



Australian Government

Australian Fisheries Management Authority

Fisheries Management (Southern and Eastern Scalefish and Shark Fishery Management Plan 2003) Temporary Order 2012 No. 1

Fisheries Management Act 1991

I, JAMES FINDLAY, Chief Executive Officer and delegate of the Australian Fisheries Management Authority, make this order under subsection 43(2) and subsection 43(6) of the *Fisheries Management Act 1991* (the Management Act), being satisfied that:

- (a) it is necessary to take action under section 43 of the Management Act;
- (b) the action is consistent with AFMA objectives; and
- (c) no other action is appropriate.

Dated: 22 March 2012

JAMES FINDLAY

Chief Executive Officer

Australian Fisheries Management Authority

1 Name of Order

This Order is the *Fisheries Management (Southern and Eastern Scalefish and Shark Fishery Management Plan 2003) Temporary Order 2012 No.1*.

2 Commencement

This Order commences at 12:00am Central Standard Time, on 23 March 2012.

3 Definitions

In this Order:

- (1) Terms used have the same meaning that they have in the Management Act or in the *Southern and Eastern Scalefish and Shark Fisheries Management Plan 2003* (the Management Plan).

Note: Terms defined in the Management Plan include “Commonwealth Gillnet Sector”.

AFMA means the Australian Fisheries Management Authority.

Dolphin Gillnet Closure means that part of the Commonwealth Gillnet Sector described in Schedule 1.

Dolphin Observation Zone means that part of the Commonwealth Gillnet Sector described in Schedule 2.

holder, at a particular time, means:

- (a) for a statutory fishing right:
- (i) the person who owns the right and has not leased the right to another person under subsection 46D of the Management Act; or
 - (ii) the person has leased the right from another person under that subsection; and

(b) for a South Australian Coastal Waters permit, means the person who is granted the permit under section 32 of the Management Act.

hook methods means demersal longlines without the use of automatic baiting equipment.

total gillnet effort, in paragraph 4(1)(a) means the total length of gillnets deployed.

South Australian Coastal Waters permit means a fishing permit that authorises the holder to fish using gillnet methods, or gillnet and hook methods, in the South Australian Coastal Waters Sector.

4. Alternative fishing method

Application

- (1) Sub-clause 4(3) applies to a person who holds a gillnet boat statutory fishing right, if:
 - (a) (i) the holder, or a person acting on behalf of the holder, fished in the fishery under the authority of that gillnet boat statutory fishing right during the period 1 May 2009 to 30 June 2011;
 - (ii) in that period, 25% or more of the total gillnet effort referred to in sub-paragraph (a)(i) was deployed in the Dolphin Gillnet Closure; or
 - (b) the holder does not satisfy sub-paragraph (a)(ii), but AFMA determines, on the basis of exceptional circumstances, that sub-clause 4(3) applies to the holder.
- (2) Sub-clauses 4(5) and (6) apply to a person who holds a South Australian Coastal Waters permit, if:
 - (a) (i) the holder, or a person acting on behalf of the holder, fished in the fishery during the period 1 May 2009 to 30 June 2011 under the

authority of a South Australian Coastal Waters permit that authorised the use of gillnet methods;

(ii) in that period, 25% or more of the total gillnet effort referred to in sub-paragraph (a)(i) was deployed in the Dolphin Gillnet Closure; or

(c) the holder does not satisfy sub-paragraph (a)(ii), but AFMA determines, on the basis of exceptional circumstances, that sub-clauses 4(5) and (6) apply to the holder.

Gillnet Boat Statutory Fishing Rights

(3) The gillnet boat statutory fishing right referred to in sub-clause 4(1) authorises the holder, or a person acting on behalf of the holder, to fish:

(a) using *hook methods only*, and not gillnet methods, in the Dolphin Gillnet Closure; and

(b) using *either* hook methods or gillnet methods in the Dolphin Observation Zone.

(4) A gillnet boat statutory fishing right held by a person to whom sub-clause 4(3) does *not* apply authorises the person to fish, using gillnet methods only, in any part of the Commonwealth Gillnet Sector that is not in the Dolphin Gillnet Closure.

South Australian Coastal Waters permits

(5) (a) A South Australian Coastal Waters permit held by a person to whom this sub-clause applies, that authorises the holder to fish in the South Australian Coastal Waters Sector using gillnet methods only, authorises the holder to fish:

(i) using *hook methods only*, and not gillnet methods, in the Dolphin Gillnet Closure; and

(ii) using gillnet methods *or* hook methods in the Dolphin Observation Zone.

- (b) When hook methods are used in accordance with paragraph (5)(a), a maximum of 400 hooks may be in the water at any one time, regardless of the number and configuration of the demersal longlines in use.
- (6) A South Australian Coastal Waters permit held by a person to whom this sub-clause applies, that authorises the holder to fish using *both* gillnet methods and hook methods in the South Australian Coastal Waters Sector, authorises the holder to fish using *hook methods only*, and not gillnet methods, in that part of the South Australian Coastal Waters Sector that is in the Dolphin Gillnet Closure.
- (7) A South Australian Coastal Waters permit held by a person to whom sub-clauses 4(5) or 4(6) do *not* apply authorises the holder to fish using gillnet methods only in that part of the South Australian Coastal Waters Sector that is not in the Dolphin Gillnet Closure.

Note 1: It is a condition of a permit referred to in sub-clause 4(6) that a maximum number of 400 hooks may be in the water at any one time, regardless of the number and configuration of the demersal longlines in use.

Note 2: The area of waters in which a South Australian Coastal Waters permit authorises the holder to fish is specified in the permit.

5. Transfer

If a person transfers a gillnet boat statutory fishing right or a fishing permit referred to in sub-clauses 4(3) or (5) the right or permit will no longer authorise the holder to fish using hook methods as authorised by those clauses.

Note: Under the Management Plan and the Management Act, only one boat can be nominated to a statutory fishing right or a permit at any one time.

6. Directions not to engage in fishing

For the avoidance of doubt, this Order does not affect any directions made under section 17(5A) of the Management Act and section 56 of the Management Plan; or, since the *Fisheries Legislation Amendment Act (No.2) 2010* commenced, under section

41A of the Management Act, which directions continue in force according to their terms.

7. Other requirements

Observers and monitoring

- (1) The holder of a gillnet boat statutory fishing right, or a fishing permit, to whom sub-clauses 4(3), (4), (5), (6) or (7) applies, must ensure that whenever the boat is used to fish using gillnet methods in any part of the Dolphin Observation Zone:
 - (a) an AFMA nominated observer is carried on the boat nominated to the right or permit in accordance with the conditions on the right or permit; or
 - (b) electronic monitoring equipment approved by AFMA is installed on the boat, is operated to record all fishing activity, and the data recorded is returned to AFMA, in accordance with the directions of AFMA;unless AFMA authorises otherwise in writing.
- (2) If AFMA does not direct that an observer be carried (for example, for safety reasons, or the boat is unable to carry an observer), a person to whom sub-clause (1) applies must not fish using gillnet methods in the Dolphin Observation Zone unless AFMA approved electronic monitoring equipment is used in accordance with paragraph 8(1)(b), unless AFMA authorises otherwise in writing.
- (3) The holder of a boat nominated to gillnet boat statutory fishing right or a fishing permit that is authorised to use both hook methods and gillnet methods (including a dual gear permit referred to in sub-clause 4(6)) must ensure that:
 - (a) whenever the boat carries, in the Dolphin Observation Zone, equipment for fishing using gillnet methods; and
 - (b) whether the fishing method used, or intended to be used, is hook methods or gillnet methods:

- (i) an AFMA nominated observer is carried on the boat nominated to the right or permit in accordance with the conditions on the right or permit; or
- (ii) electronic monitoring equipment approved by AFMA is installed on the boat, is operated to record all fishing activity, and the data recorded is returned to AFMA, in accordance with the directions of AFMA;

unless AFMA authorises otherwise in writing.

- (4) AFMA may direct that an observer be carried, even if electronic monitoring equipment is installed and is to be operated.
- (5) The holder of a gillnet boat statutory fishing right, or a fishing permit, to whom sub-clauses 4(3), (4), (5), (6) or (7) applies, or a person acting on behalf of the holder must:
 - (a) give the AFMA Observer Section at least 72 hours notice of an intention to depart on a fishing trip, by telephone (02 6225 5506, or 0427 016 859) or by email: observers@afma.gov.au; and
 - (b) ensure that the boat does not leave port until:
 - (i) AFMA has notified the holder, or a person acting on behalf of the holder, whether it directs that an observer is to be carried on the boat; and
 - (ii) if the boat is equipped with electronic monitoring equipment, an electronic monitoring function test has been completed, AFMA has been notified of the result of the test, and AFMA has notified the holder, or a person acting on behalf of the holder, that it is satisfied that the equipment is working correctly.
- (6) A holder must ensure that, if the boat is equipped with electronic monitoring equipment, the equipment is working at all times that the boat is operating

within an area of waters to which this Order applies, unless AFMA authorises otherwise in writing.

Note: The obligations on the holders of fishing concessions, where AFMA directs that an AFMA observer is to be carried on the boat, are specified in the conditions on the concessions.

Removal of biological material

- (7) The holder of a gillnet boat statutory fishing right or a fishing permit authorising the person to fish using gillnet methods must ensure that all biological material is completely removed from a gillnet before the net is re-set.

Discard of waste

- (8) Processing waste, including offal, must not be discarded from a boat to which this Order applies while a gillnet is being deployed.

Schedules 1 and 2

Fisheries Management (Southern and Eastern Scalefish and Shark Fishery Management Plan 2003) Temporary Order 2012 No. 1

Schedule 1

The *Dolphin Gillnet Closure* is the area of waters adjacent to the coast of South Australia:

- Starting at the intersection of 137° 08'E and the low water mark of Kangaroo Island;
- Then south to 36° 24'S 137° 08'E;
- Then southeast to 37° 00'S 138° 50'E;
- Then southeast to the intersection of 37° 09' 24"S and the low water mark of the coast of mainland Australia in the vicinity of Cape Dombey;
- Then generally northwest along the coast of mainland Australia to the intersection of 138° 08'E and the low water mark;
- Then south to the intersection of 138° 08'E and the low water mark of Kangaroo Island in the vicinity of Cape Willoughby;
- Then generally southwest along the coast to the point of commencement.

Schedule 2

The *Dolphin Observation Zone* is the area of waters:

- Starting at the intersection of longitude 136° 33' 55"E and the low water mark on the southern coast of Kangaroo Island;
- Then South to the intersection with the 183m line at 36° 34' 44"S and 136° 33' 55"E;
- Then following the 183m line in a SE direction (via points 22 to 42 of the 183m gillnet closure) to 38° 26' 35"S and 140° 58'E;
- Then North to the intersection with the 3 nautical mile line at 38° 06' 29"S and 140° 58'E;
- Following the 3 nm line North West to 37° 08' 42"S off Cape Dombey and 139° 40' 30"E
- Then North West to 37° 00'S 138° 50'E;
- Then North West to 36° 24'S 137° 08'E;
- Then North to the intersection of 137° 08' and the low water mark on the southern coast of Kangaroo Island;
- Then West to the point of commencement.