

Fisheries (Giant Crab) Rules 2006

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

6 February 2006

STEVEN KONS

Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

These rules may be cited as the Fisheries (Giant Crab) Rules 2006.

2. Commencement

These rules take effect on 28 February 2006.

3. Interpretation

In these rules –

Act means the Living Marine Resources Management Act 1995;

authorised mooring means a mooring authorised by MAST (the Marine and Safety Authority established under the Marine and Safety Authority Act 1997);

cancellation report means a report to the reporting service made by approved means and containing approved information;

caught, in relation to any giant crab or any kind of quota unit balance, does not include giant crab that are –

(a) caught in a trap and returned to the water immediately after being hauled to the deck of a fishing vessel; or

(b) deemed by the Secretary not to have been caught;

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

closed season report means a report to the reporting service made by approved means and containing approved information;

commercial giant crab fishery means the fishery for giant crab for commercial purposes that consists of the class of persons who hold a licence to take giant crab for commercial purposes;

commercial giant crab quota docket means a docket, in an approved form, relating to giant crab that is part of records required to be kept under the Act;

commercial rock lobster and giant crab direct sales quota docket means a docket, in an approved form, relating to rock lobster or giant crab that is part of the records required to be kept under the Act;

commercial rock lobster and giant crab sales receipt means a receipt, in an approved form, relating to rock lobster or giant crab that is part of the records required to be kept under the Act;

day means the 24-hour period commencing at midnight of any calendar day;

emergency unloading report means a report to the reporting service made by approved means and containing approved information;

export, giant crab, means transport the giant crab beyond the limits of State waters;

fish cauf means fishing apparatus used for holding fish in State waters;

fish cauf report means a report to the reporting service made by approved means and containing approved information;

fishing quota unit balance, for a fishing licence for a quota year, means the sum of –

(a) the portion of the total weight of giant crab quota units specified in the licence that remains to be caught in the quota year; and

(b) the portion of the total weight of giant crab carry over units specified in the licence that remains to be caught in the quota year;

fishing trip means a trip undertaken for fishing, commencing on the departure from a port, port of landing or authorised mooring and ending on the return to a port, port of landing or authorised mooring;

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

giant crab carry over unit, for a fishing licence (giant crab), means a unit equivalent to the weight of giant crab allocated to the licence under rule 23;

giant crab catch record means a record, in an approved form, relating to giant crab catch that is part of records required to be kept under the Act;

giant crab fishery means every activity that involves the taking and possession, under the Act, of giant crab by any person;

giant crab longline means a line to which more than 2 traps are attached;

giant crab quota unit means a unit that is an entitlement to take one 1 035th of the total allowable catch for the commercial giant crab fishery;

Grade 1 penalty means the penalty specified in regulation 5 of the *Fisheries Penalties Regulations 2001*;

Grade 2 penalty means the penalty specified in regulation 6 of the *Fisheries Penalties Regulations 2001*;

Grade 3 penalty means the penalty specified in regulation 7 of the *Fisheries Penalties Regulations 2001*;

holder of a fishing licence includes (except in rules 17, 25 and 31) a person who has approval to use the licence under section 87(2) of the Act;

holding tank means a tank on land (or on or in a jetty or other structure attached to land) used to hold giant crab;

immediate proximity, of any place or position, means –

(a) within 100 metres of the place or position; or

(b) within such greater distance of the place or position as the Secretary, by public notice, may specify for the purposes of this definition;

interstate port of landing report means a report to the reporting service made by approved means and containing approved information;

leaving port report means a report to the reporting service made by approved means and containing approved information;

movement report means a report to the reporting service made by approved means and containing approved information;

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

port of landing means a port specified in Schedule 1;

pre-fishing report means a report to the reporting service made by approved means and containing approved information;

quota year means the period referred to in rule 17 during which the total allowable catch for the commercial giant crab fishery may be taken;

relevant fishing certificate, in relation to a fishing licence, means the fishing certificate maintained by the Secretary under section 63 of the Act in respect of the fishing licence;

reporting service means a service approved under rule 52(1);

rock lobster pot has the same meaning as in the Fisheries (Rock Lobster) Rules 2006;

set, a trap or giant crab longline, means to place or attempt to place the trap or giant crab longline in State waters;

site of unloading, of giant crab, means –

(a) the first point where the giant crab or a container containing the giant crab –

(i) is unloaded; or

(ii) makes contact with a jetty or artificial extension of land; or

(b) any other place determined by the Secretary;

State includes Territory;

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;

unloading means the act of taking giant crab onto land, or causing or permitting giant crab to be taken onto land, from a fishing vessel, fish cauf or State waters;

unloading report means a report to the reporting service made by approved means and containing approved information;

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.

4. Application of rules

These rules apply to the giant crab fishery.

5. Duration of rules

These rules continue in force for a period of 7 years.

6. Consultation arrangements

The Minister is to consult with the appropriate advisory committee established under section 27 of the Act in relation to the giant crab fishery about any changes relating to –

- (a) the areas where fishing may occur; and
- (b) any matter relating to the characteristics of fish; and
- (c) the opening and closing of the giant crab fishery; and
- (d) fishing apparatus; and
- (e) limits on the taking and possession of fish.

7. Classes of fishing licence

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

- (a) class giant crab, fishing licence (giant crab);
- (b) class rock lobster, fishing licence (rock lobster);
- (c) class recreational, fishing licence (recreational rock lobster pot);
- (d) class personal, fishing licence (personal);
- (e) class vessel, fishing licence (vessel).

PART 2 - General Management of Fishery

8. Persons authorised to take or possess giant crab in State waters

A person must not, in State waters, take or be in possession of giant crab unless the person is –

- (a) the holder of a fishing licence (giant crab); or
- (b) the holder of a fishing licence (rock lobster); or
- (c) the holder of a fishing licence (recreational rock lobster pot); or
- (d) an Aborigine engaging in an Aboriginal activity.

Penalty:

Grade 3 penalty.

9. Closed and open seasons

The Minister, by public notice, may determine –

- (a) the dates of the closed season for all or part of the giant crab fishery; and

(b) the dates of the open season for all or part of the giant crab fishery.

10. Closed seasons – general restrictions

(1) A person must not take giant crab from State waters that are closed to the giant crab fishery.

Penalty:

Grade 3 penalty.

(2) A person must not be in possession of male giant crab during a closed season for the male giant crab fishery unless the male giant crab were –

(a) taken, bought or sold during an open season for the male giant crab fishery; or

(b) in the person's possession during an open season for the male giant crab fishery; or

(c) imported into the State.

Penalty:

Grade 3 penalty.

(3) A person must not be in possession of female giant crab during a closed season for the female giant crab fishery unless the female giant crab were –

(a) taken, bought or sold during an open season for the female giant crab fishery; or

(b) in the person's possession during an open season for the female giant crab fishery; or

(c) imported into the State.

Penalty:

Grade 3 penalty.

11. Restrictions on possession of female giant crab during closed season for female giant crab

(1) The holder of a fishing licence (giant crab) must not, during a closed season for the female giant crab fishery, be in possession of female giant crab in a fish cauf unless the female giant crab were taken before that closed season commenced.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (giant crab) must not, during a closed season for the female giant crab fishery, be in possession of female giant crab on a fishing vessel unless the fishing vessel is in a port or on an authorised mooring that it had returned to before, and not left since, that closed season commenced.

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (giant crab) who, following a fishing trip, is in possession of female giant crab on a fishing vessel during a closed season for the female giant crab fishery must unload the female giant crab before the fishing vessel is used by any person for a further fishing trip.

Penalty:

Grade 3 penalty.

(4) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (2) or (3) in respect of any female giant crab if –

(a) the licensee has the Secretary's written approval to use alternative arrangements for holding female giant crab on a fishing vessel during a closed season for the female giant crab fishery; and

(b) the female giant crab are held in accordance with that approval.

12. Restrictions on possession of giant crab on fishing vessel during closed season for male giant crab

(1) The holder of a fishing licence (giant crab) who is in possession of giant crab on a fishing vessel during the closed season for the male giant crab fishery is guilty of an offence unless that licensee does all of the following:

(a) makes a closed season report within 24 hours after the commencement of that closed season;

(b) within 14 days after the commencement of that closed season –

(i) weighs the giant crab, if any, that have not been unloaded; and

(ii) after the weighing, completes the required sections of Part A of a commercial giant crab quota docket; and

(iii) sends the pink and yellow sheets of the commercial giant crab quota docket (with the required sections of Part A of the docket completed) to the Secretary;

(c) unloads all the giant crab before the commencement of that licensee's first fishing trip of the next open season for the male giant crab fishery;

(d) whenever any of the giant crab are unloaded from the fishing vessel –

(i) completes a new commercial giant crab quota docket in accordance with Division 2 of Part 5; and

(ii) enters, on the new commercial giant crab quota docket, the number of the docket referred to in paragraph (b)(ii).

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of any giant crab if –

(a) the licensee has the Secretary's written approval to use alternative arrangements for holding giant crab on a fishing vessel during a closed season for the male giant crab fishery; and

(b) the giant crab are held in accordance with that approval.

13. Limit on number of giant crab that persons may possess

(1) A person must not be in possession of more than 2 giant crab at any one time unless –

(a) the person is the holder of –

(i) a fishing licence (giant crab); or

(ii) a fishing licence (rock lobster); or

(b) the person has a receipt verifying the purchase of the excess giant crab; or

(c) the person has a transfer document verifying that the excess giant crab were sold or transferred to the person by the holder of a fishing licence (giant crab).

Penalty:

Grade 3 penalty.

(2) In this rule –

excess giant crab means giant crab in excess of 2 giant crab;

transfer document means –

(a) a commercial giant crab quota docket; or

(b) a commercial rock lobster and giant crab direct sales quota docket; or

(c) a commercial rock lobster and giant crab sales receipt.

14. Size limits

(1) A person must not take, buy, sell or be in possession of a male giant crab that has a carapace length –

(a) less than the minimum permitted length for male giant crab; or

(b) more than the maximum permitted length for male giant crab.

Penalty:

Grade 3 penalty.

(2) A person must not take, buy, sell or be in possession of a female giant crab that has a carapace length –

(a) less than the minimum permitted length for female giant crab; or

(b) more than the maximum permitted length for female giant crab.

Penalty:

Grade 3 penalty.

(3) For the purposes of this rule, the carapace length of a giant crab (whether male or female and whether alive, dead or processed) is taken to be the minimum distance from the anterior surface of the point of the carapace midway between the eyes to the rear of the carapace, excluding the ligament or any part of the belly flap.

(4) In this rule –

carapace means the shell that covers the dorsal surface of the cephalothorax of a giant crab;

maximum permitted length for female giant crab means –

(a) 215 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 215 millimetres applies for the purpose of this definition, that other measurement;

maximum permitted length for male giant crab means –

(a) 215 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 215 millimetres applies for the purpose of this definition, that other measurement;

minimum permitted length for female giant crab means –

(a) 150 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 150 millimetres applies for the purpose of this definition, that other measurement;

minimum permitted length for male giant crab means –

(a) 140 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 140 millimetres applies for the purpose of this definition, that other measurement.

15. Protection of female breeding stock

A person must not –

(a) take, buy, sell, or be in possession of a female giant crab that has any spawn or eggs attached to it; or

(b) remove any spawn or eggs from a female giant crab; or

(c) be in possession of a female giant crab from which any spawn or eggs have been removed.

Penalty:

Grade 3 penalty.

PART 3 - Commercial Giant Crab Fishery

Division 1 - Taking and catch controls and catch management

16. Taking giant crab

(1) A person must not take giant crab for commercial purposes unless the person is the holder of –

(a) a fishing licence (giant crab) and fishing licence (personal); or

(b) a fishing licence (rock lobster).

Penalty:

Grade 3 penalty.

(2) A person must not take giant crab for commercial purposes by any means other than –

(a) a trap; or

(b) a rock lobster pot.

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (giant crab) must not use a fishing vessel for the purpose of taking giant crab if the fishing vessel is not specified in the relevant fishing certificate.

Penalty:

Grade 3 penalty.

(4) The holder of a fishing licence (giant crab) must not take giant crab unless the number of giant crab quota units that may be taken under the licence is specified in the licence.

Penalty:

Grade 2 penalty.

17. Total allowable catch

(1) The quota period during which the total allowable catch for the commercial giant crab fishery may be taken is the period commencing on 1 March in a year and ending on the last day of February in the following year.

(2) The Minister is to allocate the portion of the total allowable catch allocated to the commercial giant crab fishery to the holders of fishing licences (giant crab) according to the number of giant crab quota

units held and owned by those licensees in respect of those licences immediately before the commencement of the period referred to in subrule (1).

18. Fishing quota unit balance not to be exceeded

(1) The holder of a fishing licence (giant crab) must not, for commercial purposes, take, or in State waters be in possession of, more giant crab than the fishing quota unit balance for the licence.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (giant crab) endorsed under rule 39(1)(a) for the unloading of giant crab in another State must not, in that other State, be in possession of more giant crab than the fishing quota unit balance for the licence.

Penalty:

Grade 3 penalty.

19. Overcatch provisions

(1) Notwithstanding rule 18(1) and (2), the holder of a fishing licence (giant crab) is not guilty of an offence under that rule in respect of any giant crab if –

(a) the total amount of giant crab does not exceed the licence quota unit balance by more than 30%; and

(b) the licensee –

(i) pays to the Crown, in respect of the excess giant crab, an amount equivalent to 150% of their beach price; or

(ii) does one of the following:

(A) does not commence another fishing trip until additional giant crab quota units or giant crab carry over units are specified on the licence so as to make its fishing quota unit balance greater than zero;

(B) requests (if another fishing trip is not commenced in the quota year during which the excess giant crab are taken or possessed) that the Secretary deduct from the fishing quota unit balance for the licence for the following quota year an amount of giant crab equivalent to the excess giant crab.

(2) The Minister is to ensure that any of the excess giant crab not paid or accounted for under subrule (1) are deducted from the fishing quota unit balance for the licence for –

(a) the quota year in which the excess giant crab are taken; or

(b) if that is not practicable, a subsequent quota year.

(3) In this rule –

beach price means the monthly average price paid for giant crab as determined by the Secretary;

excess giant crab, for a fishing licence, means giant crab in excess of its fishing quota unit balance;

licence quota unit balance, for a fishing licence, means the sum of the following (exclusive of any weight of giant crab returned to the fishing vessel or fish cauf subject to a cancellation report):

- (a) the weight of the giant crab quota units specified in the licence that remain to be caught and unloaded at the relevant time;
- (b) the portion of the total weight of the giant crab carry over units specified in the licence that remains to be caught and unloaded at the relevant time;
- (c) the weight of any giant crab quota units transferred to or from the licence since the relevant time;
- (d) the weight of any giant crab carry over units transferred to or from, or allocated to, the licence since the relevant time;
- (e) the weight of any deduction, permitted by these rules, from a previous quota year;

relevant time means –

- (a) in respect of the period immediately preceding the unloading of the first giant crab in a quota year, the time when, in that quota year, a fishing licence comes into force; and
- (b) in respect of any other period, the time of the commencement of a fishing trip.

20. Deduction of excess catch from quota

(1) This rule applies if the holder of a fishing licence (giant crab) –

- (a) takes, or in State waters is in possession of, more giant crab than the fishing quota unit balance for the licence; and
- (b) the giant crab so taken, or possessed in State waters, exceed the licence quota unit balance for the licence by more than 30%.

(2) The Minister may deduct the excess giant crab from –

- (a) the fishing quota unit balance for the licence for the quota year during which the excess giant crab are taken or possessed; or
- (b) the fishing quota unit balance for the licence for a subsequent quota year.

(3) Nothing in this rule is to be taken as preventing any proceedings or other action from being taken in respect of the taking or possession of the excess giant crab.

(4) In this rule –

excess giant crab, for a fishing licence, has the same meaning as in rule 19;

licence quota unit balance, for a fishing licence, has the same meaning as in rule 19.

21. Commercial giant crab quota docket book

(1) The holder of a fishing licence (giant crab) who undertakes a fishing trip in any quota year must ensure that that licensee's commercial giant crab quota docket book is, for the duration of the fishing trip, kept on the fishing vessel used for the fishing trip.

Penalty:

Grade 2 penalty.

(2) The holder of a fishing licence (giant crab) must ensure that a commercial giant crab quota docket book kept on a fishing vessel during a fishing trip pursuant to subrule (1) contains the white sheet of every commercial giant crab quota docket comprising that book (whether or not the commercial giant crab quota docket has been completed).

Penalty:

Grade 2 penalty.

(3) In this rule –

commercial giant crab quota docket book means the book of commercial giant crab quota dockets most recently issued to a licensee for the purposes of the Act.

22. Deduction from quota at end of quota year

(1) The holder of a fishing licence (giant crab) must not be in possession of giant crab on a fishing vessel after the end of the quota year during which the giant crab are taken unless that licensee –

(a) within 48 hours after the commencement of the quota year following the quota year in which the giant crab are taken –

(i) weighs the giant crab; and

(ii) after the weighing, completes the required sections of Part A of a commercial giant crab quota docket; and

(iii) sends the pink and yellow sheets of the commercial giant crab quota docket (with the required sections of Part A of the docket completed) to the Secretary; and

(b) unloads all the giant crab before the commencement of that licensee's first fishing trip of the quota year following the quota year in which the giant crab are taken; and

(c) whenever any of the giant crab are unloaded –

(i) completes a new commercial giant crab quota docket in accordance with Division 2 of Part 5; and

(ii) enters, on the new commercial giant crab quota docket, the number of the docket referred to in paragraph (a)(ii).

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of any giant crab if –

(a) the licensee has the Secretary's written approval to use alternative arrangements for holding giant crab on a fishing vessel after the end of a quota year; and

(b) the giant crab are held in accordance with that approval.

(3) The holder of a fishing licence (giant crab) must not hold giant crab in a fish cauf after the end of the quota year during which the giant crab are taken unless that licensee –

(a) within 48 hours after the commencement of the quota year following the quota year in which the giant crab are taken –

(i) weighs the giant crab; and

(ii) after the weighing, completes the required sections of Part A of the commercial giant crab quota docket; and

(iii) sends the pink and yellow sheets of the commercial giant crab quota docket (with the required sections of Part A of the docket completed) to the Secretary; and

(b) unloads all the giant crab from the fish cauf before placing in the fish cauf any other giant crab; and

(c) whenever any of the giant crab are unloaded –

(i) completes a new commercial giant crab quota docket in accordance with Division 2 of Part 5; and

(ii) enters, on that new commercial giant crab quota docket, the number of the docket referred to in paragraph (a)(ii).

Penalty:

Grade 3 penalty.

23. Allocation of uncaught portion

(1) The Minister may allocate to each fishing licence (giant crab) the weight of the uncaught portion of the giant crab quota unit balance for the licence for a quota year (up to the equivalent of one giant crab quota unit) as the giant crab carry over unit for the licence for the following quota year.

(2) A giant crab carry over unit may be temporarily transferred.

(3) A giant crab carry over unit is not to be permanently transferred.

Division 2 - Commercial fishing licences

24. Authority of fishing licence (giant crab)

A fishing licence (giant crab) only authorises its holder to –

(a) take the weight of giant crab represented by the giant crab quota units specified in the licence; and

(b) take the weight of giant crab equivalent to the giant crab carry over unit specified in the licence; and

(c) take giant crab for sale; and

(d) use, subject to rule 46, the number of traps specified in the licence; and

(e) use the fishing vessel specified in the relevant fishing certificate to take giant crab.

25. Certain fishing licence (giant crab) applications to be granted

If the Minister is satisfied that there is no impediment under section 78 of the Act to granting an application for a fishing licence (giant crab), the Minister is to grant the application if the applicant –

(a) held a fishing licence (giant crab) on the 28 February most immediately preceding the application lodgment date; and

(b) had not, before the application lodgment date, transferred that fishing licence (giant crab) to another person.

26. Restrictions on transfer of licences

The Minister is to refuse to grant an application to transfer a fishing licence (giant crab) from one person to another person if –

(a) the other person does not hold a fishing licence (rock lobster); or

(b) the licence is not being transferred together with the associated fishing licence (rock lobster).

27. Maximum licence holdings

(1) The holder of a fishing licence (giant crab) must not –

(a) hold more than 7 separate fishing licences (giant crab) at any one time; or

(b) receive any payment, financial advantage or benefit in kind from more than 7 separate fishing licences (giant crab).

Penalty:

Grade 3 penalty.

(2) The Minister is not to specify more than 5 fishing licences (giant crab) on a relevant fishing certificate.

28. Copy of licence to be carried on fishing vessel during fishing trip

The holder of a fishing licence (giant crab) must, during a fishing trip, keep a copy of that licence on the fishing vessel used for that fishing trip.

Penalty:

Grade 2 penalty.

Division 3 - Quota units

29. Minimum and maximum quota unit holdings

- (1) The number of giant crab quota units held on a licence is to be at least one and not more than 300.
- (2) The holder of a fishing licence (giant crab) must not –
 - (a) hold more than 300 giant crab quota units at any one time; or
 - (b) receive any payment, financial advantage or benefit in kind from more than 300 giant crab quota units.

Penalty:

Grade 3 penalty.

30. Requirements relating to licences with fewer than 15 quota units

- (1) A fishing licence (giant crab) that has fewer than 15 giant crab quota units specified in it is to –
 - (a) be endorsed with a condition that prohibits the licence from being used to take fish; or
 - (b) be on the same relevant fishing certificate as a fishing licence (rock lobster) that has at least 15 rock lobster quota units specified in it.
- (2) In this rule –

rock lobster quota unit has the same meaning as in the *Fisheries (Rock Lobster) Rules 2006*.

31. Restrictions on transfer of quota units

- (1) The Minister is not to transfer giant crab quota units or giant crab carry over units to a person who is not the holder of a fishing licence (giant crab).
- (2) The Minister is not to transfer giant crab quota units or giant crab carry over units unless –
 - (a) the fishing quota unit balance for the transferor's fishing licence (giant crab) is reduced by a weight equivalent to the number of those giant crab quota units or giant crab carry over units; and
 - (b) the weight of giant crab for those giant crab quota units or giant crab carry over units has not already been caught.
- (3) The Minister is not to transfer –
 - (a) partially caught giant crab quota units; or
 - (b) partially caught giant crab carry over units.
- (4) If only one giant crab quota unit is specified in a fishing licence (giant crab), the Minister is not to transfer that giant crab quota unit unless –

(a) it is transferred with the licence; or

(b) the licence is surrendered to the Minister and the giant crab quota unit is transferred to the holder of another fishing licence (giant crab).

(5) However –

(a) subrule (2)(b) and subrule (3) do not apply to the permanent transfer of giant crab quota units that are transferred with the fishing licence (giant crab) in which the giant crab quota units are specified; and

(b) subrule (4) does not apply to the transfer of a giant crab quota unit on a temporary basis.

Division 4 - Unloading, sale, transfer and transportation controls

32. All giant crab to be unloaded

The holder of a fishing licence (giant crab) must unload every giant crab caught under the licence.

Penalty:

Grade 3 penalty.

33. Giant crab to be unloaded at port of landing

(1) The holder of a fishing licence (giant crab) must not unload giant crab anywhere other than at a port of landing.

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of any giant crab if –

(a) that licence is endorsed with alternative unloading conditions and the giant crab are unloaded in accordance with those conditions; or

(b) the giant crab have to be unloaded away from a port of landing in an emergency because of a threat to the safety of the fishing vessel or its crew.

(3) Also, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of any giant crab if –

(a) the licensee advises a fisheries officer of –

(i) the licensee's intention to unload the giant crab at another port in Tasmania; and

(ii) the location of that other port; and

(b) the advice is given at least 6 hours before the giant crab are unloaded; and

(c) the other port is no more than 200 metres from a public road; and

(d) the giant crab are unloaded between 6 a.m. and 6 p.m; and

(e) the giant crab are sold to the holder of a fish processing licence or handling licence.

34. Sale or transfer of giant crab to fish processor or handler

(1) This rule applies if the holder of a fishing licence (giant crab) sells or transfers giant crab to the holder of a fish processing licence or handling licence within the immediate proximity of the site of unloading.

(2) The holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the giant crab are unloaded; and

(b) complete Part A of a commercial giant crab quota docket before the giant crab are removed from the immediate proximity of the site of unloading; and

(c) send the pink sheet of the completed commercial giant crab quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(3) However, the holder of the fishing licence (giant crab) is not guilty of an offence under subrule (2) if –

(a) the giant crab being sold or transferred are unloaded into processing premises located within the immediate proximity of the site of unloading; and

(b) the licensee completes Part A of a commercial giant crab quota docket –

(i) before the holder of a fish processing licence makes the receipt report relating to the giant crab specified in that docket; and

(ii) before Part B of that docket is completed; and

(iii) within 15 minutes after the last giant crab relating to that docket enters any place, within the processing premises, that is fully enclosed.

35. Transportation of giant crab to fish processor or handler

(1) This rule applies if the holder of a fishing licence (giant crab) transports giant crab to the holder of a fish processing licence or handling licence.

(2) The holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the giant crab are unloaded; and

(b) complete Part A of a commercial giant crab quota docket before the giant crab are removed from the immediate proximity of the site of unloading; and

(c) make a movement report before the giant crab are removed from the immediate proximity of the site of unloading; and

(d) send the pink sheet of the completed commercial giant crab quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(3) The holder of the fish processing licence or handling licence must complete Part B of the commercial giant crab quota docket on receipt of the giant crab.

Penalty:

Grade 3 penalty.

36. Sale or transfer of giant crab to person other than fish processor or handler

(1) This rule applies if the holder of a fishing licence (giant crab) sells or transfers giant crab to a person other than the holder of a fish processing licence or handling licence.

(2) If no more than 5 giant crab are sold or transferred, and the sale or transfer occurs within the immediate proximity of the site of unloading, the holder of the fishing licence (giant crab) must –

(a) complete and issue a commercial rock lobster and giant crab sales receipt to the person receiving the giant crab before the giant crab are removed from the site of unloading; and

(b) before midnight of the day of the sale or transfer, complete the commercial rock lobster and giant crab direct sales quota docket; and

(c) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(3) If no more than 5 giant crab are sold or transferred, and the sale or transfer occurs outside the immediate proximity of the site of unloading, the holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the giant crab are removed from the immediate proximity of the site of unloading; and

(b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of giant crab unloaded before the giant crab are removed from the site of unloading; and

(c) make a movement report before the giant crab are removed from the site of unloading; and

(d) complete and issue, at the time of the sale or transfer, a commercial rock lobster and giant crab sales receipt to the person receiving the giant crab; and

(e) before midnight of the day of the sale or transfer, complete the commercial rock lobster and giant crab direct sales quota docket; and

(f) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(4) If more than 5 giant crab are sold or transferred, and the sale or transfer occurs within the immediate proximity of the site of unloading, the holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the sale or transfer occurs; and

(b) complete a commercial rock lobster and giant crab direct sales quota docket before the giant crab are removed from the site of unloading; and

(c) give the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the person receiving the giant crab; and

(d) make a movement report before the giant crab are removed from the site of unloading; and

(e) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(5) If more than 5 giant crab are sold or transferred, and the sale or transfer occurs outside the immediate proximity of the site of unloading, the holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the giant crab are removed from the immediate proximity of the site of unloading; and

(b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of giant crab unloaded before the giant crab are removed from the site of unloading; and

(c) make a movement report before the giant crab are removed from the site of unloading; and

(d) complete the commercial rock lobster and giant crab direct sales quota docket at the time of the sale or transfer; and

(e) give the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the person receiving the giant crab; and

(f) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

37. Return of giant crab not sold or transferred

(1) This rule applies if –

(a) the holder of a fishing licence (giant crab) removes giant crab from the immediate proximity of the site of unloading in order to sell or transfer the giant crab to a person other than the holder of a fish processing licence or handling licence; and

(b) the giant crab, or any of the giant crab, are not so sold or transferred.

(2) The holder of the fishing licence (giant crab) must not return any of the giant crab to the fishing vessel or fish cauf from which the giant crab were unloaded unless that licensee has made a cancellation report.

Penalty:

Grade 2 penalty.

(3) Within 48 hours after returning any of the giant crab to the fishing vessel or fish cauf from which the giant crab were unloaded, the holder of the fishing licence (giant crab) must –

(a) complete the required sections of Part A of a commercial rock lobster and giant crab direct sales quota docket; and

(b) send the pink and yellow sheets of that commercial rock lobster and giant crab direct sales quota docket (with the required sections of Part A of the docket completed) to the Secretary.

Penalty:

Grade 2 penalty.

38. Export of giant crab by aircraft or vessel

(1) This rule applies if the holder of a fishing licence (giant crab) exports giant crab by means of –

(a) an aircraft; or

(b) a vessel other than a fishing vessel.

(2) If the giant crab are exported to a person other than the holder of a fish processing licence or handling licence, the holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the giant crab are removed from the site of unloading; and

(b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of giant crab unloaded before the giant crab are removed from the site of unloading; and

(c) make a movement report before the giant crab are removed from the site of unloading; and

(d) ensure that Part B of the commercial rock lobster and giant crab direct sales quota docket is completed by a person other than the holder of the fishing licence (giant crab) before the giant crab are dispatched from the State; and

(e) ensure that the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket travels with the consignment of giant crab; and

(f) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(3) If the giant crab are exported to the holder of a fish processing licence or handling licence, the holder of the fishing licence (giant crab) must –

(a) make an unloading report at least 2 hours before the giant crab are unloaded; and

(b) complete Part A of a commercial giant crab quota docket before the giant crab are removed from the site of unloading; and

(c) make a movement report before the giant crab are removed from the site of unloading; and

(d) ensure that Part B of the commercial giant crab quota docket is completed by a person other than the holder of the fishing licence (giant crab) before the giant crab are dispatched from the State; and

(e) ensure that the yellow sheet of the completed commercial giant crab quota docket travels with the consignment of giant crab; and

(f) send the pink sheet of the completed commercial giant crab quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

39. Unloading of giant crab interstate from fishing vessel

(1) The holder of a fishing licence (giant crab) must not unload giant crab in another State from a fishing vessel, or cause or permit giant crab to be unloaded in another State from a fishing vessel, unless –

(a) the unloading is authorised by an endorsement on the licence; and

(b) all the giant crab are unloaded before another fishing trip is commenced; and

(c) the giant crab are sold only to the holder of a fish processing licence; and

(d) the prescribed requirements have been complied with.

Penalty:

Grade 3 penalty.

(2) The prescribed requirements for subrule (1) are as follows:

(a) the holder of the fishing licence (giant crab), before leaving State waters, has recorded, in the required section of Part A of the commercial giant crab quota docket, the number of giant crab held on the vessel at the time of leaving State waters;

(b) the holder of the fishing licence (giant crab), before leaving State waters, has made an interstate port of landing report;

(c)

(d)

(e) the fishing vessel must have been fitted with a vessel monitoring system;

(f) the fishing vessel must have proceeded directly to the port of landing;

(g) the holder of the fishing licence (giant crab) must have made an interstate port of landing report at least 12 hours before unloading any giant crab at an interstate port of landing between the hours of 9 p.m. on any day and 6 a.m. the following day;

(h) the holder of the fishing licence (giant crab) must have commenced unloading within one hour after the estimated time of unloading given in the interstate port of landing report made under paragraph (g).

(3) However, the prescribed requirements referred to in subrule (2)(a) and (c) do not apply to the holder of the fishing licence (giant crab) if –

(a) the licensee has the Secretary's written approval to use alternative arrangements to those prescribed requirements; and

(b) the giant crab have been dealt with in accordance with that approval.

(4) The holder of a fishing licence (giant crab) who transports giant crab to another State on a fishing vessel, or causes or permits giant crab to be transported to another State on a fishing vessel, must not unload giant crab at any port of landing unless –

(a) a fisheries officer has removed the seals from the holding tank or well of the fishing vessel; or

(b) 30 minutes have elapsed after –

(i) the estimated time of unloading given in the interstate port of landing report made under subrule (2)(g); and

(ii) the fishing vessel has reached the port of landing; or

(c) an emergency situation exists.

Penalty:

Grade 3 penalty.

(5)

40. Sale or transfer of giant crab from holding tank

(1) This rule applies if the holder of a fishing licence (giant crab) sells or transfers giant crab held in a holding tank.

(2) The holder of the fishing licence (giant crab) must –

(a) complete and issue, at the time of the sale or transfer, a commercial rock lobster and giant crab sales receipt to the person receiving the giant crab; and

(b) keep a copy of that commercial rock lobster and giant crab sales receipt, in good condition, for at least 5 years.

Penalty:

Grade 3 penalty.

Division 5 - Miscellaneous controls

41. Transfer of giant crab between vessels

The holder of a fishing licence (giant crab) must not, unless authorised to do so by the Secretary, transfer giant crab, or cause or permit giant crab to be transferred –

(a) from one fishing vessel to another fishing vessel; or

(b) from a fishing vessel to another kind of vessel.

Penalty:

Grade 3 penalty.

42. Fishing in two jurisdictions

The holder of a fishing licence (giant crab) who has an authority from another State to take giant crab from that State using the fishing vessel specified in the relevant fishing certificate must not –

(a) use that fishing vessel to take giant crab in State waters if it has been used to take giant crab outside State waters since last leaving port; or

(b) be in possession of giant crab taken outside State waters while undertaking a fishing trip in State waters for giant crab; or

(c) set or use, in State waters, a trap from that fishing vessel if it has been used to set any traps outside State waters since last leaving port; or

(d) leave port to undertake a fishing trip in State waters for giant crab unless a leaving port report is made at least 2 hours before leaving port.

Penalty:

Grade 3 penalty.

43. Places where giant crab may be held or stored

The holder of a fishing licence (giant crab) must not, for commercial purposes, hold or store giant crab at a place other than –

- (a) on the fishing vessel used to take the giant crab; or
- (b) in a fish cauf specified for that purpose in the licence in accordance with rule 50; or
- (c) in a holding tank specified for that purpose in the licence in accordance with rule 51; or
- (d) at a place that the Secretary has approved in writing for the holding or storage of giant crab by that licensee.

Penalty:

Grade 3 penalty.

PART 4 - Fishing apparatus

Division 1 - Giant crab traps, longlines and marker buoys

44. Restrictions on setting, use and possession of traps

(1) A person must not, in State waters, set or use or be in possession of a trap unless the person is the holder of a fishing licence (giant crab).

Penalty:

Grade 3 penalty.

(2) A person must not, in State waters, set or use or be in possession of a trap during a closed season.

Penalty:

Grade 3 penalty.

(3) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (2) in respect of the possession of a trap in State waters during a closed season if –

(a) the trap is on a fishing vessel that –

- (i) is returning to a port of landing within 48 hours after the end of an open season; or
- (ii) is leaving a port within 48 hours before the commencement of an open season; or
- (iii) is in port or on an authorised mooring and not undertaking a fishing trip; or

(b) the trap is in the licensee's possession after 1 p.m. on the day immediately before the commencement of an open season; or

(c) the licensee has the written approval of a fisheries officer to be in possession of the trap during the closed season.

(4) Also, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (2) in respect of the setting of a trap in State waters during a closed season if the trap is set after 1 p.m. on the day immediately before the commencement of an open season.

45. Restriction on length of time traps may be continuously set

(1) The holder of a fishing licence (giant crab) must not set a trap for a continuous period exceeding 48 continuous hours in State waters that are less than 120 metres deep.

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of a trap if –

(a) the trap cannot be retrieved within 48 hours after it is set because of –

(i) adverse weather conditions; or

(ii) mechanical breakdown of, or structural damage to, the vessel from which the trap is set; or

(iii) illness or incapacity of the licensee; and

(b) the licensee notifies a fisheries officer in writing, within 48 hours after the trap is set, that the trap cannot be retrieved within that period and the reason why it cannot be so retrieved; and

(c) the licensee, within 48 hours after giving the notice referred to in paragraph (b), advises a fisheries officer of the arrangements made to retrieve the trap; and

(d) the licensee ensures that the trap is retrieved in accordance with such directions as the fisheries officer referred to in paragraph (c) may give the licensee for its retrieval.

(3) A person must not, without the written approval of a fisheries officer, use a fishing vessel to pull or retrieve a trap that has been set from a different fishing vessel.

Penalty:

Grade 3 penalty.

(4) The holder of a fishing licence (giant crab) must not, in State waters, set or use or be in possession of a trap unless the giant crab fishing quota unit balance for that licence is greater than zero kilograms.

Penalty:

Grade 3 penalty.

(5) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (4) in respect of the possession of a trap on a fishing vessel if that fishing vessel is –

(a) in port or on an authorised mooring; and

(b) not undertaking a fishing trip.

46. Restrictions on number of traps that may be set or used

(1) The holder of a fishing licence (giant crab) must not –

(a) in State waters that are less than 120 metres deep, set or use more traps than the number of rock lobster pots specified in the fishing licence (rock lobster) held by that licensee; or

(b) in State waters that are 120 or more metres deep, set or use more than 2 traps for each rock lobster pot specified in the fishing licence (rock lobster) held by that licensee (up to a maximum of 100 traps).

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (giant crab) must make a pre-fishing report before commencing a fishing trip for giant crab during which a number of traps will be set or used in compliance with subrule (1)(b)(i).

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (giant crab) who is setting or using traps in compliance with subrule (1)(b)(i) must not be in possession of rock lobster.

Penalty:

Grade 3 penalty.

47. Configuration of traps

(1) A person must not, in State waters, set, use or be in possession of a trap that does not comply with the prescribed requirements.

Penalty:

Grade 3 penalty.

(2) The prescribed requirements for subrule (1) are as follows:

(a) a trap must have –

(i) horizontal dimensions that are no more than 1 250 millimetres by 1 250 millimetres; and

(ii) a vertical height of no more than 750 millimetres;

(b) a trap must –

(i) have only one neck or entrance; and

(ii) have only one chamber capable of trapping giant crab; and

- (iii) not contain anything likely to entangle giant crab in the trap;
- (c) a neck or entrance on a trap must be at least 200 millimetres in diameter;
- (d) a trap must have –
 - (i) at least one rectangular escape gap that is at least 57 millimetres high and at least 400 millimetres wide; or
 - (ii) at least 2 rectangular escape gaps, each of which is at least 57 millimetres high and 200 millimetres wide;
- (e) an escape gap on a trap must be located –
 - (i) on the side of the trap so that the longer sides of the escape gap are generally parallel to the floor of the trap and the lower internal edge of the escape gap is no more than 150 millimetres above the floor of the trap; and
 - (ii) clear of any obstruction that is likely to restrict the movement of undersize giant crab through the escape gap or otherwise impinge on or effectively reduce the minimum required internal dimensions of the escape gap.

(3) In this rule –

undersize giant crab means giant crab that has a carapace less than 150 millimetres long, as determined in accordance with [rule 14](#).

48. Restrictions on setting of giant crab longlines

The holder of a fishing licence (giant crab) must not set a giant crab longline in State waters unless –

- (a) more than 5 giant crab quota units are specified in that licence; and
- (b) the State waters in which that giant crab longline is set are 120 or more metres deep.

Penalty:

Grade 3 penalty.

49. Marker buoy requirements for traps, longlines and fish caufs

(1) A person must not set or use a trap in State waters unless –

- (a) a marker buoy is at all times attached to the trap by means of a line long enough for the marker buoy to float on the surface of the water; and
- (b) the marker buoy –
 - (i) is spherical in shape; and
 - (ii) has a diameter of at least 195 millimetres at its widest point; and
 - (iii) is specifically designed as a buoy.

Penalty:

Grade 3 penalty.

(2) The person in charge of a fishing vessel must ensure that the fishing vessel's distinguishing mark is marked clearly and legibly on the marker buoy of every trap used in connection with the fishing vessel.

Penalty:

Grade 3 penalty.

(3) A distinguishing mark for the purposes of subrule (2) is to be at least 70 millimetres high and at least 12 millimetres wide.

(4) The owner or person in charge of a fishing vessel must ensure that –

(a) a distinguishing mark marked on a marker buoy for the purposes of subrule (2) remains clear and legible; and

(b) the marker buoy bears only that distinguishing mark.

Penalty:

Grade 1 penalty.

(5) A person must not, in State waters, be in possession of a device designed to conceal a marker buoy under the surface of the water.

Penalty:

Grade 3 penalty.

(6) A person must not use a trap on a giant crab longline unless –

(a) any marker buoy used in connection with the giant crab longline is marked clearly and legibly with the number of traps attached to the giant crab longline; and

(b) there is a buoy, at least 300 millimetres in diameter, on each end of the giant crab longline.

Penalty:

Grade 3 penalty.

(7) In this rule –

distinguishing mark has the same meaning as in the Fisheries Rules 1999.

Division 2 - Fish caufs and holding tanks

50. Restrictions and requirements relating to fish caufs

(1) The holder of a fishing licence (giant crab), fish processing licence or handling licence must not –

- (a)** be in possession of a fish cauf; or
- (b)** place giant crab in a fish cauf –

unless that licence is endorsed for the use of a fish cauf.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (giant crab) that is endorsed for the use of a fish cauf must not –

- (a)** use more fish caufs than the total number of fish caufs specified in that licence; or
- (b)** use a fish cauf that is not marked as specified in that licence; or
- (c)** place a fish cauf anywhere other than at a place specified in that licence; or
- (d)** place in a fish cauf giant crab that have been taken by another person.

Penalty:

Grade 2 penalty.

(3) The holder of a fishing licence (giant crab) that is endorsed for the use of a fish cauf must mark the fish cauf with a marker buoy in accordance with rule 49.

Penalty:

Grade 2 penalty.

(4) The holder of a fishing licence (giant crab), fish processing licence or handling licence must not move a fish cauf from the place specified in that licence.

Penalty:

Grade 3 penalty.

(5) The holder of a fishing licence (giant crab), fish processing licence or handling licence must make a fish cauf report within 30 minutes after –

- (a)** placing giant crab in a fish cauf; or
- (b)** causing giant crab to be placed in a fish cauf.

Penalty:

Grade 3 penalty.

(6) The holder of a fishing licence (giant crab) must not place giant crab in a fish cauf on any day unless the required sections of that licensee's giant crab catch record have been completed for that day.

Penalty:

Grade 3 penalty.

(7) A person must not remove live giant crab from a fish cauf for any purpose other than unloading the live giant crab.

Penalty:

Grade 3 penalty.

(8) The holder of a fishing licence (giant crab), fish processing licence or handling licence must, if that licence is endorsed for the use of a fish cauf, keep records relating to the following matters:

(a) the time and date of each placement of giant crab in each fish cauf;

(b) for each placement and removal of giant crab in or from each fish cauf, the number of giant crab;

(c) the daily stock, by number, of giant crab held in each fish cauf.

Penalty:

Grade 3 penalty.

(9) The holder of a fishing licence (giant crab), fish processing licence or handling licence must keep a record made for the purposes of subrule (8), in good condition, for at least 5 years.

Penalty:

Grade 3 penalty.

51. Restrictions and requirements relating to holding tanks

(1) The holder of a fishing licence (giant crab) must not place giant crab in a holding tank unless that licence is endorsed for the use of a holding tank.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (giant crab) that is endorsed for the use of a holding tank must not place in a holding tank –

(a) giant crab taken by another person; or

(b) giant crab purchased or obtained from the holder of a fish processing licence or handling licence.

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (giant crab) must not place giant crab in a holding tank unless that licensee –

(a) makes an unloading report at least 2 hours before the giant crab are unloaded; and

(b) completes Part A of a commercial giant crab quota docket before the giant crab are removed from the immediate proximity of the site of unloading; and

(c) sends the pink sheet of that commercial giant crab quota docket to the Secretary within 48 hours after completing Part A of that docket

Penalty:

Grade 3 penalty.

(4) The holder of a fishing licence (giant crab) that is endorsed for the use of a holding tank must keep records relating to the following matters:

(a) the time and date of each placement of giant crab in each holding tank;

(b) for each placement or removal of giant crab in or from each holding tank, the number of giant crab;

(c) the daily stock, by number, of giant crab held in each holding tank.

Penalty:

Grade 3 penalty.

PART 5 - Reporting and tracking

Division 1 - Reports

52. Reporting service

(1) The Secretary may approve –

(a) a reporting service to receive reports under these rules; and

(b) the means by which such reports are to be made; and

(c) the information to be provided in such reports.

(2) As soon as practicable after it receives a report under these rules, the reporting service is to issue the maker of the report with a report receipt number.

53. Unloading reports

(1) The holder of a fishing licence (giant crab) must make an unloading report before unloading giant crab.

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of the unloading of any giant crab if –

(a) the giant crab are placed in a fish cauf; or

(b) the giant crab are sold or transferred to a person other than the holder of a fish processing licence or a handling licence, and –

(i) the sale or transfer occurs within the immediate proximity of the site of unloading; and

(ii) no more than 5 giant crab are sold or transferred; or

(c) the giant crab need to be unloaded urgently to avoid the possibility that they might die on account of a significant change in water quality brought about by unforeseen circumstances and the licensee makes an emergency unloading report with 30 minutes after the time of unloading; or

(d) the giant crab need to be unloaded urgently to ensure the safety of the fishing vessel and the licensee makes an emergency unloading report within 30 minutes after the time of unloading.

(3) The holder of a fishing licence (giant crab) who makes an unloading report under subrule (1) in respect of any giant crab –

(a) must not unload the giant crab before the estimated time of unloading given in that report; and

(b) must commence unloading the giant crab within 2 hours after the estimated time of unloading given in that report.

Penalty:

Grade 3 penalty.

54. Alternative reporting arrangements

Notwithstanding any other provision of these rules, the holder of a licence is not guilty of an offence for failing to make a report to the reporting service under and in accordance with these rules about any matter if –

(a) the licence is endorsed with alternative arrangements relating to the reporting requirement; and

(b) the licensee complies with the terms of the endorsement.

55. Making reports

Except with the written approval of the Secretary, a person must not make a report to the reporting service more than 24 hours before the activity to which the report relates is carried out.

Penalty:

Grade 3 penalty.

56. Cancellation reports

If a person who makes a report to the reporting service does not carry out the activity to which the report relates, the person must make a cancellation report within 2 hours after the activity was supposed to have been carried out.

Penalty:

Grade 3 penalty.

57. False, misleading or incomplete information

A person must not –

(a) omit any relevant information from a report required to be made to the reporting service under these rules; or

(b) give any false or misleading information in a report required to be made to the reporting service under these rules.

Penalty:

Grade 3 penalty.

58. Provision of receipt numbers

A person who is issued with a report receipt number by the reporting service must provide that number to a fisheries officer when required to do so.

Penalty:

Grade 2 penalty.

Division 2 - Dockets

59. Measurement of weights

The holder of a fishing licence (giant crab), fish processing licence or handling licence must maintain and use accurate weighing instruments to determine the weight information written on any dockets completed under these rules.

Penalty:

Grade 3 penalty.

60. Conflicts of interest

(1) A natural person who unloads giant crab must not complete Part B of a commercial giant crab quota docket as the holder of a fish processing licence unless that natural person has the written approval of the Secretary to do so.

Penalty:

Grade 3 penalty.

(2) A natural person who receives giant crab must not complete Part A of a commercial giant crab quota docket as the holder of a fishing licence (giant crab) unless that natural person has the written approval of the Secretary to do so.

Penalty:

Grade 3 penalty.

Division 3 - Records

61. Records of general information

(1) The holder of a fishing licence (giant crab) must make and retain records within Tasmania that enable the following information to be determined in respect of operations conducted under the licence and in relation to business activities arising in connection with those operations:

- (a) the date of each sale or consignment of giant crab made by or on behalf of that licensee;
- (b) the exact weight of giant crab sold or consigned;
- (c) the form of giant crab sold or consigned;
- (d) the price or consideration received for giant crab;
- (e) for sales or consignments of 6 or more giant crab at any one time, the name and address of the purchaser or consignee of the giant crab.

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (giant crab) is not guilty of an offence under subrule (1) in respect of the retention of a record outside Tasmania if that licensee –

- (a) resides outside Tasmania; and
- (b) has the written approval of the Secretary to retain the record outside Tasmania; and
- (c) produces the record to a fisheries officer within 7 days after receiving a written request from that fisheries officer for its production.

62. Records of giant crab catch

(1) The holder of a fishing licence (giant crab) must complete a giant crab catch record –

- (a) on each day during which fishing occurs; and
- (b) before that licensee –
 - (i) first disembarks from a fishing vessel after a fishing trip; or

(ii) leaves State waters with giant crab on a fishing vessel.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (giant crab) must ensure that that licensee's giant crab catch record is, during a fishing trip for giant crab, kept on the fishing vessel used for that fishing trip.

Penalty:

Grade 2 penalty.

PART 6 - Miscellaneous

63. Vessel monitoring systems

(1) The Secretary, by notice in writing served on the holder of a fishing licence (giant crab), may direct the licence holder to fit a vessel monitoring system to a specified fishing vessel.

(2) The provisions of Part 3 of the Fisheries Rules 1999 relating to a vessel monitoring system, other than rule 32 of those rules, apply to the holder of a fishing licence (giant crab) as if –

(a) a reference in those rules to a supervisor of a fishing licence (vessel) were a reference to a supervisor of a fishing licence (giant crab); and

(b) a reference in those rules to a holder of a fishing licence (vessel) were a reference to a holder of a fishing licence (giant crab); and

(c) a reference in those rules to a notice served were a reference to a notice in writing sent.

64. Transitional provisions

(1) A public notice under the former rules that had force and effect for the purposes of the giant crab fishery immediately before the commencement day 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 to all fisheries;

(c) the public notice is spent in its application to the giant crab fishery;

(d) the public notice is amended or varied in such a way that it ceases to have any application to the giant crab fishery.

(2) The Minister is to ensure that a quantity of giant crab taken during the terminating quota year under a fishing licence (giant crab) in excess of the quantity specified in that licence is deducted from the fishing quota unit balance for that licence for the first new quota year as follows:

(a) for a quantity of 50 kilograms or less, a deduction equivalent to the amount of the quantity taken;

(b) for a quantity greater than 50 kilograms and not greater than 70 kilograms, a deduction of 50 kilograms plus 2 kilograms for each kilogram taken over 50 kilograms;

(c) for a quantity greater than 70 kilograms, a deduction of 90 kilograms.

(3) A deduction from a fishing quota unit balance under subrule (2) may exceed the quantity specified in paragraph (c) of that subrule if the holder of the relevant fishing licence (giant crab) demonstrates that the excess quantity of giant crab was taken unintentionally.

(4) In a case to which subrule (3) applies, the Minister is to ensure that an amount equivalent to the quantity of the giant crab taken in excess of the quantity specified in subrule (2)(c) is deducted from the fishing quota unit balance for the relevant fishing licence (giant crab) for the first new quota year.

(5) In this rule –

commencement day means the day on which these rules take effect;

first new quota year means the quota year immediately following the terminating quota year;

former rules means the *Fisheries (Rock Lobster and Giant Crab) Rules 2001*;

terminating quota year means the quota year in progress on the commencement day.

65. Infringement notice offences and penalties

For section 234 of the Act –

(a) an offence under a rule specified in Schedule 2 is prescribed as an offence in respect of which an infringement notice may be served; and

(b) the penalty specified in that Schedule in respect of that offence is the applicable penalty for that offence.

SCHEDULE 1 - Ports of Landing

Rule 3

1. The following are ports of landing for north-western Tasmania:

(a) Bluff Hill Point;

(b) within 200 metres of Couta Rocks;

(c) the public wharf at Currie Harbour;

(d) Devonport;

(e) within Granville Harbour and Sting Ray Bay;

(f) within Grassy Harbour;

(g) within Nelson Bay;

(h) the public unloading wharf at Smithton;

- (i)** Fisherman's Wharf at Stanley;
- (j)** the main public wharf, Fisherman's Wharf and Strahan Fisheries Wharf at Strahan;
- (k)** within 200 metres of Temma Harbour;
- (l)** Fisherman's Wharf at Wynyard.

2. The following are ports of landing for north-eastern Tasmania:

- (a)** Waubs Bay ramp and the public wharf at Bicheno;
- (b)** the boat ramp at Binalong Bay;
- (c)** the public wharf at Bridport;
- (d)** the public wharf at George Town;
- (e)** Killiecrankie;
- (f)** the public wharf at Lady Barron;
- (g)** North East River;
- (h)** Musselroe River;
- (i)** the public wharf, Pike's Jetty and Finger Pier at St Helens;
- (j)** the public wharf at Whitemark;
- (k)** Palana;
- (l)** the public wharf at Beauty Point.

3. The following are ports of landing for southern Tasmania:

- (a)** the public wharf at Coles Bay;
- (b)** the public wharf at Dover;
- (c)** Blackman Bay Wharf at Dunalley;
- (d)** the public wharf at Eaglehawk Neck;
- (e)** Gordon Jetty;
- (f)** King Pier, Macquarie Wharf and Victoria Dock at Hobart;
- (g)** the public wharf at Kettering;
- (h)** North West Bay Marina and the public wharf at Margate;

- (i) the public wharf and the Storm Bay Seafoods wharf at Nubeena;
- (j) the public wharf at Port Arthur;
- (k) the public wharf at Recherche Bay;
- (l) the public wharf at Southport;
- (m) the town wharf, the wharf opposite the town wharf and the deepwater wharf at Triabunna;
- (n) the public wharf at Woodbridge;
- (o) the public jetty at Little Swanport.

4. The following are ports of landing for Victoria:

- (a) the public wharf at Apollo Bay;
- (b) the public wharf at Portland;
- (c) the public wharf at Port Welshpool;
- (d) the public wharf at San Remo;
- (e) the public wharf at Queenscliff;
- (f) the public wharf at Victoria Dock, Melbourne.

SCHEDULE 2 - Infringement Notice Offences and Penalties

Rule 65

	Rule	Penalty units
1.	8	4
2.	10(1)	5
3.	10(2)	5
4.	10(3)	5
5.	11(1)	5
6.	11(2)	5
7.	11(3)	5
8.	12(1)	5
9.	13(1)	4
10.	14(1)	4
11.	14(2)	4
12.	15(a)	5
13.	15(b)	5
14.	15(c)	5
15.	16(1)	5
16.	16(2)	5

17.	16(3)	5
18.	21(1)	2
19.	21(2)	2
20.	22(1)	3
21.	22(3)	3
22.	27(1)	5
23.	28	2
24.	29(2)	3
25.	33(1)	4
26.	34(2)	5
27.	35(2)	3
28.	35(3)	3
29.	36(2)	3
30.	36(3)	3
31.	36(4)	3
32.	36(5)	3
33.	37(2)	3
34.	37(3)	3
35.	38(2)	5
36.	38(3)	5
37.	39(1)	5
38.	39(4)	5
39.	40(2)	5
40.	41	5
41.	42	5
42.	43	5
43.	44(1)	3
44.	44(2)	3
45.	45(1)	2
46.	45(3)	2
47.	46(1)(a)	3
48.	46(1)(b)	3
49.	46(2)	3
50.	46(3)	3
51.	47(1)	2
52.	48	2
53.	49(1)	2
54.	49(2)	2
55.	49(4)	2
56.	49(5)	2
57.	49(6)	2
58.	50(1)	4
59.	50(2)	4
60.	50(3)	4

61.	50(4)	4
62.	50(5)	4
63.	50(6)	4
64.	50(7)	4
65.	50(8)	4
66.	50(9)	4
67.	51(1)	4
68.	51(2)	4
69.	51(3)	4
70.	51(4)	4
71.	53(1)	3
72.	53(3)	3
73.	55	1
74.	56	1
75.	57	3
76.	58	1
77.	59	4
78.	60(1)	2
79.	60(2)	2
80.	61(1)	3
81.	62(1)	3
82.	62(2)	3

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

Notified in the *Gazette* on 15 February 2006.

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

Table Of Amendments

Citation	Serial Number	Date of commencement
Fisheries (Giant Crab) Rules 2006	S.R. 2006, No. 7	28.2.2006
Legislation Publication Act 1996	No. 17 of 1996	13.9.2006
Fisheries (Giant Crab) Amendment Rules 2010	S.R. 2010, No. 1	12.1.2010
Fisheries (Giant Crab) Rules 2013	S.R. 2013, No. 2	28.2.2013