

## Small Pelagic Fishery 2019 – 20 Season

### Conditions applying to this Statutory Fishing Right

In addition to the conditions specified by sub section 22(3) of the *Fisheries Management Act 1991*, the condition in sub section 42(2) to comply with any logbook determination and the condition to comply with any Direction under s41A, 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 *Small Pelagic Fishery Management Plan 2009* in particular:

- Section 25: *Fishing in the fishery - quota species;*
- Section 26: *Fishing in the fishery - non-quota species;*
- Section 28: *Carrying, transshipping or processing fish;*
- Section 49: *Purpose of Part 7;*
- Section 50: *General Obligations; and*
- Section 51: *Obligations relating to fishing in more than 1 area.*

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.
- Regulation 41: Concession holder to ensure observer is able 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 killed by interaction.

\* not applicable to some concessions

### GEAR LIMITATIONS

1. This concession authorises the use of the following gear only as determined under the *Small Pelagic Fishery Management Plan 2009*:
    - (a) Purse seine fishing method;
    - (b) Mid-water trawl fishing method;
    - (c) Jigging method; or
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- (d) Minor Line methods.
2. When fishing under this concession using the mid-water trawl method, a mesh in a net must not be less than 30 millimetres at any part of the net and the net must be measured in the following way:
    - (a) Before a measurement is taken, the part of the net to be measured must be soaked in water for at least 5 minutes;
    - (b) Immediately after the net has been soaked the part of the net to be measured must be suspended vertically. The distance between the inside edge of the knot and the inside edge of the knot in the diagonally opposite corner of the mesh immediately above the first knot must be measured; and
    - (c) The average of the 10 measurements must be taken as the size of the mesh in the net.
  3. When fishing under this concession using the mid-water trawl method, the holder must use a marine mammal exclusion device approved by AFMA in writing for use on the boat nominated to this concession.

#### **CARRYING AND PROCESSING**

4. The concession holder is authorised to use the boat(s) nominated to this concession to carry and process fish in the Fishery.

#### **APPLICABLE BOAT(S)**

5. To fish using mid-water trawl gear in Zone A or Zone C waters as specified in Schedule 2 of the *Small Pelagic Fishery Management Plan 2009*, the boat(s) nominated to this concession must also be nominated to a Trawl Boat Statutory Fishing Right granted under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*.
6. To fish using mid-water trawl gear in Zone B waters as specified in Schedule 2 of the *Small Pelagic Fishery Management Plan 2009* that overlap with the following fisheries:
  - (a) Southern and Eastern Scalefish and Shark Fishery and Great Australian Bight Trawl Fishery as defined in the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*; or
  - (b) Western Deep Water Trawl Fishery as defined in the *Fisheries Management Regulations 2019*,

the boat(s) nominated to this concession must also be nominated to a concession that allows access to trawl in that fishery.

7. To fish using mid-water trawl gear in that part of Zone B that starts at latitude 31° 00' South running south along the coastline of Western Australia to longitude 129° 00' E, the boat(s) nominated to this concession must also be nominated to the relevant Western Australian State trawl entitlement.
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8. To fish using mid-water trawl gear in Zone D waters as specified in Schedule 2 of the *Small Pelagic Fishery Management Plan 2009*:
  - (a) The boat(s) nominated to this concession must also be nominated to a Trawl Boat Statutory Fishing Right granted under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*;
  - (b) North of 33 degrees 35 seconds South outside 80 nautical miles, the boat(s) nominated to this concession must also be nominated to a current Southern and Eastern Scalefish and Shark Fishery East Coast Deepwater Trawl Sector permit; and
  - (c) North of 33 degrees 35 minutes South inside 80 nautical mile, the boat(s) nominated to this concession must also be nominated to a current New South Wales State trawl entitlement.
  
9. Where the boat(s) nominated to this concession is also nominated to a concession granted under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* or *Fisheries Management Act 1991* that allows the take of a quota species or non-quota species (“that other concession”):
  - (a) The conditions of that other concession apply (to the extent they are capable of doing so and are not inconsistent with these conditions) 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 they are capable of doing so and are not inconsistent with these conditions) 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.
  
10. The holder is not authorised to fish using jigging or minor line gear in the area of the Finfish Fishery adjacent to New South Wales as defined in the *Arrangement between the Commonwealth of Australia and the State of New South Wales in relation to the Finfish Fishery* (Commonwealth of Australia Gazette, No. GN 2, 16 January 1991, p.219).

Note: for the purposes of this condition, the area of waters adjacent to New South Wales as defined in *Arrangement between the Commonwealth of Australia and the State of New South Wales in relation to the Finfish Fishery* are from the coastline to approximately 80 nautical miles.

#### **SPECIES LIMITATIONS**

11. The holder of an Eastern sub-area Redbait Statutory Fishing Right must only take Redbait (*Emmelichthys nitidus*) in the Eastern sub-area of the Small Pelagic Fishery as specified in Schedule 1 (1) of the *Small Pelagic Fishery Management Plan 2009*.
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12. The holder of a Western sub-area Redbait Statutory Fishing Right must only take Redbait (*Emmelichthys nitidus*), in the Western sub-area as defined in Schedule 1 (2) of the *Small Pelagic Fishery Management Plan 2009*.
13. The holder of an Eastern sub-area Blue Mackerel Statutory Fishing Right must only take Blue Mackerel (*Scomber australasicus*) in the Eastern sub-area as defined in Schedule 1 (1) of the *Small Pelagic Fishery Management Plan 2009*.
14. The holder of a Western sub-area Blue Mackerel Statutory Fishing Right must only take Blue Mackerel (*Scomber australasicus*) in the Western sub-area as defined in Schedule 1 (2) of the *Small Pelagic Fishery Management Plan 2009*.
15. The holder of an Eastern sub-area Jack Mackerel Statutory Fishing Right must only take Jack Mackerel (*Trachurus declivis* and/or *Trachurus murphyi*) in the Eastern sub-area as defined in Schedule 1 (1) of the *Small Pelagic Fishery Management Plan 2009*.
16. The holder of a Western sub-area Jack Mackerel Statutory Fishing Right must only take Jack Mackerel (*Trachurus declivis* and/or *Trachurus murphyi*) in the Western sub-area as defined in Schedule 1 (2) of the *Small Pelagic Fishery Management Plan 2009*.
17. The holder of an Australian Sardine Statutory Fishing Right must only take Australian Sardine (*Sardinops sagax*) in the Australian Sardine sub-area as defined in Schedule 1 (3) of the *Small Pelagic Fishery Management Plan 2009*.
18. The holder must not take any tuna or tuna-like species under the *Small Pelagic Fishery Management Plan 2009* as specified below:
  - (a) Fish of the family Scombridae, except fish of the genera *Scomberomorus*, *Scomber*, *Acanthocybium*, *Grammatorcynus* and *Rastrelliger* (commonly known as mackerels);  
and
  - (b) Fish of the families Istiophoridae (commonly known as marlins) and Xiphiidae (commonly known as billfish).
19. Any take of the following Eastern Tuna and Billfish Fishery quota species is to be taken in accordance with the *Eastern Tuna and Billfish Fishery Management Plan 2010*:
  - (a) Albacore tuna (*Thunnus alalunga*);
  - (b) Bigeye tuna (*Thunnus obesus*);
  - (c) Broadbill Swordfish (*Xiphias gladius*);
  - (d) Striped marlin (*Tetrapturus audax*);
  - (e) Yellowfin tuna (*Thunnus albacares*).
20. Any take of Southern bluefin tuna (*Thunnus maccoyii*) is to be taken in accordance with the *Southern Bluefin Tuna Management Plan 1995*.

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#### **SPATIAL MANAGEMENT - REGIONAL CATCH LIMITS**

21. A holder must not continue to fish in any grids numbered G1 to G120 if notified by AFMA that the 2000 tonnes trigger of combined catch of quota species over a 30 day period has been reached, or is likely to be reached, within that grid.

**Definitions:**

**Grids numbered G1 to G120:** as defined in the Commonwealth of Australia Gazette No. C2018G00272, 12 April 2018.

**OBSERVER/MONITORING OBLIGATIONS**

22. When directed by AFMA 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](mailto:observers@afma.gov.au) ; and
- (b) ensure that the boat does not leave port until 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.

*Note 1: These conditions are in addition to the conditions concerning the taking of observers that are prescribed in the Fisheries Management Regulations 2019 (the Regulations). Those conditions are in Division 5, regulations 38 to 41.*

*Note 2: AFMA may direct, under the Regulations, that an observer be carried, even if electronic monitoring equipment is installed and is to be operated.*

23. When fishing under this concession using the mid-water trawl method, the boat(s) nominated to this concession must have an e-monitoring system installed and operating that is supplied to the person and installed by AFMA or AAP.
24. If the e-monitoring system stops operating, the concession holder (or person acting on behalf of the concession holder) must:
- (a) contact AFMA or the agent AAP as soon as practicable after the concession holder (or person acting on behalf of the concession holder) becomes aware that the e-monitoring system has stopped operating to organise repairs of the e-monitoring system; and
- (b) take all reasonable steps to make the boat available to be repaired at the earliest times agreed to with AFMA or AAP.

*Subject to Clauses 23 and 24, a concession holder (or person acting on behalf of a concession holder) must take all reasonable steps to ensure the e-monitoring system is operational at all times and capable of recording all fishing events.*

*Note: For the purposes of these conditions, 'AAP' refers to Archipelago Asia Pacific Pty Ltd, ABN 33 169 201 192; that is, the party contracted as AFMA's agents to provide electronic*

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*monitoring systems and services.*

#### **VESSEL MANAGEMENT PLAN**

25. The holder must not use the nominated boat(s) to fish using the mid-water trawl method unless it holds an AFMA approved vessel management plan.
26. The vessel management plan must contain measures to minimise and avoid where possible, the discharge of biological material whilst fishing gear is in the water and to use physical mitigation devices in a particular manner to avoid interactions with seabirds, seals and dolphins.
27. This concession may be suspended without further notice to the holder if the nominated boat departs on a fishing trip and a vessel management plan for the boat has not been approved by AFMA.
28. For each fishing trip the holder must:
  - (a) carry a copy of the AFMA-approved vessel management plan on the nominated boat(s);
  - (b) comply with the measures and requirements contained in the vessel management plan;
  - (c) ensure each member of the crew on board the nominated boat(s) is briefed on the contents of the vessel management plan before each fishing trip; and
  - (d) ensure each member of the crew on board the nominated boat(s) complies with the measures and requirements of the vessel management plan.

#### **SEABIRD MANAGEMENT PLAN**

29. The holder must not use the nominated boat to fish using jigging or minor line methods unless a seabird management plan for the boat has been approved by AFMA.
  30. This concession may be suspended if the nominated boat departs on a fishing trip and a seabird management plan for the boat has not been approved by AFMA.
  31. The seabird management plan must contain measures:
    - (a) to minimise and avoid where possible, the discharge of biological material while fishing gear is in the water to avoid interactions with seabirds; and
    - (b) where appropriate, require the holder to use physical mitigation devices in a particular manner to avoid interactions with seabirds.
  32. For each fishing trip the holder must:
    - (a) carry a copy of the AFMA approved seabird management plan on the nominated boat
    - (b) comply with the measures and requirements contained in the seabird management plan
    - (c) ensure each member of the crew on board the nominated boat is briefed on the content of the seabird management plan before each fishing trip; and
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- (d) ensure each member of the crew on board the nominated boat complies with the measures and requirements of the seabird management plan.

#### **DOLPHIN MITIGATION PLAN**

- 33. The holder must not use the nominated boat(s) to fish using trawl gear unless the boat has an AFMA-approved Dolphin Mitigation Plan.
- 34. The holder must have their Dolphin Mitigation Plan re-approved by AFMA for the nominated boat before commencing fishing with trawl gear if there are any changes made by the holder to an AFMA-approved Dolphin Mitigation Plan.
- 35. For each fishing trip the holder must:
  - (a) carry a copy of the AFMA-approved Dolphin Mitigation Plan on the nominated boat(s)
  - (b) comply with the measures and requirements contained in the AFMA-approved Dolphin Mitigation Plan
  - (c) ensure each member of the crew on board the nominated boat(s) is briefed on the content, intent and purpose of the AFMA-approved Dolphin Mitigation Plan; and
  - (d) ensure each member of the crew on board the nominated boat(s) complies with the measures and requirements of the AFMA-approved Dolphin Mitigation Plan.

#### **DOLPHIN INTERACTION OBLIGATIONS**

- 36. For any dolphin interaction using the nominated boat(s), the holder must:
  - (a) complete a Dolphin Interaction Evaluation Report (Appendix A of the SPF Dolphin Mitigation Strategy) and submit it to AFMA within 48 hours of the end of a trip; and
  - (b) complete the Listed Marine and Threatened Species form as part of the daily fishing logbook.
- 37. If, using the nominated boat(s), the holder has had three or more dolphin interactions across three separate trawl gear sets in a single Review Period in either the Eastern or Western Sub-area of the fishery, the holder must immediately cease fishing using trawl gear and return to port until authorised in writing by AFMA to recommence fishing using trawl gear.
- 38. If, using the nominated boat(s), the holder has six or more dolphin interactions within either the Eastern or Western Sub-area of the fishery in a single Review Period; the holder must immediately cease fishing using trawl gear and return to port until authorised in writing by AFMA to recommence fishing using trawl gear.

For any subsequent dolphin interaction within the same Review Period, the holder must immediately cease fishing with trawl gear and return to port until authorised in writing by AFMA to recommence fishing using trawl gear.

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39. If, using the nominated boat(s), the holder has:
- (a) had six or more dolphin interactions within either the Eastern or Western Sub-area of the fishery in a single Review Period; and
  - (b) exceeded the Maximum Interaction Rate in either of the previous two Review Periods:
    - the holder must cease fishing immediately and must not recommence fishing using trawl gear for six months from the date of the last dolphin interaction within the applicable Eastern sub-area or Western sub-area of the fishery.
    - the holder must review the Dolphin Mitigation Plan for the nominated boat and obtain approval from AFMA in writing of the revised Dolphin Mitigation Plan before recommencing fishing using trawl gear.
40. If, using the nominated boat(s), the holder has had six or more dolphin interactions within either the Eastern or Western Sub-area of the fishery in two consecutive Review Periods, the holder must cease fishing immediately and must not recommence fishing using trawl gear for six months from the date of the last dolphin interaction. Before recommencing fishing with trawl gear, the holder must review the Dolphin Mitigation Plan for the nominated boat and obtain approval from AFMA in writing of the revised Dolphin Mitigation Plan before recommencing fishing using trawl gear.

#### **Single Review Period**

41. If, using the nominated boat(s), the holder has exceeded the Maximum Interaction Rate at the end of a Review Period, the holder must review the Dolphin Mitigation Plan for the nominated boat and must not fish using trawl gear with the nominated boat unless they have their Dolphin Mitigation Plan re-approved by AFMA.

#### **Second consecutive Review Period**

42. If using the nominated boat(s), the holder has exceeded the Maximum Interaction Rate at the end of a Review Period, and had exceeded the Maximum Interaction Rate in the same Sub-area in the previous Review Period, the holder must:
- (a) cease fishing immediately and not recommence fishing using trawl gear in the applicable Eastern sub-area or Western sub-area for the next Review Period; and
  - (b) review the Dolphin Mitigation Plan for the boat and must not fish using trawl gear with the nominated boat unless they have their Dolphin Mitigation Plan re-approved by AFMA.

#### **Third consecutive Review Period**

43. If using the nominated boat(s), the holder has exceeded the Maximum Interaction Rate at the end of a Review Period, and had exceeded the Maximum Interaction Rate in either the Eastern or Western Sub-areas of the fishery in the previous two Review Periods, the holder must:
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- (a) cease fishing immediately and must not recommence fishing using trawl gear for the next Review Period; and
- (b) review the Dolphin Mitigation Plan for the boat and must not fish using trawl gear with the nominated boat unless they have their Dolphin Mitigation Plan re-approved by AFMA.

**Definitions related to Dolphin interactions:**

<b><i>AFMA-approved Dolphin Mitigation Plan</i></b>	<i>A Dolphin Mitigation Plan for the nominated boat subject to a current approval in writing from AFMA.</i>
<b><i>Dolphin interaction evaluation report</i></b>	<i>A document, as per Appendix A of the SPF Dolphin Mitigation Strategy which describes the details of a dolphin interaction event.</i>
<b><i>Dolphin Mitigation Plan</i></b>	<i>A document, as per Appendix B of the SPF Dolphin Mitigation Strategy that contains a statement about actions to minimise interactions being taken in the following areas; fishing practices, gear setup and mitigation devices.</i>
<b><i>Eastern Sub-area</i></b>	<i>Has the same meaning in Schedule 1 of the Small Pelagic Fishery Management Plan 2009</i>
<b><i>Gear Set</i></b>	<i>The act of deploying trawl fishing equipment</i>
<b><i>Interaction</i></b>	<i>Has the same meaning as the Fisheries Management Regulations 2019.</i>
<b><i>Maximum Interaction Rate</i></b>	<i>One dolphin interaction per 50 trawl gear sets. The Maximum Interaction Rate applies separately to the Eastern and Western Sub-areas of the SPF.</i>
<b><i>Review Period</i></b>	<i>Either of, the first six months (1 May - 30 November) or second six months (1 December to 30 April) of the Fishing Season in which the operator has fished using trawl gear</i>
<b><i>Western Sub-area</i></b>	<i>Has the same meaning in Schedule 1 of the Small Pelagic Fishery Management Plan 2009</i>

**TAKING/CARRYING OF SHARK OBLIGATIONS**

44. The holder must not retain deepwater dogfishes of the following species - Harrison's Dogfish (*Centrophorus harrissoni*), Endeavour Dogfish (*C. moluccensis*), Southern Dogfish (*C. zeehaani*) and Greeneye Spurdog (*Squalus chloroculus*). Deepwater dogfishes of the species specified in this condition that are taken alive, must be returned to the water carefully and quickly.
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45. Retained School Shark (*Galeorhinus galeus*) and Gummy Shark (*Mustelus antarcticus*) must exceed 450 millimetres when measured in a straight line from the middle of the posterior edge of the aftermost gill-slit to the ventral insertion of the caudal fin.
46. The holder must not carry or possess any shark (*Class Chondrichthyes*) dorsal, pectoral, caudal, pelvic or anal fins on board the boat(s) nominated to this concession that are not attached to the shark's carcass.

#### **OTHER OBLIGATIONS**

47. 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.
48. 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.
49. 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**

50. 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.
  51. 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.
  52. 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.
  53. 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.
  54. The holder must ensure the master of the boat(s) fishing under the authority of this concession is nominated as an authorised agent for the holder **before** any fishing operation may take place.
  55. 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.
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56. 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.
57. 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.*

#### **DIRECTION OBLIGATIONS**

58. The holder must comply with any Direction that fishing is not to be engaged in the fishery, or a particular part of the fishery or during a particular period or periods made under sub section 41A of the *Fisheries Management Act 1991*.

#### **TEMPORARY ORDERS OBLIGATIONS**

59. 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.

#### **NAVIGATING IN CLOSED ZONES**

60. 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(s), 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 sub regulations 86(2) (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) of the *Fisheries Management Act 1991*; whichever is the earlier.

#### **QUOTA BALANCING OBLIGATIONS**

61.
    - (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*.
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- (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 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.

## **MANDATORY AFMA SUPPLIED VMS**

### **62. Direction to Fit**

- (a) When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;
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- i. make available, within 14 days of the date of the written direction, the boat(s) 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);
  1. the provision of an un-interrupted connection to the boat's main power source, and
  2. 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;

- i. 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
- ii. 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 62 a (i) or 62 b (i), AFMA may suspend this concession pursuant to section 38(1)(c) of the Fisheries Management Act 1991.*

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**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.*

63. Handling and Treatment of Bycatch

- (a) 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;

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