



# **Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No. 1)<sup>1</sup>**

*Fisheries Management Act 1991*

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The Australian Fisheries Management Authority makes the following management plan amendment under section 20 of the *Fisheries Management Act 1991*.

Dated 21 November 2012

Common seal of the  
Australian Fisheries  
Management Authority

Accepted on 28 March 2013

JOSEPH WILLIAM LUDWIG  
Minister for Agriculture, Fisheries and Forestry

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**1 Name of management plan amendment**

This management plan amendment is the *Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No. 1)*.

**2 Commencement**

This management plan amendment commences on the day after it is registered.

**3 Amendment of *Southern Bluefin Tuna Fishery Management Plan 1995***

Schedule 1 amends the *Southern Bluefin Tuna Fishery Management Plan 1995*.

**Schedule 1 Amendments**

(section 3)

**[1] Subclause 3.1, definition of *by-catch action plan***

*omit*

**[2] Subclause 3.1**

*insert*

*ecological risk management plan* means the plan required under clause 6.

**[3] Subclause 3.1, definition of *live weight value*, paragraph (b)**

*after*

value

*insert*

of a statutory fishing right

**[4] Subclause 3.1, definition of *public notice***

*omit*

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**[5] Subclause 3.1, definition of *season***

*substitute*

*season* means the period determined as the fishing season by AFMA.

**[6] Subclause 3.1**

*insert*

*transfer weight* means, in relation to a quantity of Southern Bluefin Tuna:

- (a) for the purse seine method of fishing—the weight ascertained by the transfer weighing procedure determined by AFMA under clause 22B; and
- (b) for any other method of fishing—the weight of fish noted in the return sent to AFMA signed by the person having a fish receiver permit who received the fish.

**[7] Subclause 3.1, definition of *unused quota***

*omit*

**[8] Subclause 3.1, definition of *verified count***

*omit*

**[9] Paragraph 4A.2 (i)**

*omit*

a by-catch action plan

*insert*

an ecological risk management plan

**[10] Paragraph 4A.3 (g)**

*omit*

a by-catch action plan

*insert*

an ecological risk management plan

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**[11] Clause 6***substitute***6 Ecological risk management plan**

- 6.1 AFMA must establish an ecological risk management plan for the SBT Fishery.
- 6.2 The plan must require action to ensure that:
- (a) information is gathered about the impact of the fishery on by-catch species; and
  - (b) all reasonable steps are taken to minimise interaction with sea birds, marine reptiles, marine mammals and fish of a kind mentioned in sections 15 and 15A of the Act; and
  - (c) the ecological impacts of fishing operations on habitats in the SBT Fishery area are minimised and kept at an acceptable level; and
  - (d) by-catch is reduced, or kept at, a minimum and below a level that might threaten by-catch species.

**[12] Clause 6A***substitute***6A Reference point**

For subsection 17 (5C) of the Act, the reference point for Southern Bluefin Tuna is that, by the year 2035, the spawning stock biomass is to be 20% of the original spawning stock biomass.

*Note* The reference point may be amended to accord with decisions of the Commission or other relevant fishing organisations.

**[13] Clause 9A, heading***substitute***9A Quota reconciliation****[14] Paragraphs, 9A.1 (b), 9A.2 (b) and 9A.3 (b)***after*

pelagic longline

*insert*

or minor line

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**[15] Paragraphs 9A.4 (a), (b) and (c)**

*omit*

verified count

*insert*

transfer weighing

**[16] Clause 9B**

*substitute*

**9B Overcatch**

9B.1 AFMA may determine for a season:

- (a) the determined percentage; and
- (b) the determined amount; and
- (c) the determined additional weight.

*Note* The determined percentage and determined amount are used to work out the **calculated excess** for a holder of a statutory fishing right (subclause 9B.6).

***Overcatch less than calculated excess***

9B.2 Subclause 9B.3 applies if:

- (a) in a season (the **first season**), the holder of a statutory fishing right takes (or is deemed, by a previous application of this section, to have taken) an overcatch that is less than the calculated excess for the holder; and
- (b) 1 month after the commencement of the following season (the **second season**), the holder holds statutory fishing rights that would (in the absence of this section) entitle the holder to take the first season's overcatch.

9B.3 The holder is deemed to have taken:

- (a) during the first season—an amount of Southern Bluefin Tuna equal to the holder's quota in the first season; and
- (b) during the second season—the holder's first season overcatch in addition to the weight of Southern Bluefin Tuna actually taken by the holder in the second season.

***Overcatch at least calculated excess***

9B.4 Subclause 9B.5 applies if:

- (a) in a season (the **first season**), the holder of a statutory fishing right takes (or is deemed, by a previous application of this section, to have taken) an overcatch that is:
  - (i) at least the calculated excess for the holder; and

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- (ii) no more than the calculated excess for the holder plus the determined additional weight; and
  - (b) 1 month after the commencement of the following season (the ***second season***), the holder holds statutory fishing rights that would (in the absence of this section) entitle the holder to take a weight of Southern Bluefin Tuna equal to the sum of:
    - (i) the calculated excess for the holder in the first season; and
    - (ii) twice the amount by which the holder's overcatch in the first season exceeded the calculated excess.

9B.5 The holder is deemed to have taken:

- (a) during the first season—an amount of Southern Bluefin Tuna equal to the holder's quota in the first season; and
- (b) during the second season—in addition to the weight of Southern Bluefin Tuna actually taken by the holder in the second season, the weight worked out under paragraph 9B.4 (b).

9B.6 In this clause:

***calculated excess***, for a season in relation to a holder of a statutory fishing right, means the lesser of:

- (a) the determined percentage of the holder's quota for the season; and
- (b) the determined amount for the season.

***overcatch***, in relation to a season and a holder of a statutory fishing right, is the weight of Southern Bluefin Tuna taken by the holder that exceeds the holder's quota for the season.

## **9C Undercatch**

9C.1 AFMA may determine the determined percentage of undercatch for a season.

9C.2 AFMA may determine a percentage of zero.

9C.3 Subclause 9C.4 applies if:

- (a) in a season (the ***first season***), the holder of a statutory fishing right takes:
  - (i) an amount of Southern Bluefin Tuna that is less than the holder's quota; or
  - (ii) no Southern Bluefin Tuna; and
- (b) in the following season (the ***second season***), the holder holds a statutory fishing right.

9C.4 The holder may, during the second season, take an amount of Southern Bluefin Tuna that is the sum of:

- (a) the holder's quota in the second season; and

- 
- (b) an amount equal to the lesser of:
    - (i) the difference between the holder's quota in the first season and the amount of Southern Bluefin Tuna taken by the holder in the first season; and
    - (ii) the holder's quota in the first season multiplied by the determined percentage of undercatch for the first season.

**[17] Subclause 17.3**

*omit*

**[18] Subclauses 17.4 to 17.6**

*substitute*

- 17.4 If, 1 month after the commencement of a season, the Commission has not made a decision that applies to the season, AFMA may either:
- (a) proceed to determine Australia's national catch allocation for the season without a decision from the Commission; or
  - (b) determine a provisional national catch allocation for the season.
- 17.5 An allocation determined for a season under subclause 17.4 must not exceed Australia's national catch allocation determined by AFMA for the previous season.
- 17.6 If, 7 months after the commencement of a season:
- (a) the Commission has not made a decision that applies to the season; and
  - (b) AFMA has not already determined the national catch allocation for the season under paragraph 17.4 (a);
- AFMA must determine the amount of the national catch allocation for the season to be an amount that does not exceed the national catch allocation determined for the previous season.

**[19] Subclause 17.7**

*omit*

If, later than 7 months after the commencement of a season, the Commission makes a decision that applies to the season:

*insert*

If the Commission makes a decision that applies to a season after AFMA has determined Australia's national catch allocation for the season under subclause 17.4 or 17.6:

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**[20] Subclause 18.3***substitute*

18.3 Before the commencement of the season:

- (a) if AFMA has determined AusCatch for the season—AFMA must determine the actual live weight value of a statutory fishing right for the season; or
- (b) if AFMA has not determined AusCatch—AFMA must determine the interim live weight value of a statutory fishing right for the season.

**[21] Subclause 18.4***omit*

calculated

*insert*

determined

**[22] Subclauses 18.5 and 18.6***substitute*

18.5 If, for a season, AFMA determines AusCatch during the period that:

- (a) begins at the commencement of the season; and
  - (b) concludes 7 months after the commencement of the season;
- AFMA must, without delay, determine the actual live weight value of a statutory fishing right for the season.

18.6 If AFMA makes a determination of the AusCatch for a season under subclause 17.4, 17.6 or 17.7, AFMA must, without delay, determine the actual live weight value of a statutory fishing right for the season.

**[23] Subclause 18.7***omit***[24] Subclause 18.8***omit*

calculate and publish

*insert*

determine



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**[25] Subclause 19.3**

*substitute*

- 19.3 If AFMA determines a provisional national catch allocation for a season under subclause 17.4, AFMA must determine the provisional live weight value of a statutory fishing right for the season.

**[26] Subclause 19.4**

*omit*

calculate and publish

*insert*

determine

**[27] Subclause 20.1**

*omit*

specifies

*insert*

determines

**[28] Subclauses 20.2 and 20.3**

*substitute*

- 20.2 An interim live weight value of a statutory fishing right for a season determined under paragraph 18.3 (b):
- (a) has effect from the commencement of the season; and
  - (b) ceases to have effect when a determination made by AFMA in relation to the season under subclause 18.5, 18.6 or 19.3 commences.
- 20.3 A provisional live weight value of a statutory fishing right for a season determined under subclause 19.3:
- (a) has effect from the commencement of the season; and
  - (b) ceases to have effect when a determination made by AFMA in relation to the season under subclause 18.5 or 18.6 commences.

**[29] Clause 21**

*omit*

**[30] Subclause 22A.3**

*omit*

by facsimile,

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**[31] Subclause 22A.4**

*omit*

**[32] Clause 22B, heading**

*substitute*

**22B Transfer weighing of fish—purse seine method of fishing**

**[33] Subclauses 22B.1 and 22B.2**

*omit*

verified count

*insert*

transfer weighing

**[34] Subclause 22B.3**

*omit*

verified count.

*insert*

transfer weighing.

**[35] Clause 22CA, heading**

*substitute*

**22CA Release approved by AFMA**

**[36] Subclause 22CA.1**

*omit*

**[37] Subclause 22CA.2**

*omit*

who, in the 2011 trial period, 2012 trial period or 2013 trial period:

*insert*

who:

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**[38] Subclause 22CA.3**

*substitute*

22CA.3 A holder of a statutory fishing right may, not more than once each season, apply to AFMA in the approved form for permission to release a quantity of Southern Bluefin Tuna.

**[39] Subclauses 22CA.4 and 22CA.5**

*omit*

paragraph 22CA.3 (a) or (b),

*insert*

subclause 22CA.3,

**[40] Subclause 22CA.9**

*omit*

**[41] Subclause 22CA.10**

*omit*

a reviewable decision under

*insert*

a relevant decision within the meaning of

**[42] Clause 22D, heading**

*substitute*

**22D Transfer weight to be substituted**

**[43] Paragraph 22D.1A (a)**

*omit*

verified count

*insert*

transfer weighing

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**[44] Paragraphs 22D.4 (b)***omit*

verified count.

*insert*

transfer weight.

**[45] Subclause 22D.6***omit*

a decision of AFMA to which section 165 of the Act applied.

*insert*

a relevant decision within the meaning of section 165 of the Act.

**[46] After subclause 24.5***insert*

24.6 If the holder of a statutory fishing right takes Southern Bluefin Tuna using a boat and intends to unload the Southern Bluefin Tuna from the boat outside Australia (otherwise than by transshipment), the holder must:

- (a) give notice to AFMA in the approved form of the holder's intention to unload the Southern Bluefin Tuna from the boat outside Australia; and
- (b) receive from AFMA written notice of:
  - (i) further conditions to which the fishing right is subject as a consequence of the holder's intention referred to in paragraph (a); or
  - (ii) the fact that there are no further conditions to which the fishing right is subject as a consequence of the holder's intention.

**[47] After subclause 25.1***insert*

25.2 If the holder of a fishing permit granted in respect of the SBT Fishery takes Southern Bluefin Tuna using a boat and intends to unload the Southern Bluefin Tuna from the boat outside Australia (otherwise than by transshipment), the holder must:

- (a) give notice to AFMA in the approved form of the holder's intention to unload the Southern Bluefin Tuna from the boat outside Australia; and
- (b) receive from AFMA written notice of:
  - (i) further conditions to which the fishing right is subject as a consequence of the holder's intention referred to in paragraph (a); or
  - (ii) the fact that there are no further conditions to which the fishing right is subject as a consequence of the holder's intention.

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**[48] Further amendments—pontoon**

The following provisions are amended by omitting each mention of ‘cage’ and inserting ‘pontoon’:

- subparagraph 9A.1 (a) (ii)
- paragraph 9A.4 (c)
- subclauses 22A.1, 22A.2 and 22A.3
- subclauses 22B.1 and 22B.3
- clause 22C
- paragraph 22CA.2 (b).

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.comlaw.gov.au](http://www.comlaw.gov.au).