

ETBF MINOR LINE BOAT SFR CONDITIONS 2020

AREA OF WATERS

1. This concession is granted for the area of waters described as:
 - (a) The area specified in Schedule 1 Part 1 of the *Eastern Tuna and Billfish Fishery Management Plan 2010* (excluding the area within 12 nautical miles of Lord Howe Island and Balls Pyramid); and
 - (b) The area of competence of the Western and Central Pacific Fisheries Commission (hereinafter referred to as "the Convention Area") as specified in Schedule 1 Part 3 of the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

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 *Eastern Tuna and Billfish Fishery Management Plan 2010* in particular:

Section 4.1 titled *Who may engage in commercial fishing in the fishery;*
Section 4.2 titled *Foreign commercial fishing;* and
Section 4.3 titled *Carrying or processing fish.*

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

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

MOVEMENT LIMITATIONS

3. While the holder is fishing in the Convention Area, the holder must not intentionally fish within 1 nautical mile of a data buoy or intentionally interact with a data buoy.
4. Interacting with a data buoy includes, but is not limited to, encircling the buoy with fishing gear; tying up to or attracting the boat, or any fishing gear, part or portion of the boat, to a data buoy or its mooring; or cutting a data buoy anchor line.
5. If the holder unintentionally comes into contact with a data buoy while fishing they must remove any entangled fishing gear with as little damage to the data buoy as possible.
6. The holder must report any data buoys observed to be damaged to AFMA. The report must be sent by fax (+612 6225 5440) or email monitoring@afma.gov.au and include:
 - (c) The date of observation;
 - (d) The buoy location; and
 - (e) Any discernable identifying information contained on the data buoy.

Note: Data buoys are defined as floating devices, either drifting or anchored, that are deployed by governmental or recognised scientific organisations or entities for the purpose of collecting and measuring environmental data, and not for the purposes of fishing activities.

APPLICABLE BOAT

7. The holder must not use a boat to fish on the high seas unless:
 - (a) The boat nominated to this concession is legibly marked with the international radio call sign of the boat;
 - (b) The boat nominated to this concession has the call sign shown:
 - i. a) by white characters on a black background; or
 - b) by black characters on a white background; or
 - c) by black characters on a background of international safety yellow;
 - ii. the characters are in Roman capital letters, or Arabic numerals, without ornamentation; and
 - iii. where the boat is less than 20 metres long the characters:
 - a) are at least 50 centimetres high; and
 - b) consist of strokes at least 6.25 centimetres wide;
 - iv. where the boat is at least 20 metres long, the characters:
 - a) are at least 1 metre high; and
 - b) consist of strokes at least 12.5 centimetres wide
 - (c) Prior to entering and while in the high seas of the Convention Area continually reports its position via satellite to the Western and Central Pacific Fisheries Commission (WCPFC) Secretariat;
 - (d) Prior to unloading in a foreign port, the holder seeks approval from AFMA to unload any fish in that foreign port. The approval may be sought by contacting AFMA Licensing by fax on (02) 6225 5440 or by email to licensing@afma.gov.au;
 - (e) At least 48 hours prior to entering a foreign port for the purposes of unloading, provide AFMA with the following information via email to vmsreporting@afma.gov.au or fax (02) 6225 5440:
 - i. the name and international distinguishing symbol of the boat;

- ii. the proposed foreign port or ports of unloading;
 - iii. the estimated time and date the boat will arrive at that foreign port; and
 - iv. quantities of all species on board the boat.
- (f) The holder complies with the following:
- i. ensure all fishing gear remains stowed and secured when transiting any other country's EEZ;
 - ii. where the boat has entered any foreign fishing jurisdiction from the high seas for the intention of mooring in port, the boat must travel to port by the most direct route possible, unless approval for fishing within that jurisdiction has been obtained from that country in respect of the boat;
 - iii. where the boat leaves any foreign port, the boat must travel directly to the high seas by the most direct route possible unless approval for fishing within that jurisdiction has been obtained from that country in respect of the boat;
 - iv. not to partake in fishing activity within any foreign fishing jurisdiction during a trip unless approval for fishing within that jurisdiction has been obtained from that country in respect of the boat; and
 - v. not to partake in any unloading activity within any foreign port unless an approval for unloading within that foreign port has been obtained from that country in respect of the boat;

CONCURRENT CONDITIONS

8. This concession must only be used in conjunction with another concession held by the same holder namely an Eastern Tuna and Billfish Fishery Quota Statutory Fishing Right (“that other concession”) such that:
- (a) The conditions of that other concession apply (to the extent those conditions are not inconsistent and are capable of doing so) as conditions of this concession.
 - (b) A breach, suspension or cancellation of that other concession is a breach, suspension or cancellation of this concession.
 - (c) The conditions of this concession apply (to the extent these conditions are not inconsistent and are capable of doing so) as conditions of that other concession while it is being used in conjunction with this concession.
 - (d) A breach, suspension or cancellation of this concession is a breach, suspension or cancellation of that other concession.

TRANSHIPPING LIMITATION

9. Unless the boat nominated to this concession is also nominated to a carrier boat permit granted for the same fishery as this concession, the holder must not carry fish taken with the use of another boat.
10. The holder must not tranship fish, unless the boat to which the product is being transhipped to is nominated to a carrier boat permit granted for the same fishery as this concession.

GEAR LIMITATION

11. This concession authorises the use of the following gear only:
- (a) Minor line as defined in Part 1, section 1.3 of the Eastern Tuna and Billfish Fishery *Management Plan 2010*.

SPECIES LIMITATIONS

12. This concession does not allow fishing for Southern Bluefin Tuna (*Thunnus maccoyii*). Any take of Southern Bluefin Tuna is to be in accordance with the Southern Bluefin Tuna Management Plan 1995.
13. If the concession holder takes a Northern Bluefin Tuna they must:
- (a) Report to AFMA at email northernbluefin@afma.gov.au (or to fax 02 6225 5439 if email is not possible) at least one hour prior to the boat mooring or anchoring at port the following information:
 - i. NBT report;
 - ii. the name of the boat;
 - iii. distinguishing symbol of the boat;
 - iv. port of landing;
 - v. date and time of landing;
 - vi. number and weight of Northern Bluefin Tuna on board.
 - (b) Determine whether the fish is a Northern Bluefin or Southern Bluefin:
 - i. if the Bluefin Tuna was taken north of 28 degrees south or was greater than 220cm fork length, it may be deemed to be a Northern Bluefin Tuna; or
 - ii. if the Bluefin Tuna was taken south of 28 degrees south, between 1 January and 1 May and was greater than 200cm, it may be deemed to be a Northern Bluefin Tuna; or
 - iii. If the Bluefin can not be deemed a Northern Bluefin in part c(i) or c(ii) the concession holder must:
 - a. Obtain genetic testing showing that the fish in question is a Northern Bluefin (AFMA will then deem the fish a Northern Bluefin); or
 - b. For fish exported to the Tokyo Metropolitan Central Wholesale Market (Tsukiji market), document the fish as a Bluefin Tuna on the relevant Catch Disposal Record (CDR) and provide the documentation from the Tokyo Metropolitan Central Wholesale Market (Tsukiji market) showing the fish was sold as a Northern Bluefin Tuna (AFMA will then deem the fish as a Northern Bluefin).

Should the landed tuna be deemed a Southern Bluefin Tuna (either by the holder or through identification) the holder must comply with all requirements of the *Southern Bluefin Tuna Management Plan 1995*.

14. Once AFMA publishes a notice stating that 35 tonnes of longtail tuna (*Thunnus tonggol*) has been taken in the Western Tuna and Billfish Fishery (WTBF) and/or the Eastern Tuna and Billfish Fishery (ETBF), the holder must not take more than 10 longtail tuna on any subsequent trip until the notice is revoked by AFMA.

BY CATCH LIMITATIONS

- 15.
- (a) **NEW SOUTH WALES**
The holder must not take more than the following amounts of finfish per trip while operating in Commonwealth waters off New South Wales:
 - i. 200 kilograms in total of Finfish of the Class *Osteichthyes* (bony fishes).
 - (b) The holder must not take any of the following species:

School shark (*Galeorhinus galeus*), Gummy shark (*Mustelus antarcticus*), Elephant fish of the Families *Callorhynchidae*, *Chimaeridae* and *Rhinochimaeridae*, Sawshark (*Pristiophorus cirratus* and *Pristiophorus nudipinnis*), Blue Eye Trevalla (*Hyperoglyphe Antarctica* and *Schedophilus labyrinthica*), Blue grenadier (*Macruronus novaezelandiae*), Blue warehou (*Serirolella brama*), Flathead (*Platycephalus* sp., *eoplatycephalus* sp.), Gemfish (*Rexea solandri*), Jackass morwong (*Nemadactylus macropterus*), John dory (*Zeus faber*), Ling (*Genypterus blacodes*), Mirror dory (*Zenopsis nebulosus*), Ocean perch (*Helicolenus* sp.), Orange roughy (*Hoplostethus atlanticus*), Redfish (*Centroberyx affinis*), Royal red prawn (*Haliporoides sibogae*), School whiting (*Sillago findersi*), Silver trevally (*Pseudocaranx dentex*), Spotted warehou (*Serirolella punctata*), Blue marlin (*Makaira mazara*), Black marlin (*Makaira indica*), Black cod (*Epinephelus daemeli*) and Deepwater sharks (*Centroscymnus coelolepis*, *Centroscymnus crepidater*, *Centroscymnus owstoni*, *Centroscymnus plunketi*, *Centroscyllium kamoharai*, *Dalatias licha*, *Dalatias calcea*, *Dalatias quadrispinosa*, *Etmopterus bigelwi*, *Etmopterus dianthus*, *Etmopterus dislineatus*, *Etmopterus evansi*, *Etmopterus fusus*, *Etmopterus granulatus*, *Etmopterus lucifer*, *Etmopterus molleri* and *Etmopterus pusillus*).

TAKING/CARRYING OF SHARK OBLIGATIONS

16. Excluding sharks of a species otherwise prohibited to be taken in these conditions, the holder must not take more sharks per trip than the number of tuna and billfish quota species taken per trip not exceeding a maximum of 20 sharks per trip.
17. The holder must not:
 - (a) land or retain any Oceanic Whitetip Sharks (*Carcharhinus longimanus*), Silky Sharks (*Carcharhinus falciformis*), Great White Shark (*Carcharodon carcharias*), Grey Nurse Shark (*Carcharias Taurus*) or Sawshark (*Pristiophorus cirratus* and *Pristiophorus nudipinnis*);
 - (b) retain any live Longfin Mako (*Isurus paucus*), Shortfin Mako (*Isurus oxyrinchus*) or Porbeagle sharks (*Lamna nasus*). Only dead sharks of these species may be retained. Mako and porbeagle released alive must be recorded in ALO6 logbooks Discard/Retained Code field as "RA".

Any shark species mentioned in this condition taken alive must be returned to the water.

18. The holder must not carry or possess any shark (Class *Chondrichthyes*) dorsal, pectoral, caudal, pelvic or anal fins on board the boat nominated to this concession that are not attached to the shark's carcass.

QUOTA BALANCING OBLIGATIONS

19.
 - (a) The holder must not be in an over quota position for any quota species.
 - (b) If the holder is over quota for any quota species or has not provided to AFMA a written explanation detailing any exceptional circumstances within a 28 day period which satisfies AFMA that AFMA should not do so, AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Fisheries Management Act 1991.
 - (c) The holder is not considered to be over quota if the holder:

- i. lands an amount of quota species in excess of the available uncaught amount recorded for that species in the holder's name on the Register of Statutory Fishing Rights kept by AFMA pursuant to section 44 of the Fisheries Management Act 1991; and
 - ii. acquires a further amount of quota species equal to or greater than the total quantity (by weight) landed in excess of that total amount recorded within 28 days of landing.
- (d) Any dealing in a quota Statutory Fishing Right by the holder of a boat Statutory Fishing Right or Fishing Permit for the purpose of complying with this condition must be lodged with AFMA duly executed and in the form approved by AFMA, on or before the 28th day from which the excess quota species was landed. For the purpose of determining if the holder is over quota under this condition, any acquisition of a quota species may only be deemed to have been acquired up to 28 days prior to the date of registration of that acquisition of that quota species.
- (e) If this concession is suspended, unless the holder has acquired and AFMA has then recorded (but may not deem) an amount of uncaught quota for each quota species in the fishery, this concession may, under this condition, again be suspended upon expiration of the earlier suspension.
- (f) It is the obligation of the holder to record and determine when any quota species amount exceeds the total amount recorded by AFMA.

In these conditions:

Acquire means receiving statutory fishing rights by registering a dealing by which an amount of statutory fishing rights are permanently or seasonally transferred to the holder; and **acquisition** has a comparable meaning.

Quota species has the same meaning as quota species in the applicable management plan for which this concession has been granted and established under the *Fisheries Management Act 1991*.

Landed means the date any quota species was disposed of to an AFMA licensed fish receiver permit holder as recorded on the relevant catch disposal record; and landing has a comparable meaning.

OTHER OBLIGATIONS

20. 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.
21. 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.
22. 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 <<mailto: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.

AGENT OBLIGATIONS

23. 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.
24. 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.
25. 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.
26. 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.
27. The holder must ensure the master of the boat fishing under the authority of this concession is nominated as an authorised agent for the holder before any fishing operation may take place.
28. The holder must ensure the authorised agent signing the determined *Daily Fishing logbook page was the master of the boat (skipper) at the time the recorded fishing operation took place.
29. The holder may sign the determined *Daily Fishing logbook page if they were the master of the boat (skipper) when the recorded fishing operation took place.
30. If more than one master of the boat is on board the boat during the fishing trip, each master must complete and sign a separate determined *Daily Fishing logbook page for each of the fishing operations for which they had control over.

**These instructions are for all determined Daily Fishing Logs including e-Logs.*

TEMPORARY ORDER OBLIGATIONS

31. 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.

DIRECTION OBLIGATIONS

32. The holder must comply with any lawful Direction (including a lawful Direction given to the holder by an AFMA staff member, consultant or other person engaged under contract to assist AFMA) under section 40A, 40B or 41A of the *Fisheries Management Act 1991* relating to the use of e-monitoring equipment and the partial or total closure of a fishery or part of a fishery. The holder must return their e-monitoring hard drives to AFMA on the first landing of each month.

NAVIGATING IN CLOSED ZONES

33. 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 38(2); whichever is the earlier.

MANDATORY AFMA SUPPLIED VMS

34. Direction to Fit

- (a) When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;
- i. 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
 - ii. Provide all reasonable assistance to the AFMA approved technician including (but not limited to);
 - a. the provision of an un-interrupted connection to the boat's main power source, and
 - b. an appropriate position for the mounting of the AFMA VMS unit.
- (b) When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;
- iii. 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
 - iv. Provide all reasonable assistance to the AFMA approved technician.

Concession holder must not interfere with AFMA VMS Unit

- (c) 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 28, 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

35. 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 condition 29, 'mistreat' does not include the taking, or failing to take, action where it is reasonably necessary to take, or not take, the action;

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