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The management of errors in reported Entitlement taken in the West Coast Rock Lobster Managed Fishery

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Department of
Primary Industries and
Regional Development

*We're working for
Western Australia.*

Administrative Guideline No. 3

The management of errors in reported Entitlement taken in the West Coast Rock Lobster Managed Fishery

August 2021

Important disclaimer

The Chief Executive Officer of the Department of Primary Industries and Regional Development and the State of Western Australia accept no liability whatsoever by reason of negligence or otherwise arising from the use or release of this information or any part of it.

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1.0 Introduction

These Administrative Guidelines address how errors in the submission of reported net weights in the West Coast Rock Lobster Managed Fishery (the Fishery) are to be managed. There is an onus on the Master and the Registered Receiver to provide accurate information when submitting the weight (in kilograms) of rock lobster taken for each consignment, under the *West Coast Rock Lobster Managed Fishery Management Plan 2012* (the Plan). However, it is acknowledged that from time to time errors will be made in making submissions. These guidelines outline how to report such errors to the Department of Primary Industries and Regional Development (DPIRD) and how DPIRD will manage errors in accordance with the intent of the Plan.

Note: A request under these guidelines is an alternative to lodging a request for authority fish in excess of entitlement, under clause 43(5) of the Plan. If an application is made under these guidelines and a request is made to be permitted to fish in excess of entitlement only one application will be considered.

2.0 Overview of how errors will be managed

The Plan requires both Masters and Registered Receivers to complete specific weighing processes at specified times. The weights reported to DPIRD include;

- **gross weight**, which means the total weight of all the containers in a consignment and includes the weight of all lobsters in those containers and all other things, including water, on, in, or attached to those containers, determined in kilograms to one decimal place;
- **container weight**, which means the weight of a container used to hold rock lobster, including the lid and anything attached to the container, determined in kilograms to one decimal point (with an amount of 0.05 kilograms or more being rounded upwards to the next 0.1 of a kilogram), by the method specified in Schedule 10 of the Plan;
- **net weight**, which means -
 - (a) where determined by the master of an authorised boat, the total weight of all the lobsters in a consignment (in kilograms), determined to one decimal place in accordance with the method specified in Schedule 10 of the Plan; and
 - (b) where determined by a registered receiver, the total weight of all the lobsters in the consignment (in kilograms), determined by the registered receiver to one decimal place.

Errors may occur when determining and reporting the net weight.

In circumstances where the correction of an alleged error will result in an **increase** in the net weight of lobster reported, the alleged error will be investigated and reviewed by the Entitlement Management Unit.

In circumstances where the correction of an alleged error will result in a **decrease** in the net weight of lobster reported, then the criteria for determining that an error has occurred, as outlined in clause 43(5) will be applied.

Under clause 43(5): *Where an error has occurred in the recording of the weight of rock lobster under clauses 60(4) or 62(8), the CEO may permit fishing in excess of the entitlement of a licence where -*

- (a) the CEO is satisfied that either -
 - (i) the error in recording the weight of the rock lobster is self-evident on the face of the relevant CDR form or post-landing nomination form submitted in Fish Eye; or*
 - (ii) the evidence supports the conclusion that an error has occurred in the recording of the weight of the rock lobster on the relevant Fish Eye nomination or CDR form, and information on other Fish Eye nominations or CDR forms in relation to the licence are consistent with that conclusion; and**
- (b) the holder of the relevant licence notified the CEO of the error within 28 days of the error occurring; and*
- (c) the error made exceeds 5 kilograms.*

An internal investigation and review process is undertaken to substantiate the claim that an error occurred. If the investigation and review process substantiates the claim

and is approved by the Chief Executive Officer, **an amendment will be made to correct the erroneous weights recorded against the consignment in the entitlement management database.** Approval to fish in excess of entitlement will not be granted.

Masters, MFL holders, and Registered Receivers should not pre-empt the outcome of an application made under these guidelines.

3.0 Reporting an Error

When a Master, Registered Receiver or MFL Holder believes an error has been made in reporting net weights of consignments of rock lobster, they must advise the CEO of the nature of the error.

Masters, Registers Receivers or MFL Holders can contact the Fisheye Support/Rock Lobster Helpline (1300 550 763), their local DPIRD office, or a DPIRD staff member to make the first notification of an alleged error. This allows for the notification part of clause 43(5) to be satisfied.

For a request to increase the reported net weight, advice by phone, email, letter or fax detailing the error and the corrected weights is acceptable. Written confirmation will be provided from DPIRD once the claim has been reviewed.

Any request to decrease the reported net weight, will need to be submitted in writing on a statutory declaration. Initial notification by: phone, email, letter or fax must have been registered within the required timeframe (28 days). A copy of the statutory declaration can be sent by fax or email, and the original must also subsequently be provided.

4.0 The management of errors that would, if corrected, result in an increase in net weight

The advice submitted to DPIRD should detail the nature of the error, how the error occurred, and the corrected gross, container and net weights in kilograms that should have been recorded. The correction of an error of this nature represents a lower risk to the integrity of the Rock Lobster entitlement management system and the Fishery. After an investigation and review of the submission, the error may be corrected in the entitlement management database. The MFL Holder will be advised of the revised weight recorded for the consignment in question. The database keeps a record of all adjustments to weights that can be audited.

Note: The corrected entitlement value will become visible to the Master and MFL Holder on the entitlement management database upon the next update/refresh of the Entitlement Report.

Note: This change of record does not prevent other compliance action being pursued.

5.0 The management of errors that would, if corrected, result in a decrease in net weight

Where an application is made to decrease the net weight, an investigation and review process is undertaken to substantiate the claim. When considering requests to reduce entitlement taken there is a greater risk to sustainability and equity that underpin the management of the Fishery. The CEO must be satisfied by the evidence presented in order to correct an error that would result in a decrease in net weight, in accordance with the criteria set out in clause 43(5) of the Plan. The same internal process will be followed when considering a request to report a reduction of net weight under these guidelines as a request to permit fishing in excess of entitlement under clause 43(5) of the Plan.

The statutory declaration must outline the nature of the error, the reason for the error, and the corrected gross, container and net weights in kilograms that should have been recorded. An electronic copy of the Statutory Declaration can be forwarded to DPIRD to expedite the investigation and review process. The CEO will make a decision, as required by the Plan, and the MFL Holder will be advised. If the decision is to approve the request, the weight of entitlement reported will be amended to the value determined by the investigation and review process. The MFL Holder will be advised on the revised entitlement taken for the consignment in question. The database keeps a record of all adjustments to weights that can be audited.

Note: The corrected entitlement value will become visible to the Master and MFL Holder on the entitlement management database upon the next update/refresh of the Entitlement Report.

Note: This change of record does not prevent other compliance action being pursued.

6.0 Appendix 1 – Pro forma statutory declaration form

See next page for Pro forma statutory declaration form (source: WA Police).

WESTERN AUSTRALIA

OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

I,

.....
{name, address and occupation of person making declaration}

sincerely declare as follows:-

.....
.....
.....
.....
.....
.....
.....
.....
.....

{insert content of the statutory declaration; use numbered paragraphs if content is long}

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

at
{place}

.....
{date}

in the presence of -

.....
{Signature of authorised witness}

.....
{Name of authorised witness and qualification as such a witness}

by
{Signature of person making the declaration}

***Important** This Declaration must be made before any of the following persons:-

Academic (post-secondary institution), Accountant, Architect, Australian Consular Officer, Australian Diplomatic Officer, Bailiff, Bank Manager, Chartered secretary, Chemist, Chiropractor, Company auditor or liquidator, Court officer (Judge, magistrate, registrar or clerk), Defence Force officer (Commissioned, Warrant or NCO with 5 years continuous service), Dentist, Doctor, Electorate Officer (State), Engineer, Industrial organisation secretary, Insurance broker, Justice of the Peace, Lawyer, Local government CEO or deputy CEO, Local government councillor, Loss adjuster, Marriage Celebrant, Member of Parliament (State or Commonwealth), Minister of religion, Nurse, Optometrist, Patent Attorney, Physiotherapist, Podiatrist, Police officer, Post Officer manager, Psychologist, Public Notary, Public Servant (State or Commonwealth), Real Estate agent, Settlement agent, Sheriff or deputy Sheriff, Surveyor, Teacher, Tribunal officer, Veterinary surgeon

Or,

Any person before whom, under the *Statutory Declarations Act 1959* of the Commonwealth, a Statutory Declaration may be made.

IMPORTANT INFORMATION:

AS OF 1 JANUARY 2006 THERE IS NO PROVISION FOR COMMISSIONERS FOR DECLARATIONS IN THE STATE OF WESTERN AUSTRALIA