



COMMONWEALTH OF AUSTRALIA

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

**Revocation of Accreditation of a Plan, Regime or Policy for the purposes of Part 13
Accreditation of a Plan, Regime or Policy for the purposes of Part 13**

I, TONY BURKE, Minister for Sustainability, Environment, Water, Population and Communities:

- a. revoke, under section 33(3) of the *Acts Interpretation Act 1901 (Cth)*, the accreditation of the management regime for the Small Pelagic Fishery dated 5 December 2007; and
- b. being satisfied that:
 - i. the management regime for the Small Pelagic Fishery, in force under the *Fisheries Management Act 1991 (Cth)* and the *Small Pelagic Fishery Management Plan 2009*, requires persons engaged in fishing under the management regime to take all reasonable steps to ensure that members of listed threatened species, listed migratory species, cetaceans and listed marine species are not killed or injured as a result of the fishing; and
 - ii. the management regime for the Small Pelagic Fishery, does not, or is not likely to, adversely affect:
 - A. the survival or recovery in nature of any listed threatened species (other than conservation dependent species); or
 - B. the conservation status of a listed migratory species, a species of cetacean, or listed marine species or a population of those species,

accredit the management regime for the Small Pelagic Fishery in force under the *Fisheries Management Act 1991 (Cth)* and the *Small Pelagic Fishery Management Plan 2009* under sections 208A, 222A, 245 and 265 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (**EPBC Act**) for the purposes of Divisions 1, 2, 3 and 4 respectively of Part 13 of the EPBC Act.

The accreditation in paragraph b. above is:

- a. valid until 17 September 2012; and
- b. subject to the conditions applied under section 303AA of the EPBC Act, specified in the Schedule to this instrument.

Dated 3 September 2012

Minister for Sustainability, Environment, Water, Population and Communities

SCHEDULE

Conditions on the Part 13 accreditation for the Small Pelagic Fishery in force under the *Fisheries Management Act 1991* (Cth)

The following conditions apply to mid-water trawl operations with a large scale onboard processing facility and storage capacity in excess of 2000 tonnes providing the vessel with the ability to remain fishing for an extended period (**Large Scale Mid-Water Trawl Operation**) which will potentially impact on species protected under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**protected species**) in the Small Pelagic Fishery (the **Fishery**).

Condition 1

Large Scale Mid-Water Trawl Operations must:

- a. prior to fishing, have in place demonstrably effective and scientifically proven mitigation approaches and devices to the satisfaction of the Australian Fisheries Management Authority (AFMA), to minimise interactions with dolphins, seals, and seabirds, including gear handling and net setting rules. These mitigation devices must, as a minimum, include best practice seal excluder devices with top opening escape hatches or equivalent mechanisms.
- b. in the event of one or more dolphin mortalities as a result of the mid-water trawl fishing activities:
 - i. suspend fishing;
 - ii. consult with any AFMA observer onboard and review the effectiveness of mitigation measures; and
 - iii. not recommence fishing within 50 nautical miles of the mortality event.
- c. prior to fishing, have a seabird management plan in place that has been approved by AFMA in consultation with the Department of Sustainability, Environment, Water, Population and Communities (the **Department**). The seabird management plan must:
 - i. contain appropriate physical mitigation measures and requirements to manage offal discharge; and
 - ii. be complied with by the vessel operator and crew during all mid-water trawl fishing activities.
- d. prior to fishing, have a seal management plan in place that has been approved by AFMA in consultation with the Department. The seal management plan must:
 - i. contain gear handling and net setting rules to minimise the level of seal mortalities;
 - ii. be complied with by the vessel operator and crew during all mid-water trawl fishing activities;
 - iii. in the event of three seal mortalities in any one fishing shot, require the operator to consult with any AFMA observer onboard and review the effectiveness of mitigation measures before recommencing fishing; and
 - iv. in the event of:
 - A. three or more seal mortalities in each of three consecutive shots; or
 - B. more than 10 seal mortalities within a 24 hour period of fishing; or

- C. more than 10 seal mortalities in one shot,
require the operator to:
 - D. suspend fishing;
 - E. consult with any AFMA observer onboard and review the effectiveness of mitigation measures; and
 - F. not recommence fishing within 50 nautical miles of the mortality event.
- e. not fish in areas of the Fishery on the continental shelf which are in the Australian sea lion closure area. The area of the Australian sea lion closure is the part of the exclusive economic zone adjacent to the coast of Australia bounded by a notional line beginning at the intersection of the meridian of longitude 129° 00' E and the coast of Southern Australia, and running progressively:
 - i. south along that meridian to the intersection with the 150 metre depth contour of the continental shelf;
 - ii. generally easterly along the 150 metre depth contour to the point of intersection with the meridian of longitude 140° 05' E;
 - iii. north along that meridian to the intersection with the coastline of South Australia; and
 - iv. generally westerly along the coastline to the point where the line began,not including coastal waters of, or waters within the limits of, a State.
- f. ensure there is an onboard observer at all times with 24 hour monitoring of mid-water trawl fishing activities and there is an underwater camera record of the operation of any bycatch excluder device at all times, and reviewed by an observer each day. The requirements under this Condition 1.f. will apply to 1 November 2013 with monitoring arrangements to apply after this date to be determined following a review by AFMA and the Department.
- g. when fishing, report daily to AFMA on the level of protected species interactions, including mortalities.

