

Fisheries (Abalone) Rules 2009

I make the following rules under the Living Marine Resources Management Act 1995.

23 November 2009

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Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

These rules may be cited as the Fisheries (Abalone) Rules 2009.

2. Commencement

These rules take effect on 31 December 2009.

3. Interpretation

In these rules –

abalone means fish of the genus *Haliotis*;

abalone container includes a fishing vessel carrying abalone;

abalone meat means any part of the flesh of an abalone that has been removed from its shell other than –

(a) in the course of cooking or being consumed; or

(b) being processed at processing premises;

abalone offal means the offal or viscera of abalone, excluding the shell and meat;

abalone quota certificate means a certificate issued under rule 15;

Act means the Living Marine Resources Management Act 1995;

auxiliary vessel means a dinghy, tender or other vessel that –

(a) is part of the equipment of a fishing vessel; and

(b) is transported with, capable of being carried on, and operates solely from, the fishing vessel; and

(c) is not operated further than 2 nautical miles from the fishing vessel;

Bass Strait area means the area of State waters adjacent to the north coast of Tasmania and the Furneaux Group of islands in Bass Strait bounded in the west by the line of longitude 145° 22' 42" East and in the east by an imaginary line beginning where the line of longitude 147° 27' 00" East meets the high-water mark of the north coast of the mainland of Tasmania in Anderson Bay, then running due north until its junction with the line of latitude 40° 39' South, then due east along that line of latitude to the limit of State waters;

blacklip abalone means fish of the species *Haliotis rubra*;

broodstock means abalone taken from State waters which are, or are intended to be, used as a source of culture stock;

cauf means a type of apparatus that –

(a) is used for holding live abalone; and

(b) can sit in the water independently of a vessel;

central western blacklip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94 of the Act to be the central western blacklip abalone part of the fishery;

changing part of fishery report means a report relating to changing the part of the fishery in which abalone are to be taken that is part of the records required to be kept under the Act;

closed season means a season or period during which all or part of the abalone fishery is closed to fishing;

commercial abalone dive docket means a docket relating to abalone quota that is part of records required to be kept under the Act;

designated port means any one or more of the following:

(a) Beauty Point;

(b) Bridport;

(c) Burnie;

(d) Devonport;

(e) George Town;

(f) Killiecrankie on Flinders Island;

(g) Lady Barron;

(h) Low Head;

(i) North East River;

(j) Port Sorell;

(k) Sisters Beach;

(l) Tam O'Shanter Bay;

(m) Wynyard;

(n) the area within a radius of 50 metres on the landward side from the high-tide mark closest to the point of launching or retrieving a fishing vessel from anywhere on Flinders Island;

diving team means a diving team formed in accordance with rule 36;

diving team docket means a docket in an approved form relating to the taking of abalone by a diving team;

eastern blacklip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94 of the Act to be the eastern blacklip abalone part of the fishery;

excess abalone, in relation to the holder of a fishing licence (abalone dive), means abalone taken by the licence holder in excess of his or her quota limit for the licence;

fish dispatch docket means a docket relating to the movement of abalone, rock lobster or giant crab that is part of records required to be kept under the Act;

fish merchant means –

(a) the holder of a fish processing licence that specifies abalone; or

(b) a person who carries on the business of selling fish;

fish receipt docket means a docket relating to the receipt of abalone, rock lobster or giant crab that is part of records required to be kept under the Act;

fish trap means a fish trap as defined in the *Fisheries (Scalefish) Rules 2004*;

fishing trip means a trip undertaken for fishing, commencing on departure of the vessel from land, a pier, jetty or artificial extension of land and ending on the return of the vessel to land, a pier, jetty or artificial extension of land;

Franklin Sound means the State waters beginning at Holts Point at longitude 148°2'38" East and latitude 40°15'5" South, then east along the coast of Flinders Island to Pot Boil Point at longitude 148°19'59" East and latitude 40°12'45" South, then south directly to Puncheon Point on Cape Barren Island at longitude 148°19'40" East and latitude 40°17'33" South, then west along the north coast of Cape Barren Island to Prickly Bottom Beach at longitude 148°3'18" East and latitude 40°21'44" South, then north to Holts Point;

giant crab means crab of the species *Pseudocarcinus gigas*;

giant crab trap means a basket, cage or other contrivance that is designed for use, or is capable of being used, for or in connection with the taking of giant crab;

Grade 1 penalty means the penalty specified in regulation 5 of the *Fisheries (Penalties) Regulations 2011*;

Grade 2 penalty means the penalty specified in regulation 6 of the *Fisheries (Penalties) Regulations 2011*;

Grade 3 penalty means the penalty specified in regulation 7 of the *Fisheries (Penalties) Regulations 2011*;

greenlip abalone means fish of the species *Haliotis laevis*;

greenlip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94 of the Act to be the greenlip abalone part of the fishery;

excess abalone, in relation to the holder of a fishing licence (abalone dive), means abalone taken by the licence holder in excess of his or her quota limit for the licence;

holder of a fishing licence (abalone dive) includes a supervisor of such a licence;

holder of a fishing licence (vessel) includes a supervisor of such a licence;

landed, in relation to abalone, means when any abalone or abalone container –

(a) is taken ashore; or

(b) makes contact with an artificial extension of land after the abalone has been taken;

landing area means an area specified in rule 49;

leaving area report means a report relating to the leaving of an area whilst fishing for abalone that is part of records required to be kept under the Act;

leaving port report means a report relating to the leaving of a port before fishing for abalone that is part of records required to be kept under the Act;

marine farmer means the holder of a marine farming licence whose licence is endorsed for abalone;

mother boat means a fishing vessel that –

(a)

(b) is used to transport holders of a fishing licence (abalone dive) on fishing trips for abalone; and

(c) is used by holders of a fishing licence (abalone dive) –

(i) to act as a diving platform to take abalone for commercial purposes; or

(ii) to operate a fishing vessel or auxiliary vessel from that acts as a diving platform to take abalone for commercial purposes;

mutilated, in relation to abalone, means cut, punctured or bruised;

National Law has the same meaning as in the Marine and Safety Authority Act 1997;

northern area means the area of State waters adjacent to the north, north-west and north-east coasts of the mainland of Tasmania and King Island, and those State waters north of a line bounded in the east by an imaginary line from the northern side of the mouth of the Great Musselroe River at Musselroe Bay running due west for 100 metres, then following the shoreline 100 metres from shore to the northernmost tip of Musselroe Point, then running due north until intersection with the line of latitude 40° 48' 00" South, and running due east to the outer limit of State waters, and bounded in the west by an imaginary straight line running due west from the mouth of the Arthur River to the outer limit of State waters;

northern blacklip area means the area of State waters adjacent to the north, north-west and north-east coasts of the mainland of Tasmania and King Island, and those State waters generally north of a line bounded in the east by an imaginary line from the northern side of the mouth of the Great Musselroe River at Musselroe Bay running due west for 100 metres, then following the shoreline 100 metres from shore to the northernmost tip of Musselroe Point, then running due north until intersection with the line of latitude 40° 48' 00" South, and running due east to the outer limit of State waters, and bounded in the west by an imaginary line from the northernmost point of Woolnorth Point to Brown Rocks then running due west to the limit of State waters;

open season means a season or period during which all or part of the abalone fishery is open to fishing;

part of the fishery means any part of the fishery determined under section 94 of the Act to be a part of the fishery;

post fishing report means a report provided after fishing for abalone that is part of records required to be kept under the Act;

prior fishing report means a report provided before fishing for abalone that is part of records required to be kept under the Act;

processing premises means –

(a) any place, vessel or vehicle in respect of which a fish processing licence is in force; or

(b) any place specified in a fish processing licence as a place where fish may be held or stored;

quota limit means the amount of abalone that may be taken in accordance with a fishing licence (abalone dive) in a part of the fishery at a particular time;

receipt report means a report made to a reporting service by approved means containing approved information;

reporting service means the service approved by the Secretary under rule 37;

rock lobster means rock lobster of the genus *Jasus* or *Sagmariasus*;

rock lobster pot means –

(a) a basket, trap, cage or other contrivance (other than a rock lobster ring) that is designed for use, or is capable of being used, for or in connection with the taking of rock lobster; or

(b) a component part of such a basket, trap, cage or other contrivance;

rock lobster ring means a net that –

(a) consists only of a single fixed ring or hoop to which a mesh of string or twine is attached; and

(b) is designed for use, or is capable of being used, for or in connection with the taking of rock lobster;

securely fastened means on board and fastened to a mother boat;

shell length, in relation to an abalone, means the diameter of the abalone shell at its widest, whether the shell is broken or chipped or not;

site of unloading means the first point where any abalone or container of abalone is landed or unloaded;

transfer docket means a docket in an approved form relating to the transfer to a person of excess abalone in accordance with rule 47;

trap means a rock lobster pot or fish trap;

undersize, in relation to abalone, means an abalone that is less than the minimum size specified for that abalone in Part 2 of the *Fisheries (General and Fees) Regulations 2006*;

vessel monitoring system means a navigational measuring system that –

- (a) determines the location and activities of a vessel; and
- (b) is capable of transmitting data about that location and those activities via a satellite communication system;

western blacklip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94 of the Act to be the western blacklip abalone part of the fishery.

excess abalone, in relation to the holder of a fishing licence (abalone dive), means abalone taken by the licence holder in excess of his or her quota limit for the licence;

4. Application of rules

These rules apply to the abalone fishery.

5. Duration of rules

These rules continue in force for a period of 10 years.

6. Consultation arrangements

The Minister must consult with the appropriate advisory committee established under section 27 of the Act in relation to the abalone fishery in respect of any changes relating to –

- (a) any area where fishing for abalone may occur; and
- (b) any matter relating to the characteristics of abalone; and
- (c) any opening and closing of the abalone fishery; and
- (d) apparatus; and
- (e) limits on taking and possessing abalone.

7. Classes of fishing licences

For the purposes of these rules, a fishing licence is one of the following classes:

- (a) class abalone –
 - (i) fishing licence (abalone dive); or
 - (ii) fishing licence (abalone quota);
- (b) class personal, fishing licence (personal);
- (c) class recreational, fishing licence (recreational abalone);
- (d) class vessel, fishing licence (vessel).

PART 2 - Taking and possessing abalone

8. Total allowable catch

The period during which the total allowable catch may be taken is from 1 January to 31 December in each year.

9. Closed and open season for abalone

- (1) The Minister, by public notice, may determine –
 - (a) the dates of the closed season for all or part of the abalone fishery; and
 - (b) the dates of the open season for all or part of the abalone fishery.
- (2) A person must not take or be in possession of abalone in State waters that are closed to the abalone fishery.

Penalty:

Grade 3 penalty.

(3) The Minister, by public notice, may also determine any part of the abalone fishery to be closed to, or in respect of, such activities for such periods as are specified in the notice.

(4) A person must not contravene a determination in force under subrule (3) in respect of the abalone fishery.

Penalty:

Grade 3 penalty.

(5) A public notice under this rule may be –

(a) combined with another such notice; and

(b) revoked by another such notice.

10. Taking abalone

A person must not take any abalone unless that person –

(a) is the holder of –

(i) a fishing licence (abalone dive); or

(ii) a fishing licence (recreational abalone); or

(b) is an Aborigine undertaking an Aboriginal activity.

Penalty:

Grade 3 penalty.

11. Authority of abalone licences

(1) A fishing licence (abalone quota) only authorises the holder to have a share of the total allowable catch of abalone which is equal to the number of abalone quota units specified in the licence.

(2) Subject to rules 36(2), 50 and 51, a fishing licence (abalone dive) only authorises the holder to dive, take and have possession of abalone of a quantity specified in the licence and only the holder or supervisor as specified in that licence is authorised to dive, take and have possession of abalone under the authority of that licence.

(3) A fishing licence (recreational abalone) only authorises the holder of the licence to take abalone for recreational purposes.

(4) A person must not take abalone for recreational purposes unless the person is the holder of a fishing licence (recreational abalone).

Penalty:

Grade 3 penalty.

(5) A person must not take any abalone for commercial purposes unless the person is the holder of a fishing licence (abalone dive) and a fishing licence (personal).

Penalty:

Grade 3 penalty.

12. Number of fishing licences (abalone dive)

The Minister is to ensure that not more than 121 fishing licences (abalone dive) are in force at the one time.

12A. Granting of fishing licences (abalone dive)

A fishing licence (abalone dive) may only be granted to a person if the person lodging the application for the licence –

(a) held a fishing licence (abalone dive) on the preceding 31 December; and

(b) has not transferred the fishing licence (abalone dive); and

(c) lodges the application in accordance with section 77 of the Act within 12 months after the expiry of the licence that he or she currently holds.

13. Restrictions on fishing licence (abalone dive)

(1) The holder of a fishing licence (abalone dive) –

(a) must not have possession of an abalone that has been removed from its shell unless the holder is not on a fishing vessel and the abalone –

(i) has been taken under a fishing licence (recreational abalone); or

(ii) is being prepared for cooking or is being cooked or consumed; or

(iii) is being or has been processed in processing premises; and

(b) must not, subject to rules 36(2), 50 and 51, take an amount of abalone which exceeds the total amount specified in the licence at the time the abalone are taken; and

(c) must not, subject to rules 36(2), 50 and 51, take an amount of abalone from a part of the fishery that exceeds the total amount specified in the licence for that part at the time the abalone are taken; and

(d) must ensure that any abalone taken is landed in Tasmania before being transported outside State waters; and

(e) must deliver all abalone to either or both of the following:

(i) the holder of a fish processing licence that specifies abalone;

(ii) a marine farmer for use as broodstock; and

(f) must ensure that the abalone, on delivery, are in the shell and not mutilated; and

(g) must ensure that the relevant commercial abalone dive docket accompanies the abalone.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (abalone dive) –

(a) must not take or be in possession of abalone taken under a fishing licence (recreational abalone) while on a fishing vessel that is being used to take, transport or store abalone for commercial purposes; and

(b) must carry a measuring device when diving; and

(c) must measure an abalone with the measuring device as soon as it is detached; and

(d) must immediately replace an undersize abalone; and

(e) must not land abalone without being in possession of a commercial abalone dive docket at the landing area.

Penalty:

Grade 2 penalty.

14. Weight of total allowable catch

A holder of an abalone quota unit may only authorise a holder of a fishing licence (abalone dive) to take the kilograms of abalone specified in the abalone quota certificate from the part of the fishery specified in that certificate.

15. Abalone quota certificate

The Secretary may issue a certificate certifying that a holder of abalone quota units may authorise a holder of a fishing licence (abalone dive) to take abalone of a weight specified in the certificate from the part of the fishery specified in the certificate.

16. Quantity of abalone

(1) Subject to subrule (2), a person must not –

(a) take more than 10 abalone in any one day, unless the person is the holder of a fishing licence (abalone dive); or

(b) have possession of more than 5 abalone unless the person –

(i) is the holder of a fishing licence (recreational abalone); or

(ii) is an Aborigine undertaking an Aboriginal activity; or

(iii) is a person referred to in paragraph (c); or

(c) have possession of more than 20 abalone unless the person –

(i) has the yellow sheet of the completed commercial abalone dive docket relating to the abalone with the abalone to which the docket relates; or

(ii) has a receipt relating to the purchase of the abalone from a fish merchant with the abalone to which the receipt relates; or

(iii) is the holder of a fishing licence (abalone dive) who has taken the abalone under that licence and has not left the landing area.

Penalty:

Grade 3 penalty.

(2) Subrule (1)(b) and (c) does not apply if all the abalone are on, or have been taken from, a marine farm by or with the authority of the holder of the marine farming licence or a permit relating to marine farming and have been grown under that licence or permit.

17. Diving from vessel

A person must not –

(a) dive from, or enter the water from, a fishing vessel or auxiliary vessel that is being used to take abalone for commercial purposes unless the person is the holder of a fishing licence (abalone dive); or

(b) being the owner or master of a fishing vessel that is being used to take abalone for commercial purposes, permit any person to dive from, or enter the water from, that fishing vessel or an auxiliary vessel used in connection with the vessel unless the person diving or entering the water is the holder of a fishing licence (abalone dive).

Penalty:

Grade 3 penalty.

18. Restrictions on fishing licence (recreational abalone)

(1) The holder of a fishing licence (recreational abalone) must –

- (a) carry a measuring device while taking abalone; and
- (b) measure an abalone with the measuring device as soon as it is detached; and
- (c) immediately replace undersize abalone; and
- (d) subject to subrule (2), bring ashore all abalone above high-water mark before detaching any abalone meat or offal from the shell.

Penalty:

Grade 3 penalty.

(2) Subrule (1)(d) does not apply to the holder of a fishing licence (recreational abalone) if –

- (a) the holder only detaches the shell of one abalone per day; and
- (b) the holder is on a vessel –
 - (i) that is registered to carry passengers under a certificate of survey issued under the National Law of Class 1 or Class 2; and
 - (ii) that is undertaking a charter; and
 - (iii) the master of which has been authorised by the Secretary to have detached abalone aboard; and
- (c) the shell is retained on board the vessel until it returns to port; and
- (d) the detached abalone is part of the daily catch and possession limit.

19. Possessing abalone or apparatus on vessel

(1) Subject to subrules (2) and (3), a person must not have possession –

- (a) on any vessel, of any abalone that is detached from its shell or processed in any form other than being packed; or

(b) on a fishing vessel that is being used to take, transport or store abalone for commercial purposes, of a –

(i) rock lobster pot; or

(ii) rock lobster ring; or

(iii) rock lobster; or

(iv) giant crab trap.

Penalty:

Grade 3 penalty.

(2) Subrule (1)(a) does not apply to the holder of a fishing licence (recreational abalone) if –

(a) the holder only detaches the shell of one abalone per day; and

(b) the holder is on a vessel –

(i) that is registered to carry passengers under a certificate of survey issued under the National Law of Class 1 or Class 2; and

(ii) that is undertaking a charter; and

(iii) the master of which has been authorised by the Secretary to have detached abalone aboard; and

(c) the shell is retained on board the vessel until it returns to port; and

(d) the detached abalone is part of the daily catch and possession limit.

(3) Subrule (1)(b) does not apply to a person who has possession of one rock lobster pot or one rock lobster ring, if that rock lobster pot or rock lobster ring –

(a) was not on the fishing vessel at the time the fishing trip commenced; and

(b) was found in State waters; and

(c) does not have a mark by which the identity of the owner of the rock lobster pot or ring can be established.

(4) A person must not have possession of, or use, abalone or part of abalone as bait in State waters.

Penalty:

Grade 3 penalty.

20. Taking abalone from certain vessels

(1) Subject to subrule (2), the holder of a fishing licence (abalone dive) must not take abalone from a fishing vessel if that fishing vessel –

(a) is authorised to be used in the commercial taking and possession of abalone in Victoria; or

(b) has been used for the taking and possession of abalone in Victoria during the previous 12 months.

Penalty:

Grade 3 penalty.

(2) Subrule (1) does not apply if –

(a) the holder of a fishing licence (abalone dive) has been notified in writing by the Secretary that the fishing vessel has been disinfected, cleaned or otherwise treated to the satisfaction of the Secretary; and

(b) the fishing vessel has not been used for the taking or possession of abalone in Victoria after the notification referred to in paragraph (a).

21. Possessing abalone in certain areas

(1) In this rule –

NSCV means the National Standard for Commercial Vessels published by the National Marine Safety Committee, as amended from time to time;

trading vessel means a vessel, other than a fishing vessel, that is used or is intended to be used, wholly or principally –

(a) to carry passengers or cargo for hire or reward; or

(b) to provide services to ships or shipping, whether for reward or otherwise;

USL means the Uniform Shipping Laws Code adopted by the Australian Transport Council and notified in the Commonwealth of Australia Gazette.

(2) Subject to subrule (3), a person must not, in State waters north of the line of latitude 39° 33' South, be in possession of abalone unless –

- (a) the abalone was taken under the authority of a commercial fishing licence; or
- (b) the person is on –
 - (i) a trading vessel; or
 - (ii) a vessel classified as a Class 2 vessel under the NSCV or the USL; or
- (c) the person is in State waters that are within 50 metres of an island.

Penalty:

Grade 3 penalty.

(3) Subrule (2) does not apply if the person has the Secretary's written approval to be in possession of abalone in State waters north of the line of latitude 39° 30' South.

22. All abalone above size limit to be landed

The holder of a fishing licence (abalone dive) who, on a fishing trip, takes an abalone that is not undersize and is within the quota limit of the relevant licence, must land that abalone.

Penalty:

Grade 2 penalty.

23. Abalone meat

(1) A person must not have possession of greenlip abalone meat that is less than 70 grams in weight unless the person is the holder of a fish processing licence and –

- (a) the abalone was not taken in State waters and was imported into the State; and
- (b) the person is able to verify the source of the abalone meat.

Penalty:

Grade 3 penalty.

(2) A person must not have possession of any abalone meat, other than greenlip abalone meat, that is less than 90 grams in weight unless –

- (a) the person is the holder of a fish processing licence endorsed to process abalone; or

(b) the person has bought or received the abalone from a fish merchant; or

(c) the abalone is blacklip abalone taken from the northern area.

Penalty:

Grade 3 penalty.

(3) The holder of a fish processing licence must not have possession of any abalone meat, other than greenlip abalone meat, less than 90 grams in weight unless the abalone was taken in the northern blacklip area or the Bass Strait area or –

(a) the abalone was not taken in State waters and was imported into the State; and

(b) the holder is able to verify the source of the abalone meat.

Penalty:

Grade 3 penalty.

(4) This rule does not apply to marine farmers.

24. Storage of imported abalone meat

The holder of a fish processing licence who possesses abalone meat that is not taken from State waters but imported into the State must store or hold the abalone meat in bins or containers that do not contain any other abalone or abalone meat taken from State waters.

Penalty:

Grade 2 penalty.

25. Taking abalone in northern area

(1) If the holder of a fishing licence (abalone dive) intends to take blacklip abalone in the northern area on a fishing trip, the holder, subject to subrules (2), (4) and (6) –

(a) must start and end that fishing trip within the northern area; and

(b) must not enter State waters that are not within the northern area.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (abalone dive) intending to take blacklip abalone in the northern area on a fishing trip may start the fishing trip from outside that area if –

(a) the holder undertakes the fishing trip on a mother boat; and

(b) the holder completes a prior fishing report before the mother boat leaves port commencing that fishing trip; and

(c) no abalone is on that mother boat before it enters the northern area; and

(d) the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving port report; and

(e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area.

(3) If taking blacklip abalone in the northern area on a fishing trip, the holder of a fishing licence (abalone dive) must not take abalone or dive or swim on that fishing trip in State waters that are not within the northern area.

Penalty:

Grade 3 penalty.

(4) If during a fishing trip the holder of a fishing licence (abalone dive) has taken blacklip abalone in the northern area, the holder may enter State waters not within that area if –

(a) the holder is undertaking the fishing trip on a mother boat; and

(b) the supervisor of a fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving area report; and

(c) the mother boat leaves the northern area at the eastern boundary of the northern area at an imaginary line from the northern side of the mouth of the Great Musselroe River at Musselroe Bay running due west for 100 metres, then following the shoreline 100 metres from shore to the northernmost tip of Musselroe Point, then running due north until intersection with the line of latitude 40° 48' 00" South, and running due east to the outer limit of State waters; and

(d) the mother boat –

(i) completes that fishing trip on the east coast of Tasmania north of an imaginary straight line running due east from the tip of St Helens Point or within the waters of Georges Bay; and

(ii) does not enter State waters south of that line, other than within Georges Bay; and

(iii) proceeds directly to the point of unloading after leaving the northern area; and

(e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area; and

(f) the mother boat on which the fishing trip is undertaken is fitted with a vessel monitoring system.

(5) The holder of a fishing licence (abalone dive) must not take blacklip abalone in the northern area on a fishing trip unless the intention to do so is stated in the prior fishing report relating to that fishing trip.

Penalty:

Grade 3 penalty.

(6) If during a fishing trip the holder of a fishing licence (abalone dive) has taken blacklip abalone in the northern area, the holder may enter State waters not within that area if –

(a) the holder is undertaking the fishing trip on a mother boat; and

(b) the supervisor of a fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving area report; and

(c) the mother boat leaves the northern area at the southern boundary of the northern area delineated by an imaginary straight line running due west from the mouth of the Arthur River to the limit of State waters; and

(d) the mother boat –

(i) completes that fishing trip on the west coast of Tasmania north of an imaginary line running due west from Cape Sorell to the limit of State waters or within Macquarie Harbour; and

(ii) does not enter State waters south of that line other than in Macquarie Harbour or the channel into Macquarie Harbour; and

(iii) proceeds directly to the port of unloading after leaving the northern area; and

(e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area; and

(f) the mother boat on which that trip is undertaken is fitted with a vessel monitoring system.

26.

27. Single part of fishery fishing

(1) The holder of a fishing licence (abalone dive), on a fishing trip, must not take blacklip abalone in a part of the fishery other than that nominated under rules 38(5) or rule 39(2) for that trip.

Penalty:

Grade 3 penalty.

(2) On a fishing trip, the holder of a fishing licence (abalone dive) must not take blacklip abalone from more than one part of the fishery.

Penalty:

Grade 3 penalty.

(3) If the holder of a fishing licence (abalone dive), on a fishing trip intends to take, or takes, abalone from the eastern blacklip abalone part of the fishery, he or she must not enter waters within the western blacklip abalone part of the fishery on that trip.

Penalty:

Grade 3 penalty.

(4) If the holder of a fishing licence (abalone dive), on a fishing trip, intends to take, or takes, blacklip abalone from one part of the blacklip abalone fishery, he or she must not, on that fishing trip, dive or swim in State waters that are not within that part of the blacklip abalone fishery.

Penalty:

Grade 3 penalty.

28. Taking abalone in Bass Strait area

(1) If the holder of a fishing licence (abalone dive) intends to take blacklip abalone in the Bass Strait area on a fishing trip, the holder, subject to subrules (2) and (4) –

(a) must start and end that fishing trip within the Bass Strait area; and

(b) must not enter State waters that are not within the Bass Strait area.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (abalone dive) intending to take blacklip abalone in the Bass Strait area on a fishing trip may start the fishing trip from outside that area if –

(a) the holder undertakes the fishing trip on a mother boat; and

(b) the holder completes a prior fishing report before the mother boat leaves port commencing that fishing trip; and

(c) no abalone is on the mother boat before it enters the Bass Strait area; and

(d) the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving port report; and

(e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the Bass Strait area; and

(f) the mother boat on which the fishing trip is undertaken is fitted with a vessel monitoring system.

(3) If taking blacklip abalone in the Bass Strait area on a fishing trip, the holder of a fishing licence (abalone dive) must not dive, swim or take abalone on that fishing trip in State waters that are not within the Bass Strait area.

Penalty:

Grade 3 penalty.

(4) If during a fishing trip the holder of a fishing licence (abalone dive) has taken blacklip abalone in the Bass Strait area, the holder may enter State waters not within that area if –

(a) the holder is undertaking the fishing trip on a mother boat; and

(b) the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving area report; and

(c) if the mother boat leaves the Bass Strait area at the eastern boundary of the Bass Strait area at an imaginary line beginning where the line of longitude 147° 27' 00" East meets the high-water mark of the north coast of the mainland of Tasmania in Anderson Bay, then running due north until its junction with the line of latitude 40° 39' South, then due east along that line of latitude to the limit of State waters, the mother boat –

(i) completes that fishing trip north of an imaginary line running east from the tip of St Helens Point to the outer limit of State waters or within the waters of Georges Bay; and

(ii) does not enter State waters south of that line running east from St Helens Point other than Georges Bay; and

(d) if the mother boat leaves the Bass Strait area at the western boundary of the Bass Strait area at the line of longitude 145° 22' 42" East, the mother boat –

(i) completes that fishing trip within the waters of the northern blacklip area; and

(ii) does not enter State waters that are not within the northern blacklip area; and

(e) the mother boat proceeds directly to the point of unloading after leaving the Bass Strait area; and

(f) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the Bass Strait area; and

(g) the mother boat on which the fishing trip is undertaken is fitted with a vessel monitoring system.

(5) The holder of a fishing licence (abalone dive) must not take blacklip abalone in the Bass Strait area on a fishing trip unless the intention to take those abalone is stated in the prior fishing report relating to that fishing trip.

Penalty:

Grade 3 penalty.

29. Mother boat requirements

(1) If undertaking a fishing trip for which the supervisor of a fishing licence (vessel) under which the mother boat is authorised to carry abalone has made a leaving port report, the supervisor must ensure that –

(a) abalone are not taken from State waters other than the northern area; and

(b) abalone are not on the mother boat before it enters the northern area; and

(c) all fishing vessels and auxiliary vessels on the mother boat are securely fastened on the vessel while it is in any State waters other than the northern area.

Penalty:

Grade 3 penalty.

(2) If undertaking a fishing trip for which the supervisor of a fishing licence (vessel) under which a mother boat is authorised to carry abalone has made a leaving port report, and the holder of a fishing licence (abalone dive) undertaking that fishing trip has indicated in a prior fishing report the intention to take blacklip abalone from the Bass Strait area on that fishing trip, the supervisor must ensure that –

(a) abalone are not taken from State waters other than the Bass Strait area; and

(b) abalone are not on the mother boat before it enters the Bass Strait area; and

(c) all fishing vessels and auxiliary vessels on the mother boat are securely fastened on the vessel while it is in any State waters other than the Bass Strait area.

Penalty:

Grade 3 penalty.

30. Completing certain fishing trips within certain area

(1) The supervisor of a fishing licence (vessel) under which a mother boat is authorised to carry abalone who undertakes a fishing trip carrying the holder of a fishing licence (abalone dive) who has dived for, or has taken, blacklip abalone on that fishing trip in the northern area must complete that fishing trip within the northern area unless –

(a) the supervisor has completed a leaving area report; and

(b) the mother boat completes that fishing trip –

(i) on the west coast of Tasmania north of an imaginary line running due west from Cape Sorell to the outer limit of State waters or within Macquarie Harbour; or

(ii) on the east coast of Tasmania north of an imaginary line running due east from the tip of St Helens Point or within the waters of Georges Bay; and

(c) the mother boat does not enter State waters south of the boundaries referred to in paragraph (b) other than in Macquarie Harbour or the channel into Macquarie Harbour on the west coast or the waters of Georges Bay on the east coast; and

(d) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area; and

(e) the mother boat is fitted with a vessel monitoring system; and

(f) the mother boat proceeds directly to the port of unloading after leaving the northern area.

Penalty:

Grade 3 penalty.

(2) The supervisor of a fishing licence (vessel) under which a mother boat is authorised to carry abalone who undertakes a fishing trip carrying the holder of a fishing licence (abalone dive) who has dived for, or has taken, blacklip abalone on that fishing trip in the Bass Strait area must complete that fishing trip within the Bass Strait area unless –

(a) the supervisor has completed a leaving area report; and

(b) the mother boat completes that fishing trip –

(i) in State waters within the northern blacklip area; or

(ii) on the north-east or east coast of Tasmania or other islands in State waters north of an imaginary line running due east from the tip of St Helens Point to the outer limit of State waters or within the waters of Georges Bay; and

(c) the mother boat does not enter State waters that are not within the boundaries referred to in paragraph (b) except the waters of Georges Bay on the east coast; and

(d) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the Bass Strait area; and

(e) the mother boat is fitted with a vessel monitoring system; and

(f) the mother boat proceeds directly to the port of unloading after leaving the Bass Strait area.

Penalty:

Grade 3 penalty.

31. Requirements relating to certain sizes

(1) If the holder of a fishing licence (abalone dive) has reported to the reporting service the intention not to take on a fishing trip any abalone with a shell length less than 132 millimetres, the holder must not take or be in possession of any blacklip abalone on that fishing trip with a shell length less than 132 millimetres.

Penalty:

Grade 3 penalty.

(2) If the holder of a fishing licence (abalone dive) has reported to the reporting service the intention to take on a fishing trip abalone with a shell length less than 132 millimetres, the holder, on that fishing trip –

(a) must start and end that fishing trip in the northern blacklip area, unless the holder complies with the requirements of rule 25(2)(a), (b), (c), (d) and (e); and

(b) must not enter State waters that are not within the northern blacklip area, unless undertaking that trip on a mother boat; and

(c) must not take abalone or dive or swim in State waters that are not within the northern blacklip area; and

(d) must not leave the northern blacklip area unless –

(i) undertaking that fishing trip on a mother boat; and

(ii) the conditions for leaving the northern area as specified by rule 25(4) are complied with.

Penalty:

Grade 3 penalty.

32. Vessel monitoring system for Bass Strait area

(1) The holder of a fishing licence (abalone dive) must not undertake a fishing trip on a fishing vessel during which the holder takes, or intends to take, blacklip abalone in the Bass Strait area unless that vessel is –

(a) fitted with a vessel monitoring system; or

(b) a vessel that departs from and returns to a designated port; or

(c) transported by, and operates from, a mother boat where that operation includes –

(i) the transportation to and from areas of fishing; and

(ii) the carriage, storage and transportation to the port of unloading of all abalone taken by the holder of that licence on that fishing trip.

Penalty:

Grade 3 penalty.

(2) The supervisor of a fishing licence (vessel) under which a mother boat is authorised to carry abalone must not undertake a fishing trip on a fishing vessel carrying the holder of a fishing licence (abalone dive) during which that holder takes, or intends to take, blacklip abalone in the Bass Strait area unless that vessel is fitted with a vessel monitoring system.

Penalty:

Grade 3 penalty.

33. Processor handling of abalone

(1) The holder of a fish processing licence, on receipt of blacklip abalone taken from the northern blacklip area, must –

(a) transport and hold that abalone, before processing, in bins, containers or holding tanks; and

(b) ensure that the bins, containers or holding tanks are marked with the words "northern area" or a red tag marked with the words "northern area".

Penalty:

Grade 3 penalty.

(2) The holder of a fish processing licence, on receipt of blacklip abalone taken from the Bass Strait area, must –

(a) transport and hold that abalone, before processing, in bins, containers or holding tanks; and

(b) ensure that the bins, containers or holding tanks are marked with the words "Bass Strait area" or a red tag marked with the words "Bass Strait area".

Penalty:

Grade 3 penalty.

34. Marine farmer handling of broodstock

(1) In this rule –

commercial abalone dive docket book means a book containing commercial abalone dive docket.

(2) On receipt of broodstock from the holder of a fishing licence (abalone dive), a marine farmer must –

(a) complete a commercial abalone dive docket in accordance with Division 2 of Part 3 of the *Fisheries (Processing and Handling) Rules 2010* as if the marine farmer were the holder of a fish processing licence; and

(b) take the broodstock directly from the place of receipt to premises approved by the Secretary for the holding of broodstock.

Penalty:

Grade 3 penalty.

(3) A marine farmer must, within 48 hours of receiving broodstock from the holder of a fishing licence (abalone dive), report the following information to the Secretary:

(a) the type and number of broodstock taken;

(b) the names of the divers who took the broodstock;

(c) the numbers of the docket referred to in subrule (2)(a).

Penalty:

Grade 3 penalty.

(4) A marine farmer who has possession of broodstock must, in respect of each calendar year, prepare an annual report containing, in relation to each group of broodstock received by the marine farmer, the following information:

- (a) the type and number of broodstock taken;
- (b) the names of the divers who took the broodstock;
- (c) the numbers of the docketts referred to in subrule (2)(a);
- (d) whether the broodstock are alive or dead;
- (e) whether the marine farmer is still in possession of the broodstock;
- (f) if the marine farmer is not in possession of the broodstock –
- (i) how the broodstock were disposed of; and
- (ii) to whom the broodstock were transferred.

(5) A report prepared under subrule (4) must be submitted to the Secretary by 31 January of the following year.

Penalty:

Grade 3 penalty.

(6) A marine farmer must not take possession of abalone at his or her marine farm from the holder of a fish processing licence unless the abalone is broodstock.

Penalty:

Grade 3 penalty.

35. Cauf not to be used for abalone

The holder of a fishing licence (abalone dive) must not use a cauf for holding abalone.

Penalty:

Grade 3 penalty.

36. Diving teams

(1) If 2 people each hold a fishing licence (abalone dive) they may form a diving team for a particular fishing trip.

(2) Notwithstanding rule 11(2) and rule 13(1)(b) and (c), a member of a diving team may take and have possession of abalone in accordance with the fishing licence (abalone dive) of the other member of the team as if the member were that other member.

(3) If 2 people who each hold a fishing licence (abalone dive) form a dive team for a fishing trip, both licensees must –

(a) participate in diving on the fishing trip; and

(b) dive from the same vessel or auxiliary vessel whilst on the fishing trip; and

(c) start and finish the fishing trip on the same vessel.

Penalty:

Grade 2 penalty.

(4) A member of a diving team must not land abalone taken on a fishing trip from a vessel other than the vessel on which the trip was commenced.

Penalty:

Grade 2 penalty.

(5) A member of a diving team must not take abalone quota units that are held as fishing licence (abalone quota) unless the fishing licence (abalone quota) is endorsed to permit the taking of abalone quota units by members of a diving team.

Penalty:

Grade 2 penalty.

(6) On a fishing trip to a part of the fishery, the members of a diving team must not take or have possession of more abalone in total than the combined amount authorised to be taken or possessed on that trip under each member's fishing licence (abalone dive) for that part of the fishery, including any excess authorised under rule 50 or 51.

Penalty:

Grade 3 penalty.

PART 3 - Reporting

Division 1 - Reports

37. Reporting service

The Secretary may approve a service as the service that may receive reports under this Part.

38. Prior fishing report

(1) The holder of a fishing licence (abalone dive), not more than 24 hours before entering State waters for the purpose of taking abalone for commercial purposes, must make a prior fishing report to the reporting service.

Penalty:

Grade 2 penalty.

(2) If the holder of a fishing licence (abalone dive) intends to take abalone in the northern area on a fishing trip, the holder must indicate that intention in the prior fishing report relating to that fishing trip.

Penalty:

Grade 2 penalty.

(3) If the holder of a fishing licence (abalone dive) intends to take on a fishing trip in the northern area abalone with a shell length less than 132 millimetres, the holder must indicate this intention in the prior fishing report relating to that fishing trip.

Penalty:

Grade 2 penalty.

(4) If the holder of a fishing licence (abalone dive) intends to take blacklip abalone in the Bass Strait area on a fishing trip, the holder must indicate that intention in the prior fishing report relating to that fishing trip.

Penalty:

Grade 2 penalty.

(5) The holder of a fishing licence (abalone dive) must nominate, in the prior fishing report, the part of the fishery, other than the greenlip abalone part of the fishery, from which he or she intends to take abalone.

Penalty:

Grade 2 penalty.

(6) On receipt of a prior fishing report from the holder of a fishing licence (abalone dive), the reporting service is to issue to the holder a report receipt number.

39. Changing part of fishery report

(1)

(2) Subject to subrule (3), the holder of a fishing licence (abalone dive) who has made a prior fishing report for a fishing trip may make a changing part of fishery report during that fishing trip to change the holder's intention to either take or not take abalone –

(a) in a part of the fishery; or

(b) in the northern area; or

(c) in the northern area with a shell length less than 132 millimetres.

(3) The holder of a fishing licence (abalone dive) may only make a changing part of fishery report under subrule (2) if –

(a) the holder has not taken any abalone on the fishing trip at that time; and

(b) no abalone is on the vessel from which the holder is diving at that time; and

(c) the holder has not dived or swum beneath the surface of the water on that fishing trip at that time.

(4) On receipt of a changing part of fishery report from the holder of a fishing licence (abalone dive), the reporting service is to issue to the holder a report receipt number.

40. Leaving port report

(1) The supervisor of a fishing licence (vessel) authorising a mother boat to carry abalone must make a leaving port report to the reporting service not more than 24 hours and not less than 2 hours before the start of a fishing trip if –

(a) the supervisor intends to take the holder of a fishing licence (abalone dive) on that fishing trip; and

(b) the holder intends to take blacklip abalone in the northern area on that fishing trip; and

(c) the fishing trip starts outside the northern area.

Penalty:

Grade 2 penalty.

(2) The supervisor of a fishing licence (vessel) authorising a mother boat to carry abalone must make a leaving port report to the reporting service not more than 24 hours and not less than 2 hours before the start of a fishing trip if –

(a) the supervisor intends to take the holder of a fishing licence (abalone dive) on that fishing trip; and

(b) the holder intends to take blacklip abalone in the Bass Strait area on that fishing trip; and

(c) the fishing trip starts outside the Bass Strait area.

Penalty:

Grade 2 penalty.

(3) On receipt of a leaving port report from the supervisor, the reporting service is to issue to the supervisor a report receipt number.

41. Leaving area report

(1) The supervisor of a fishing licence (vessel) under which the mother boat is authorised to carry abalone who intends to leave the northern area to enter State waters as permitted by rule 25(4) or (6) or rule 30 must make a leaving area report to the reporting service no less than 2 hours before leaving the northern area.

Penalty:

Grade 2 penalty.

(2) The supervisor of a fishing licence (vessel) under which the mother boat is authorised to carry abalone who intends to leave the Bass Strait area to enter State waters as permitted by rule 28 or 30 must make a leaving area report to the reporting service not less than 2 hours before leaving the Bass Strait area.

Penalty:

Grade 2 penalty.

(3) On receipt of a leaving area report from the supervisor, the reporting service is to issue to the supervisor a report receipt number.

42. Cancellation report

(1) If a person who makes a report to the reporting service does not undertake the activity to which the report relates, the person must make a cancellation report to the reporting service.

Penalty:

Grade 2 penalty.

(2) A cancellation report is to be made –

(a) to the reporting service; and

(b) within 2 hours after the activity was due to occur.

(3) On receipt of a cancellation report from a person, the reporting service is to issue to the person a report receipt number.

43. Post fishing report

(1) Subject to subrule (2), the holder of a fishing licence (abalone dive) must make a post fishing report to the reporting service –

(a) within 2 hours of landing, if any abalone were not taken; or

(b) within 30 minutes of completing the commercial abalone dive docket under rule 45(2) or (3), if abalone was taken.

Penalty:

Grade 2 penalty.

(2) Subrule (1) does not apply to the holder of a fishing licence (abalone dive) who –

(a) delivers abalone within the landing area to the holder of a fish processing licence authorised to take abalone; and

(b) completes Part A of a commercial abalone dive docket in accordance with rule 45(2) or (3).

(3) On receipt of a post fishing report from the holder of a fishing licence (abalone dive), the reporting service is to issue to the holder a report receipt number.

44. Recording and providing report receipt number

A person to whom a report receipt number is issued by a reporting service must –

- (a) record that report receipt number; and
- (b) provide that report receipt number when required to do so by a fisheries officer.

Penalty:

Grade 2 penalty.

Division 2 - Commercial abalone dive docket

45. Commercial abalone dive docket

(1) The holder of a fishing licence (abalone dive) must complete the information relating to fishing in Part A of a commercial abalone dive docket –

- (a) on the day on which the abalone are taken; and
- (b) as soon as possible after that day's diving is completed.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (abalone dive) must complete Part A of a commercial abalone dive docket –

- (a) if that licensee is returning from a fishing trip on a mother boat, within 6 hours after the mother boat arrives at the site of unloading where the licensee unloads or intends to unload the abalone from that mother boat; or
- (b) if that licensee is returning from a fishing trip on a boat that is not a mother boat, within 4 hours after the abalone are landed; or
- (c) within such longer period as a fisheries officer may authorise.

Penalty:

Grade 3 penalty.

(2A) If an authorisation under subrule (2)(c) is given orally, the fisheries officer is to confirm that authorisation in writing to the licensee as soon as practicable after it is given.

(3) The holder of a fishing licence (abalone dive) must complete Part A of a commercial abalone dive docket –

- (a) if the relevant processing premises are located within the landing area, before the abalone enters the premises, place or vehicle; or
- (b) if the processing premises are within 100 metres of the site of unloading, or otherwise within the landing area –
 - (i) before the holder of a fish processing licence makes the receipt report relating to the abalone specified on that commercial abalone dive docket; and
 - (ii) before Part B of that commercial abalone dive docket is completed; and
 - (iii) within 15 minutes after the last abalone relating to that commercial abalone dive docket enters any place within processing premises that is capable of being fully enclosed; or
- (c) in any other case, before the abalone leave the landing area.

Penalty:

Grade 3 penalty.

(4) The holder of a fishing licence (abalone dive) must –

- (a) send the pink sheet of the completed commercial abalone dive docket to the Secretary within 48 hours after Part B of the commercial abalone dive docket has been completed; and
- (b) retain the white sheet of the completed commercial abalone dive docket for at least 5 years.

Penalty:

Grade 2 penalty.

46. Diving team dockets

(1) Before commencing a fishing trip on which 2 holders of fishing licences (abalone dive) intend to form a diving team, each member of the proposed diving team must complete a diving team docket.

Penalty:

Grade 2 penalty.

(2) A diving team docket is to be completed in addition to a commercial abalone dive docket.

(3) When completing Part A of a commercial abalone dive docket, each member of the diving team must ensure that all abalone taken on the fishing trip are declared as to be deducted from the quota limit of one or other, or a combination of both, of the members of the team.

Penalty:

Grade 2 penalty.

(4) The holder of a fishing licence (abalone dive) who completes a diving team docket in respect of a fishing trip must –

(a) send the pink sheet of the completed diving team docket to the Secretary with the pink sheet of the completed commercial abalone dive docket for that trip required to be sent to the Secretary under rule 45(4)(a); and

(b) retain the white sheet of the completed diving team docket for 5 years.

Penalty:

Grade 2 penalty.

47. Transfer dockets

The holder of a fishing licence (abalone dive) who completes a transfer docket under rule 50(8) in respect of a fishing trip must –

(a) send the pink sheet of the completed transfer docket to the Secretary with the pink sheet of the completed commercial abalone dive docket for that trip required to be sent to the Secretary under rule 45(4)(a); and

(b) retain the white sheet of the completed transfer docket for 5 years.

Penalty:

Grade 2 penalty.

48. Dockets to be clear and legible

The holder of a fishing licence (abalone dive) must ensure that any information entered on a commercial abalone dive docket, diving team docket or transfer docket appears and is maintained in a clear and legible manner on each sheet of the docket.

Penalty:

Grade 2 penalty.

PART 4 - Miscellaneous

49. Landing areas

The following are landing areas:

(a) at Great Musselroe Bay, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing in Great Musselroe Bay;

(b) at Bluff Hill Point, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing in Mawson Bay;

(c) at Couta Rocks, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing at Couta Rocks;

(d) at Garden Point near Port Arthur, the area within a radius of 500 metres on the landward side from the high-tide mark closest to the launching ramp in Long Bay;

(e) at a place within 5 kilometres of Granville Harbour, the area within a radius of 1 500 metres on the landward side from the high-tide mark closest to the point of landing;

(f) at Green Point near Marrawah, the area of Green Point Road to the intersection of Green Point Road and Comeback Road;

(g) at Ocean Beach, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing at Braddon Point;

(h) at Petal Point, the area within a radius of 150 metres on the landward side from the high-tide mark closest to the commencement of the access road at the southern end of Lemons Beach;

(i) at South Arm, the area within a radius of 500 metres on the landward side from the high-tide mark closest to the launching ramp in Halfmoon Bay;

(j) at Temma, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing in Temma Harbour;

(k) at Trial Harbour, the area within a radius of 300 metres on the landward side from the high-tide mark closest to the point of landing in Trial Harbour;

(l) at Southport at the boat ramp on the northern side of the Southport narrows, an area that is within 50 metres of the landward side of the high-water mark of that boat ramp, including Kingfish Beach Road in an easterly direction of that boat ramp until that road intersects with the Huon Highway, and an area 30 metres in any direction from the centre of that intersection;

(m) at any other place, the area within a radius of 50 metres on the landward side from the high-tide mark closest to the point of landing.

50. Over-catch not more than 20%

(1) Notwithstanding rule 11(2) and rule 13(1)(b) and (c), if the holder of a fishing licence (abalone dive) takes on a fishing trip an amount of abalone that exceeds his or her quota limit by not more than 20%, he or she does not commit an offence if he or she deals with the excess abalone in accordance with this rule.

(2) An excess of abalone referred to in subrule (1) may be –

(a) given to another holder of a fishing licence (abalone dive) in accordance with subrules (6), (7) and (8); or

(b) dealt with in accordance with subrule (9) or (10).

(3) The holder of a fishing licence (abalone dive) who receives abalone under this rule is, notwithstanding rule 11(2) and rule 13(1)(b) and (c), authorised to have possession of those abalone to the extent that they do not exceed his or her quota limit.

(4) The holder of a fishing licence (abalone dive) who receives abalone under this rule must, when completing Part A of his or her commercial abalone dive docket, ensure that the amount of abalone received is declared as to be deducted from his or her quota limit as if he or she had taken those abalone.

Penalty:

Grade 3 penalty.

(5) The holder of a fishing licence (abalone dive) must ensure that no abalone received under this rule is declared as to be deducted from abalone quota units held as fishing licence (abalone quota) unless the fishing licence (abalone quota) is endorsed to permit such a deduction.

Penalty:

Grade 2 penalty.

(6) Before completing Part A of the commercial abalone dive docket, the holder of a fishing licence (abalone dive) may give an amount of abalone taken in excess of the quota limit to another holder of a fishing licence (abalone dive) if the licence holder receiving the abalone –

(a) is completing a commercial fishing trip for abalone; and

(b) is within the landing area of the licence holder giving the abalone; and

(c) by accepting the abalone would not exceed his or her quota limit.

(7) If the holder of a fishing licence (abalone dive) intends to give abalone to another holder of a fishing licence (abalone dive) under this rule, the licence holder giving the abalone must ensure that no abalone taken by him or her on the fishing trip leaves the landing area until after that transfer is complete.

Penalty:

Grade 3 penalty.

(8) Each licence holder referred to in subrules (6) and (7) must complete and sign a transfer docket –

(a) before completing Part A of the commercial abalone dive docket; and

(b) before any abalone taken on their respective fishing trips leave their respective landing areas.

Penalty:

Grade 3 penalty.

(9) If the holder of a fishing licence (abalone dive) does not give the excess abalone to another holder of a fishing licence (abalone dive), he or she must –

(a) before the end of the quota period in which the abalone were taken, provide the Secretary with such information as the Secretary may require in order for additional quota units to be specified on the fishing licence (abalone dive) against which all or part of the excess abalone is to be reconciled; or

(b) pay to the Crown, in respect of any excess abalone not dealt with under paragraph (a), an amount equal to –

(i) the last beach price for the abalone, calculated in accordance with the *Fisheries (General and Fees) Regulations 2006*, for any amount of abalone that exceeds the quota limit by not more than 10%; and

(ii) twice that price for any amount that exceeds that limit by more than 10% and not more than 20%.

Penalty:

Grade 3 penalty.

(10) If the fishing trip is the last trip for a quota period to a particular part of the fishery by the holder of a fishing licence (abalone dive), in respect of any excess abalone not dealt with under subrule (9) –

(a) the licence holder must pay to the Crown an amount equal to –

(i) the last beach price for the quota period in which the abalone were taken, calculated in accordance with the *Fisheries (General and Fees) Regulations 2006*, for any amount of abalone that exceeds the quota limit by not more than 10%; and

(ii) twice that price for any amount that exceeds that limit by more than 10% and not more than 20%; or

(b) in the case of a licence holder who intends to sell or otherwise dispose of his or her licence, or a supervisor who intends to cease to be a supervisor in respect of such a licence, the licence holder or supervisor may pay to the Crown an amount equal to –

(i) the last beach price for the abalone, calculated in accordance with the *Fisheries (General and Fees) Regulations 1996*, for any amount of abalone that exceeds the quota limit by not more than 10%; and

(ii) twice that price for any amount that exceeds that limit by more than 10% and not more than 20%.

(11) If the holder of a fishing licence (abalone dive) pays an amount to the Crown under subrule (9)(b) or subrule (10) for excess abalone, the excess abalone need not be reconciled against the amount of abalone specified on his or her licence.

(12) The holder of a fishing licence (abalone dive) who takes excess abalone from a part of the fishery in a quota period must not dive in that part of the fishery in that quota period until the excess abalone have been dealt with in accordance with this rule.

Penalty:

Grade 3 penalty.

(13) If the holder of a fishing licence (abalone dive) is required to pay an amount to the Crown for excess abalone under subrule (9)(b) or subrule (10), that amount must be paid within –

(a) 30 days after the licence holder has been notified by the Secretary that the licence holder has excess abalone for that quota period; or

(b) such greater period, if any, as the Secretary determines.

51. Over-catch more than 20%

(1) In this rule –
specified period means –

(a) 30 days after the licence holder has been notified by the Secretary that the licence holder has excess abalone for that quota period; or

(b) such greater period, if any, as the Secretary determines.

(2) This rule applies if the holder of a fishing licence (abalone dive) –

(a) takes on a fishing trip an amount of abalone that exceeds the licensee's quota limit by more than 20% but not by more than 30%; or

(b) the abalone in excess of 20% of the licence holder's quota limit weighs less than 20 kilograms.

(3) Notwithstanding rule 11(2) and rule 13(1)(b) and (c), the holder of a fishing licence (abalone dive) referred to in subrule (2) does not commit an offence if he or she, within the specified period, pays to the Crown in respect of the excess abalone an amount equal to twice the last beach price for the excess abalone calculated in accordance with the *Fisheries (General and Fees) Regulations 2006*.

51A. Over-catch more than 30%

Nothing in rule 50 or 51 is to be taken as preventing any proceedings or actions from being taken against the holder of a fishing licence (abalone dive) in respect of an over-catch in excess of 30% of the licence holder's quota limit.

52. Records by holders of fishing licence (abalone dive)

The holder of a fishing licence (abalone dive) must make and keep for a period of 10 years records that enable the following information to be determined in relation to operations conducted under the licence and in relation to business activities arising in connection with those operations:

(a) the date of any sale or consignment of abalone made by or on behalf of the holder;

(b) the exact weight of abalone sold or consigned;

(c) the price or consideration received for abalone;

(d) the name and address of the purchaser or consignee of abalone.

Penalty:

Grade 2 penalty.

53. Unauthorised possession of docket book

A person or an agent of a person must not have possession of any of the following unused dockets unless it was issued to the person and the person is the current holder of a fishing licence (abalone dive) or a fish processing licence:

(a) commercial abalone dive docket;

(b) transfer docket;

(c) diving team docket;

(d) fish dispatch docket;

(e) fish receipt docket.

Penalty:

Grade 3 penalty.

54. Return of unused docket book

A person who was the holder of a fishing licence (abalone dive) or a fish processing licence, within 14 days after the expiration or cancellation of the licence, must return to the Secretary the following unused dockets issued to that person:

(a) commercial abalone dive docket;

(b) transfer docket;

(c) diving team docket;

(d) fish dispatch docket;

(e) fish receipt docket.

Penalty:

Grade 2 penalty.

55. Vessel monitoring system

The provisions of Part 3 of the *Fisheries Rules 2009* relating to a vessel monitoring system apply to the holder of a fishing licence (vessel).

56. Infringement notice offences and penalties

For the purposes of section 42(2) of the Act –

(a) an offence against a provision of these rules specified in column 2 of Schedule 1 is a prescribed offence for the purposes of Division 5 of Part 9 of the Act; and

(b) the penalty specified in column 3 of that Schedule opposite that provision is the prescribed penalty applicable to that offence.

57. Transitional provision

A public notice under the *Fisheries (Abalone) Rules 2000* that had force and effect immediately before the day on which these rules take effect, is taken to be a public notice under and for the purposes of these rules, having force and effect according to its terms until whichever of the following first occurs:

(a) the public notice is rescinded;

(b) the public notice is spent in its application.

SCHEDULE 1 - Infringement notice offences

Rule 56

Column 1	Column 2	Column 3
Item	Provision of rules	Penalty (penalty units)
1.	<u>Rule 9(2)</u>	10
2.	<u>Rule 9(4)</u>	10

3.	<u>Rule 10</u>	10
4.	<u>Rule 11(4)</u>	10
5.	<u>Rule 11(5)</u>	10
6.	<u>Rule 13(1)</u>	10
7.	<u>Rule 13(2)</u>	5
8.	<u>Rule 16(1)</u>	8
9.	<u>Rule 17</u>	8
10.	<u>Rule 18(1)</u>	5
11.	<u>Rule 19(1)</u>	8
12.	<u>Rule 19(4)</u>	6
13.	<u>Rule 20(1)</u>	10
14.	<u>Rule 21(2)</u>	10
15.	<u>Rule 22</u>	6
16.	<u>Rule 23(1)</u>	8
17.	<u>Rule 23(2)</u>	8
18.	<u>Rule 23(3)</u>	8
19.	<u>Rule 24</u>	5
20.	<u>Rule 25(1)</u>	8
21.	<u>Rule 25(3)</u>	8
22.	<u>Rule 25(5)</u>	8
23.	<u>Rule 27(1)</u>	8
24.	<u>Rule 27(2)</u>	8
25.	<u>Rule 27(3)</u>	8
26.	<u>Rule 27(4)</u>	8
27.	<u>Rule 28(1)</u>	8
28.	<u>Rule 28(3)</u>	8
29.	<u>Rule 28(5)</u>	8
30.	<u>Rule 29(1)</u>	8
31.	<u>Rule 29(2)</u>	8
32.	<u>Rule 30(1)</u>	8
33.	<u>Rule 30(2)</u>	8
34.	<u>Rule 31(1)</u>	8
35.	<u>Rule 31(2)</u>	8
36.	<u>Rule 32(1)</u>	8
37.	<u>Rule 32(2)</u>	8
38.	<u>Rule 33(1)</u>	8
39.	<u>Rule 33(2)</u>	8
40.	<u>Rule 34(2)</u>	6
41.	<u>Rule 34(3)</u>	6
42.	<u>Rule 34(5)</u>	6
43.	<u>Rule 34(6)</u>	6
44.	<u>Rule 35</u>	5
45.	<u>Rule 36(3)</u>	5
46.	<u>Rule 36(4)</u>	5
47.	<u>Rule 36(5)</u>	5
48.	<u>Rule 36(6)</u>	6
49.	<u>Rule 38(1)</u>	3
50.	<u>Rule 38(2)</u>	3
51.	<u>Rule 38(3)</u>	3
52.	<u>Rule 38(4)</u>	3
53.	<u>Rule 38(5)</u>	3
54.	<u>Rule 40(1)</u>	3
55.	<u>Rule 40(2)</u>	3
56.	<u>Rule 41(1)</u>	3
57.	<u>Rule 41(2)</u>	3
58.	<u>Rule 42(1)</u>	3

59.	<u>Rule 43(1)</u>	3
60.	<u>Rule 44</u>	3
61.	<u>Rule 45(1)</u>	7
62.	<u>Rule 45(2)</u>	7
63.	<u>Rule 45(3)</u>	7
64.	<u>Rule 45(4)</u>	4
65.	<u>Rule 46(1)</u>	4
66.	<u>Rule 46(3)</u>	4
67.	<u>Rule 47</u>	4
68.	<u>Rule 48</u>	4
69.	<u>Rule 50(4)</u>	7
70.	<u>Rule 50(5)</u>	4
71.	<u>Rule 50(7)</u>	7
72.	<u>Rule 50(8)</u>	7
73.	<u>Rule 50(9)</u>	7
74.	<u>Rule 50(12)</u>	8
75.	<u>Rule 52</u>	4
76.	<u>Rule 53</u>	8
77.	<u>Rule 54</u>	4

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

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These rules are administered in the Department of Primary Industries, Parks, Water and Environment.

Table Of Amendments

Citation	Serial Number	Date of commencement
Fisheries (Abalone) Rules 2009	S.R. 2009, No. 151	31.12.2009
Legislation Publication Act 1996	No. 17 of 1996	3.2.2010
		11.8.2010
		16.2.2012
		18.4.2012
		5.9.2012
Marine Safety (Domestic Commercial Vessel National Law Application) Consequential Amendments Act 2013	No. 31 of 2013	2.9.2013
Fisheries (Abalone) Amendment Rules 2014	S.R. 2014, No. 88	16.7.2014
Legislation Publication Act 1996	No. 17 of 1996	8.10.2014