must not transmit any information in a notice made under subclause (1) that the person knows to be false or misleading.

27. Determination of weight of mackerel taken out of or landed in the Fishery

(1) The master of an authorised boat that is to be taken out of the waters of the Fishery or from which any fish are landed ashore must not allow any mackerel to be taken out the waters of the Fishery or landed ashore other than—

- (a) whole mackerel;
- (b) mackerel that has been gilled and gutted; or
- (c) mackerel that has been headed and gutted; or
- (d) fillets.

(2) The master of an authorised boat that is to be taken out of the waters of the Fishery or from which any mackerel are landed ashore must, prior to the boat being taken out of the waters of the Fishery, or within 4 hours of landing mackerel or fillets ashore, accurately determine the weight (in kilograms) of—

- (a) mackerel other than broad-barred Spanish mackerel; and
 - (b) broad-barred Spanish mackerel; and
 - (c) fillets,
- and whether the weight is of—

- (i) whole; or
- (ii) headed and gutted; or
- (iii) gilled and gutted; or
- (iv) filleted

mackerel.

(3) Subject to clause 22, the master of an authorised boat from which mackerel or fillets are to be taken out of the waters of the Fishery, or which have been landed ashore must, prior to the boat being taken out of the waters of the Fishery, or within 4 hours of landing the mackerel or fillets ashore, as the case may be, sign and specify in triplicate in a CDR form accurate details of—

- (a) the Area from which the mackerel or fillets were taken;
- (b) the place, time and date of the landing of the mackerel or fillets;
- (c) the name and business address of any person to whom any mackerel or fillets have been or are to be consigned (as the case may require);
- (d) the name of any person retaining any mackerel or fillets which are not being consigned and the place to which the mackerel are to be taken (as the case may require);
- (e) the name of the employer of any person who is to transport the mackerel or fillets;
- (f) the number of containers in which the mackerel or fillets are consigned;
- (g) the determination of the weight of—

- (i) mackerel other than broad-barred Spanish mackerel;
- (ii) broad-barred Spanish mackerel,

as determined in accordance with subclause (2), and whether the weight is of—

- (I) whole; or
- (II) headed and gutted; or
- (III) gilled and gutted; or
- (IV) filleted

mackerel;

- (h) the whole weight (in kilograms) of mackerel using the determination made in accordance with subclause (2) and the conversion factors specified in Schedule 4; and
- (i) the name of the master of the authorised boat and details of the licence under the authority of which the mackerel or fillets were taken.

(4) The master of an authorised boat from which any mackerel are landed ashore must not—

- (a) depart; or
- (b) permit the mackerel or fillets to be removed from,

the place where the weight of the mackerel or fillets was determined, until subclauses (2) and (3) have been complied with.

(5) A person to whom subclause (3) applies must retain and keep safe and secure the triplicate copies of the CDR form referred to in subclause (3), and produce them to a Fisheries Officer on demand.

(6) A person to whom subclause (3) applies must, within 48 hours of landing any mackerel or fillets ashore, forward the duplicate copy of the completed CDR form referred to in subclause (3) to the Fremantle office of the Department.

(7) A person must not make an entry in accordance with subclause (3) that the person knows to be false or misleading.

(8) For the purposes of subclause (3) the master of the boat must use an accurate means of determining weight which, immediately prior to weighing the mackerel, is determined to be in proper working condition.

(9) A person must not remove any mackerel or fillets from the place where the mackerel or fillets were landed ashore—

- (a) unless subclauses (2) and (3) have been complied with;
- (b) without the consent of the master;
- (c) unless the mackerel and fillets are in the same condition (whole, gilled and gutted, headed and gutted, or filleted) as when they were landed ashore; and
- (d) a completed CDR form is securely attached to the mackerel or fillets.

(10) The master of an authorised boat from which any mackerel are landed ashore must ensure—

- (a) that any mackerel or fillets consigned from the place of landing has securely attached to it an original copy of the completed CDR form; and
- (b) that any container of mackerel or fillets in a consignment is clearly and legibly labelled with the CDR number that relates to that consignment.

(11) For the purposes of subclause (10), each occasion on which mackerel or fillets are transported from the place of landing shall constitute a consignment, and a separate completed CDR form shall be used in respect of each such consignment.

(12) A person must complete a CDR form in respect of mackerel and fillets taken from each Area of the Fishery.

(13) A person must not record on any CDR form details of any mackerel or fillets not taken from the Area to which that CDR form relates.

28. Issue of CDRs and replacements

- (1) Where a licence is in force the licence holder may request the CEO to issue a CDR in respect of that licence.
- (2) Where a CDR issued in accordance with subclause (1) cannot be produced, and the licence holder satisfies the CEO of the quantity of mackerel taken under the authority of the licence, the CEO may issue a replacement CDR in respect of that licence.
- (3) A CDR is to be in the form approved from time to time by the Chief Executive Officer.

29. Obligations in respect of CDRs and records

- (1) The master of an authorised boat must have on board the boat a CDR in respect of the licence under the authority of which the boat is to be used for fishing.
- (2) The master of an authorised boat that is being used to fish in the Fishery must ensure that all records required to be made under the regulations are completed—
 - (a) on each day of a fishing trip; and
 - (b) prior to the boat being taken out of the waters of the Fishery.
- (3) The master of an authorised boat must—
 - (a) keep the CDR secure and in good condition at all times; and
 - (b) produce the CDR to a fisheries officer on demand.
- (4) The master of an authorised boat must, at the time that no further entries can be made in a CDR, return the CDR to the holder of the licence in respect of which the CDR was issued.
- (5) The licence holder must—
 - (a) retain the CDR issued in respect of the holder's licence for 5 years from the date of the last entry in that CDR; and
 - (b) produce the CDR to a fisheries officer on demand.
- (6) Where the holder of a licence or the master of an authorised boat loses—
 - (a) a CDR; or
 - (b) a form required to be completed in a CDR,

the licence holder or master, as the case may be, must immediately report the loss of the CDR or form to the Department.

30. Whole weight of mackerel

- (1) For the purposes of this plan, where a quantity of mackerel is expressed in terms of a whole weight, the weight at the time of weighing shall be taken to be—
 - (a) where the mackerel is whole, that weight of mackerel measured in kilograms; and
 - (b) where the mackerel is—
 - (i) gilled and gutted only; or
 - (ii) headed and gutted only; orthat weight of mackerel measured in kilograms multiplied by the relevant conversion factor; and
 - (c) in the case of fillets taken to be mackerel under clause 15(4), that weight of fillets measured in kilograms multiplied by the relevant conversion factor.
- (2) In this clause—

relevant conversion factor means the conversion factor specified in Schedule 4 corresponding to the condition of the mackerel at the time of weighing.

PART 8—GENERAL REGULATION OF FISHING

31. Persons prohibited from fishing in the Fishery

- (1) Subject to subclause (3), a person must not fish in the Fishery other than—
 - (a) in accordance with this plan; and
 - (b) under the authority of a licence.
- (2) Subclause (1) does not apply to fishing by a person under the authority of an authorisation specified in Schedule 8.
- (3) This plan does not apply to a person fishing for mackerel for a recreational purpose in accordance with the Act.

32. Closure of areas within the Fishery

- (1) The CEO may, by notice published in the Gazette, prohibit fishing in the Fishery, or any part of the Fishery, for the period specified in the notice if, in the opinion of the CEO, the prohibition is required in the better interests of the Fishery.
- (2) A notice made in accordance with subclause (1)—
 - (a) may only be made after consultation with all the licence holders who are entitled to fish in the Fishery, or in that part of the Fishery that is the subject of the proposed prohibition;
 - (b) must take into account any advice received from the Department's Director of Fisheries Research;

- (c) may be made to apply at all times or at any specified time; and
 - (d) revokes any previous notice made under that subclause.
- (3) A person must not fish for mackerel in the Fishery, or a specified part of the Fishery, at any time when fishing in the Fishery, or that specified part of the Fishery, has been prohibited by a notice made under subclause (1).
- (4) The master of an authorised boat must not store or transport any mackerel on board that boat in the Fishery, or a specified part of the Fishery, at any time when fishing in the Fishery, or that specified part of the Fishery, has been prohibited by a notice made under subclause (1).
- (5) The master of an authorised boat must ensure that all troll lines, handlines, fishing lines and booms carried on or attached to that boat must be securely stowed on board that boat when that boat is in any waters of the Fishery—
- (a) which are closed by reason of a notice made under subclause (1); or
 - (b) in which that boat is not authorised to be used for fishing.
- (6) Subclause (5) does not apply to the master of a boat—
- (a) acting in accordance with a nomination to fish made under clause 21; and
 - (b) where the boat is steaming continuously and directly from a port area to an Area of the Fishery specified in that nomination, to commence fishing.

33. Prohibition on fishing outside Area specified on licence

A person fishing in the Fishery under the authority of a licence must not fish in an Area of the fishery not specified on that licence.

34. Prohibition on fishing methods

A person fishing in the Fishery under the authority of a licence must not fish by any means other than—

- (a) hand line; or
- (b) troll line.

35. Prohibition on selling, purchasing or dealing in mackerel

(1) A person must not sell, purchase, or deal in, or attempt to sell, purchase, or deal in, any mackerel or fillets taken from the Fishery in contravention of this plan.

(2) A person must not sell, purchase, or deal in, or attempt to sell, purchase or deal in, mackerel or fillets taken from the Fishery, unless those fish were taken by the holder of a commercial fishing licence operating under the authority of a licence issued in accordance with this plan.

36. Prohibition on having mackerel on board

The master of a fishing boat that is not an authorised boat and which is used to fish in the waters of the Fishery must ensure that no mackerel are stored or transported on board that boat.

37. Prohibition on having fish other than mackerel on board

(1) The master of an authorised boat must ensure that no fish other than mackerel are stored or transported on board that boat.

- (2) Subclause (1) does not apply in respect of—
- (a) fish taken under the authority of an authorisation specified in Schedule 8; or
 - (b) waters that are not specified as being waters to which the legislative instruments specified in Schedule 8 apply.

38. Exceptions to clauses 21, 23, 25, and 26

- (1) Subclauses 23(7), 23(9), 23(10), 25(1), and 25(2) do not apply to the master of a boat where—
- (a) the boat is authorised to be used for fishing in Area 1;
 - (b) the boat has been used to fish in Area 1 only;
 - (c) the master of that boat has, under clause 26(1) given notification that mackerel will be unloaded in the port area of Port Hedland; and
 - (d) the boat is steaming continuously and directly to Port Hedland to unload the mackerel.
- (2) Subclauses 23(7), 23(9), 23(10), 25(1), and 25(2) do not apply to the master of a boat where—
- (a) the boat is authorised to be used for fishing in Area 2;
 - (b) the boat has been used to fish in Area 2 but not Area 1;
 - (c) the master of that boat has, under clause 26(1) given notification that mackerel will be unloaded in the port area of Broome; and
 - (d) the boat is steaming continuously and directly to Broome to unload the mackerel.
- (3) Notwithstanding subclauses 21(9), 23(7), 23(9), 23(10), 25(1), 25(2), or 26(1), the master of an authorised boat may land mackerel from that boat at a port area outside the Area in which the boat has been used to fish where the master of the boat has advised the CEO by ALC, while the boat is in a port area, and in accordance with the approved directions, that—
- (a) on the next occasion that mackerel will be unloaded from the boat, the boat will be in a port area outside the Area in which the boat will be used for fishing;

- (b) a notification to land mackerel will be made in accordance with clause 26;
- (c) a nomination to fish under clause 21 will not be made in respect of the boat for the remainder of that licence period.

39. Defence to section 74 of the Act

It is a defence in proceedings for an offence against section 74 of the Act in respect of contravening clause 15(3) or clause 23(11) for a person charged to prove that—

- (a) notice of the fishing in excess of the entitlement was given to the CEO, in a manner and in a form approved by the CEO, within 7 working days of the mackerel or fillets being landed ashore; and
- (b) the licence holder, not more than 14 days after landing the mackerel or fillets, paid to the Fisheries Research and Development Fund an amount of money equal to the product of the number of kilograms (whole weight) by which the entitlement was exceeded and the prescribed value (per unit of weight) for mackerel set out in Schedule 9 to the regulations.

40. Offences and major provisions

A person who contravenes clause 15(3), 20, 21, 22, 23, 24, 25, 26, 27, 29, 31, 32, 33, 34, 35, 36, or 37 commits an offence.

SCHEDULE 1

Description of the Fishery

[clause 5]

All Western Australian waters of the Indian Ocean and the Timor Sea north of Cape Leeuwin (34° 22.51' south latitude).

SCHEDULE 2

Areas of the Fishery

[clause 6]

Area 1—All Western Australian waters off the north coast of Western Australia on the landward side of the outer boundary of the Australian fishing zone and east of a line commencing at the intersection of the high water mark on the coastline and 121° 00' east longitude and extending north from that point along the meridian to the outer boundary of the Australian fishing zone.

Area 2—All Western Australian waters off the north west coast of Western Australia bounded by a line commencing at the intersection of the high water mark on the coastline and 114° 00' east longitude (Jurabi Point); thence extending north along the meridian to the outer boundary of the Australian fishing zone; thence generally in a north easterly direction along the outer boundary of the Australian fishing zone to where it intersects with 121° 00' east longitude; thence south along the meridian to where it intersects with the high water mark on the coastline of Western Australia; thence generally south westerly along the high water mark back to the commencement point.

Area 3—All Western Australian waters off the coast of Western Australia bounded by a line commencing at the intersection of the high water mark on the coastline and 114° 00' east longitude (Jurabi Point); thence extending north along the meridian to the outer boundary of the Australian fishing zone; thence generally in a south westerly; thence southerly; thence in an easterly direction along the outer boundary of the Australian fishing zone to where it intersects with 34°22.51' south latitude; thence extending east along the parallel to where it intersects with the high water mark on the coastline of Western Australia (Cape Leeuwin); thence generally north westerly along the high water mark back to the commencement point.

SCHEDULE 3

Port areas

Wyndham

All the waters of the Fishery within 3 nautical miles of the intersection of 15° 27.094' south latitude and 128° 6.073' east longitude.

Derby

All the waters of the Fishery within 3 nautical miles of the intersection of 17° 17.509' south latitude and 123° 36.411' east longitude.

Broome

All the waters of the Fishery within 3 nautical miles of the intersection of 18° 00.03' south latitude and 122° 13.11' east longitude.

Port Hedland

All the waters of the Fishery within 3 nautical miles of the intersection of 20° 18.92' south latitude and 118° 34.62' east longitude.

Port Walcott (Point Samson)

All the waters of the Fishery within 3 nautical miles of the intersection of 20° 38.20' south latitude and 117° 11.53' east longitude.

Port of Dampier

All the waters of the Fishery bounded by a line commencing at the high water mark at the intersection of 116° 39.00' east longitude; thence extending north by west along the geodesic to the high water mark on East Lewis Island at 116° 38.13' east longitude (King Point); thence generally easterly along the high water mark on the southern side of East Lewis Island to the intersection of 116° 39.90' east longitude (Roe Point); thence easterly along the geodesic to the intersection of the high water mark on the coastline at 20° 37.50' south latitude (Phillip Point); thence generally south westerly along the high water mark to the commencement point.

Beadon Creek, Onslow

All the waters of the Fishery within 3 nautical miles of the intersection of 21° 38.28' south latitude and 115° 07.97' east longitude.

Exmouth

All the waters of the Fishery within 3 nautical miles of the intersection of 21° 57.445' south latitude and 114° 08.477' east longitude (Exmouth Marina and associated area).

Coral Bay

All the waters of the Fishery within 3 nautical miles of the intersection of 23° 09.288' south latitude and 113° 45.975' east longitude.

Point Quobba (Blowholes)

All the waters of the Fishery within 3 nautical miles of the intersection of 24° 29.22' south latitude and 113° 24.57' east longitude.

Carnarvon

All the waters of the Fishery within 3 nautical miles of the intersection of 24° 53.934' south latitude and 113° 39.071' east longitude (T jetty, Fishing Boat Harbour)

Denham

All the waters of the Fishery within 3 nautical miles of the intersection of 25° 55.71' south latitude and 113° 31.99' east longitude (Service jetty, Denham).

Kalbarri

All the waters of the Fishery within 3 nautical miles of the intersection of 27° 42.50' south latitude and 114° 09.50' east longitude.

Port Gregory

All the waters of the Fishery within 3 nautical miles of the intersection of 28° 11.45' south latitude and 114° 14.94' east longitude.

Geraldton

All the waters of the Fishery within 3 nautical miles of the intersection of 28° 46.47' south latitude and 114° 35.298' east longitude.

Port Denison

All the waters of the Fishery within 3 nautical miles of the intersection of 29° 16.31' south latitude and 114° 55.192' east longitude.

Jurien Bay

All the waters of the Fishery within 3 nautical miles of the intersection of 30° 17.268' south latitude and 115° 02.605' east longitude.

Fremantle

All the waters of the Fishery within 3 nautical miles of the intersection of 32° 03.654' south latitude and 115° 44.611' east longitude.

SCHEDULE 4
Conversion factors

[clause 30]

1. Whole weight = gilled and gutted weight (kg) x 1.048.
2. Whole weight = headed and gutted weight (kg) x 1.176.
3. Whole weight = fillet weight (kg) x 1.608.

SCHEDULE 5
Fees

[clause 9]

The fee payable for the grant of a licence that expires on 31 December 2012 is determined by multiplying the number of units conferred by the licence by the fee for each relevant class of unit conferred, as specified in the Table to this Schedule.

Table

| Class of unit | Fee payable per unit |
|---------------|----------------------|
|---------------|----------------------|

| | |
|----------|---------|
| Class 1A | \$11.77 |
| Class 2A | \$11.77 |
| Class 3A | \$11.77 |
| Class 1B | \$1.19 |
| Class 2B | \$1.19 |
| Class 3B | \$1.19 |

SCHEDULE 6
Maximum number of units conferred by licences

[clause 13]

Table

| Area | Class A Units | Class B Units |
|------|---------------|---------------|
| 1 | 4350 | 1273 |
| 2 | 3059 | 1457 |
| 3 | 1720 | 1305 |

The maximum number of units that may be conferred by all licences is the number specified in the table to this Schedule as reduced from time to time where—

- (a) a licence is not renewed within the period specified by s.139 of the Act; or
- (b) a licence is cancelled; or
- (c) units are forfeited by the operation of the Act.

SCHEDULE 7

Unit values

[clause 15]

The extent of entitlement to fish in an Area of the Fishery that arises from a unit during a licensing period shall be determined using the following formula—

$$\frac{A}{B} = C$$

Where—

- A is the capacity of an Area of the Fishery (in respect of either mackerel other than broad-barred Spanish mackerel, or broad-barred Spanish mackerel, whichever applies to the relevant class of unit), as specified in clause 14;
- B is the sum of all of the units of the relevant class of unit for the Area as specified on all the relevant licences immediately before the expiry of the relevant licensing period.
- C is the value of the relevant class of unit (in kilograms).

Where, as a result of the above calculation a result is more than two decimal places, then the fraction ending with 50 or less at the 3rd and 4th decimal places is rounded down to two decimal places and any fraction ending with 51 or more at the 3rd and 4th decimal places is rounded up to two decimal places.

For the purpose of this schedule the “relevant class of unit” for the relevant species is set out in column 2 opposite the specified Area in column 1 of the Table to this Schedule.

Table

| Area | Relevant class of unit |
|--------|--|
| Area 1 | Mackerel other than broad-barred Spanish mackerel class 1A |
| Area 1 | Broad-barred Spanish mackerel class 1B |
| Area 2 | Mackerel other than broad-barred Spanish mackerel class 2A |
| Area 2 | Broad-barred Spanish mackerel class 2B |
| Area 3 | Mackerel other than broad-barred Spanish mackerel class 3A |
| Area 3 | Broad-barred Spanish mackerel class 3B |

SCHEDULE 8

Authorisations to which certain exceptions apply

[clause 31]

- (a) Cockburn Sound (Line and Pot) Fishery managed fishery licence

- (b) West Coast Demersal Scalefish Fishery interim managed fishery permit
- (c) Gascoyne Demersal Scalefish Fishery managed fishery licence
- (d) Northern Demersal Scalefish Fishery managed fishery licence
- (e) Fishing boat licence as specified in the *Prohibition On Fishing By Line From Fishing Boats (Pilbara Waters) Order 2006*

Dated this 7th day of December 2011.

NORMAN MOORE, Minister for Fisheries.