

SBT SFR GENERAL CONDITIONS 2019-20 SEASON (CDS)

AREA OF WATERS

This concession is granted for the area of waters described as the area specified as the SBT Fishery area in clause 3 of the *Southern Bluefin Tuna Fishery Management Plan 1995*.

CONDITIONS APPLYING TO THIS STATUTORY FISHING RIGHT

In addition to the conditions specified by sub section 22(3) of the *Fisheries Management Act 1991*, and the condition in sub section 42(2) to comply with any log book determination, the condition to comply with any Direction under s41A, and the condition to comply with section 42A requiring facilitating boarding and cooperating with inspection by foreign officials under the Fish Stocks Agreement, the following conditions are specified for the purposes of sub section 22(4) paragraph (a).

Note: Under sub section 22(5) these conditions may be varied, revoked or a further condition specified by written notice from AFMA.

In addition to the above, the holder must comply with all the obligations prescribed in the *Southern Bluefin Tuna Fishery Management Plan 1995* in particular:

- Clause 9 titled: *Who is entitled to fish SBT in the SBT Fishery area using an Australian boat?*
- Clause 12 titled: *Who is entitled to fish for fish other than SBT in the SBT Fishery area?*
- Clause 22A titled: *Details of southern bluefin tuna taken to be sent to AFMA;*
- Clause 22B titled: *Verified count of fish - purse seine method of fishing; and*
- Clause 24 titled: *Obligations of the holder of a statutory fishing right - section 22 of the Act.*

By s42B(1) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019*, providing conditions that apply to this fishing concession in particular:

- Regulation 33: Nominated boat must be used on trip.
- Regulation 37: Concession holder to ensure that vessel monitoring system is fitted and operating.
- Regulation 39: Requirement to carry observer
- Regulation 40: Concession holder to ensure provision for observer and equipment to be carried.
- Regulation 41: Concession holder to ensure observer enabled to perform functions.
- Regulation 43: Fish to be disposed of to fish receiver permit holder*
- Regulation 44-65: Catch limits.*
- Regulation 67: Prohibited ways of processing fish.
- Regulation 68: Removal of shark liver.
- Regulation 70: No interaction with protected organism.
- Regulation 71: Reporting interaction with protected organism.
- Regulation 72: Requirements if protected organism is injured by interaction.
- Regulation 73: Requirements if protected organism is killed by interaction.

* not applicable to some concessions

AREA LIMITATION

1. The holder must not fish under this concession outside the area of waters described in this

document.

CRITICAL INCIDENTS

2. If the boat nominated to this concession is using the purse seine method, the holder must immediately report to AFMA all critical incidents or unusual circumstances affecting the fish during the catching process or during the transfer into the tow cage. This includes but is not limited to higher than normal mortality rates, boat breakdown, tow cage damage or loss, any fish release, storm or weather damage. The information must be reported by calling the Duty Officer's Phone (24 hours) on: 0419 205 329.

OTHER OBLIGATIONS

3. For farm operations complying with clause 22B.3 of the *Southern Bluefin Tuna Fishery Management Plan 1995*, the holder must follow directions of the AFMA authorised representative who must supervise the taking of the sample and ensure that it is in accordance with the AFMA Procedures for Transfer Weighing as detailed in the Southern Bluefin Tuna Fishery (Farm Sector) Pre-Season Briefing Guide 2019/20.
4. If a boat is nominated to this concession, at all times when the boat is being used under this concession, the holder must have provided to AFMA a current emergency contact facility for the nominated boat.
5. An emergency contact facility must enable AFMA to contact the boat immediately and directly at any time when the boat is at sea, including in the event of an emergency.
6. AFMA must be notified immediately of any change in contact details, by fax sent to (02) 6225 5440 or by email to licensing@afma.gov.au; and the boat must not depart on a fishing trip unless AFMA has been so notified of the change in contact details.

Note: The emergency contact facility may take the form of a satellite phone number, or skipper or crew member's mobile phone number - any number that may be used by AFMA to contact the boat while it is at sea at any time, including in the event of an emergency.

CATCH DOCUMENTATION SCHEME

7. The Statutory Fishing Right holder or authorised agent acting for the holder must ensure all Southern Bluefin Tuna are sold or otherwise disposed of through a Licensed Fish Receiver in possession of a current Fish Receiver Permit issued under the *Fisheries Management Act 1991* that is registered with AFMA to receive Southern Bluefin Tuna.
8. The Statutory Fishing Right holder or authorised agent acting for the holder must ensure that the following happens for all wild caught¹ Southern Bluefin Tuna that are landed:
 - a) an AFMA approved tag is inserted directly into the fish, in such a way that it cannot be reused, before the fish is frozen or unloaded from the boat, whichever is first;
 - b) the length, weight and capture location of each individual fish is recorded on the Catch Tagging Form before the fish leaves their possession or is frozen, whichever is first;
 - c) the Catch/Harvest section of the Catch Monitoring Form is completed and given to the receiving Fish Receiver Permit holder or their authorised agent;
 - d) a completed Catch Monitoring Form that has been validated accompanies all fish whether

for domestic sale or export.

¹Wild Caught: Southern Bluefin Tuna is considered wild caught if it is brought on board a vessel at sea and killed and has not been counted into a farm cage. A fish is not classified as wild caught if it has been transferred into a CCSBT registered farm, it is then 'farmed'.

9. The Statutory Fishing Right holder or authorised agent acting for the holder must certify and return a Farm Stocking Form to AFMA for all live Southern Bluefin Tuna transferred to farms.
10. The Statutory Fishing Right holder or authorised agent acting for the holder must ensure that the following happens for farmed Southern Bluefin Tuna that are killed:
 - a) If the fish remains whole² that within 30 hours of its kill, before the fish leaves their possession or the fish is frozen, whichever is first that:
 - i. an AFMA approved tag is inserted directly into the fish, in such a way that it cannot be reused;
 - ii. the length, weight and capture location of each individual fish is recorded on the Catch Tagging Form;
 - b) the Catch/Harvest section of the Catch Monitoring Form is completed fully and correctly according to the instructions contained in the book;
 - c) a completed Catch Monitoring Form that has been validated accompanies all fish whether for domestic sale or export;
 - d) any mortalities retained for landing during Purse Seining are recorded on the SBT02 logbook next to the number of estimated mortalities; and
 - e) the Statutory Fishing Right holder or authorised agent acting for the holder is exempted from condition 10 a) if the fish is rejected and discarded within 30 hours, provided the fish is never sold and records of all mortalities discarded are kept.

²Whole: A fish remains whole despite cleaning, gilling, and gutting, freezing, removing fins, gill plates and tail and removing the head or part of the head. A fish is no longer considered to be whole if it has undergone processes such as filleting or loining.

11. The Catch Tagging Form must be certified by the master of the vessel or the fish receiver only when it has been correctly and fully completed.
12. Tags must remain attached to each individual dead Southern Bluefin Tuna until at least the first point of sale unless the tuna has been processed so that it is no longer whole².
13. Ensure a copy of the Catch Monitoring Form, with the Catch/Harvest Section and either the Export or Domestic Sale section completed and validated, is sent to AFMA within 3 days of the catch being landed.
14. Copies of all completed catch tagging forms must be sent back to AFMA within 3 days of completion.
15. If there are insufficient tags on board a vessel to tag all fish:
 - a) AFMA must be contacted prior to landing, in writing, by either faxing (02) 6225 5440 or emailing sbtmonitoring@afma.gov.au; and
 - b) the fish must not leave the vessel until an AFMA approved tag has been sourced and

attached to it.

16. The Statutory Fishing Right holder or authorised agent acting on their behalf must ensure that if a tag is lost or needs to be replaced the following information is provided to AFMA by either faxing (02) 6225 5440 or emailing sbtmonitoring@afma.gov.au within 3 days of it being replaced:

- a) old tag number (if known)
- b) new tag number
- c) old Catch Tagging Form Document Number (if known)
- d) new Catch Tagging Form Document Number
- e) reason the tag was changed.

17. All sections of Catch Documentation Scheme forms must be filled in completely and correctly according to the instructions.

RETENTION AND DISCARDING - LONGLINE SECTOR

18. When fishing in the Southern Bluefin Tuna (SBT) Zone using the longline method the holder must:

- a) on first entry (which includes being present or fishing in) to the SBT Zone hold at least 1 uncaught Southern Bluefin Tuna Statutory Fishing Right nominated to the boat nominated to this concession;
- b) on every subsequent entry to the SBT Zone continue to hold at least 1 uncaught Southern Bluefin Tuna Statutory Fishing Right nominated to the boat nominated to this concession;
- c) ensure all dead SBT are landed (retained) except those that are damaged by sharks to the point that they are not fit for human consumption;
- d) ensure live SBT are either landed (retained) or released (providing they are in a live and vigorous state).
- e) ensure any SBT that are to be released or discarded must be done so at the fish door in full view of the e-monitoring system. SBT damaged by sharks must have the damaged portion facing the cameras. SBT that are undamaged and dead when discarded or live fish that are gaffed and released will be deducted from the concession holder's quota. The amount of quota decremented will be determined by the average weight of SBT retained for that trip.
- f) ensure all SBT, whether retained, released or discarded are reported in the logbook.
- g) carry an AFMA observer when notified by AFMA.

19. If transiting through the SBT zone:

- a) the nominated boat must travel by the most direct route at a speed greater than 5 knots;
- b) all fishing gear must remain stowed and secured at all times; and
- c) the holder, must notify AFMA, by fax (02 6225 5440) or email monitoring@afma.gov.au [<mailto:monitoring@afma.gov.au>](mailto:monitoring@afma.gov.au), at least 2 hours before transiting through the zone.

20. The coordinates designating the SBT Zone change periodically. The zone coordinates are available on the AFMA website. The holder must ensure that they are aware of the location of the SBT Zone at all times.

AGENT OBLIGATIONS

21. The holder accepts concurrent liability for all conduct by its servants or agents infringing the *Fisheries Management Act 1991* (or the Regulations, Management Plans or concession conditions made by virtue of that Act) who may be engaged by the holder to conduct on the holder's behalf activity under this concession.
22. Liability for the conduct of the holder's servants or agents arises, even if the conduct may be, or actually is, beyond the scope of the servant or agent's actual or apparent authority where it is a breach that occurs during the conduct of activity authorised by this concession.
23. The holder may avoid concurrent liability for conduct whilst conducting activity under this concession if, but only if, the holder can establish that the infringing conduct could not possibly have been prevented by any action or precaution that the holder might have reasonably taken.
24. The giving of an indemnity by the servant or agent to the holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.

TEMPORARY ORDER OBLIGATIONS

25. The holder must comply with any Temporary Order made under sub section 43(2) of the *Fisheries Management Act 1991* and to the extent that any provision herein is inconsistent with such Temporary Order sub section 43(9) provides that the provision herein is overridden by the Temporary Order until the Temporary Order ceases to have effect.
26. The holder must comply with any Direction that fishing is not to be engaged in the fishery, or
- a) a particular part of the fishery or during a particular period or periods made under sub section 41A of the *Fisheries Management Act 1991*.

NAVIGATING IN CLOSED ZONES

27. AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the *Fisheries Management Act 1991*, if it reasonably appears by VMS transmission from the nominated boat, that there is a failure by that boat while in a closed zone for the purposes of regulation 85 of the *Fisheries Management Regulations 2019*, to meet the exempting provisions of regulations 86(2), or (3). Such suspension will then continue until the concession holder provides a full written explanation, to the satisfaction of the delegate responsible for issuing that suspension, of the lawful reason for the boat being in that closed zone at that time, or until the expiration of the suspension under sub section 110(2); whichever is the earlier.

TAKING BAIT (SOUTH AUSTRALIAN WATERS)

28. In waters relevant to South Australia the holder of a Commonwealth fishing concession to take tuna may use the boat specified on that concession to take:

- a) Unlimited amounts of the following genera/species *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Scomber australasicus* and *Engraulis* for use as live bait for their tuna operations on the boat used for taking the bait; and
 - b) Up to three tonnes per trip in total of the following genera/species *Emmelichthyes*, *Trachurus*, *Sardinops*, *Clupea*, *Scomber australasicus* and *Engraulis* for use as dead bait for their tuna operations on the boat used for taking the bait.
29. Catches of the bait described above must be for the operators own use as bait and not for sale or for tuna farm feed and can only be taken using one or more of the following gears:
- a) Lampara net
 - b) Lift net; and
 - c) Small scale purse seine.
30. Recreational fishing is not permitted from the boat nominated on this concession.

MANDATORY AFMA SUPPLIED VMS

31. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;
- a) make available, within 14 days of the date of the written direction, the boat nominated to this concession for the purposes of installation of an AFMA Vessel Monitoring System unit (AFMA VMS unit) by an AFMA approved technician, and
 - b) Provide all reasonable assistance to the AFMA approved technician including (but not limited to);
 - i. the provision of an un-interrupted connection to the boat's main power source, and
 - ii. an appropriate position for the mounting of the AFMA VMS unit.
32. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must:
- a) make available, within 14 days of the date of the direction, the boat nominated to this concession for the purposes of removal of the AFMA VMS unit by an AFMA approved technician, and
 - b) Provide all reasonable assistance to the AFMA approved technician.
33. The concession holder (or a person acting on the holder's behalf) must not interfere, or attempt to interfere, with the operation of the AFMA VMS Unit.

Definitions:

AFMA VMS Unit Means a Vessel Monitoring System (VMS) unit wholly owned by AFMA, marked with AFMA identifications and supplied by AFMA and fitted by an AFMA approved technician.

Interfere For the purposes of these conditions ‘interfere’ includes, but is not limited to;

- *Physical obstruction or removal of the AFMA VMS unit, or*
- *Deliberately disconnecting or otherwise interfering with the power supply to the AFMA VMS unit, or*
- *Deliberate physical interference with the casing or any external or internal components of the AFMA VMS unit.*

Notes

Must Make boat available *Where the boat is not made available in accordance condition 31 (a) or 32 (a), AFMA may suspend this concession pursuant to section 38(1)(c) of the Fisheries Management Act 1991.*

Must maintain VMS Unit *Regardless of AFMA’s decision to fit an AFMA VMS unit, the holder must continue to maintain a VMS unit in accordance with regulation 37 of the Fisheries Management Regulations 2019.*

Remains the property of AFMA - *At all times the AFMA VMS unit remains the sole property of AFMA. The holder is liable for any costs incurred as a result of loss or damage to the unit.*

HANDLING AND TREATMENT OF BYCATCH

34. The concession holder (or a person acting on the holder’s behalf) must not mistreat bycatch.

Definitions:

Mistreat means taking, or failing to take, any reasonable action or actions, which results, or is likely to result, in the;

- i. *death of, or*
- ii. *injury to, or*
- iii. *causing of physiological stress to any bycatch.*

Bycatch means any species that physically interact with fishing vessels and/or fishing gear (including auxiliary equipment) and which are not usually kept by commercial fishers. (Bycatch species may include fish, crustaceans, sharks, molluscs, marine mammals, reptiles and birds. Bycatch includes listed protected species under the *Environment Protection and Biodiversity Conservation Act 1999*.)

Notes: For the purposes of this condition ‘mistreat’ does not include the taking, or failing to take, action where it is reasonably necessary to take, or not take, the action;

- to ensure the safety of the boat and or its crew, or
- to comply with the requirements of any AFMA approved bycatch management plan(s) (these may include Seabird Management Plans, Vessel Management Plans etc.).

