



Fisheries Management (International Agreements) Amendment (2015 and 2016 Measures) Regulations 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 13 July 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Anne Ruston
Assistant Minister for Agriculture and Water Resources
Parliamentary Secretary to the Deputy Prime Minister and Minister for Agriculture and Water Resources

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1 Name

This instrument is the *Fisheries Management (International Agreements) Amendment (2015 and 2016 Measures) Regulations 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	14 July 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Fisheries Management Act 1991*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—CCAMLR conservation measures

Fisheries Management (International Agreements) Regulations 2009

1 Regulation 2.2 (table item 2, column headed “CCAMLR measure”)

Omit “2013”, substitute “2015”.

2 Regulation 2.2 (table item 2A, column headed “CCAMLR measure”)

Omit “2014”, substitute “2015”.

3 Regulation 2.2 (table item 3, column headed “CCAMLR measure”)

Omit “2013”, substitute “2015”.

4 Regulation 2.2 (table item 4, column headed “CCAMLR measure”)

Omit “2014”, substitute “2015”.

5 Regulation 2.2 (table item 12, column headed “CCAMLR measure”)

Omit “2012”, substitute “2015”.

6 Regulation 2.2 (table item 18, column headed “CCAMLR measure”)

Omit “2014”, substitute “2015”.

7 Regulation 2.2 (table item 20, column headed “CCAMLR measure”)

Omit “2009”, substitute “2015”.

8 Regulation 2.2 (table items 39 to 47B, column headed “CCAMLR measure”)

Omit “2014”, substitute “2015”.

9 Regulation 2.2 (table item 51, column headed “CCAMLR measure”)

Omit “2014”, substitute “2015”.

10 Subclauses 4.1 and 4.2 of Schedule 1

Repeal the subclauses, substitute:

- 4.1 A person using a boat in the Convention Area for fishing must:
- (a) have on board an ALC that meets the minimum standards set out in Annex 10-04/C of CCAMLR Conservation Measure 10-04; and
 - (b) ensure that the ALC transmits VMS data for the boat to the FMC of the flag State of the boat:
 - (i) for finfish fisheries—at least once every hour; and
 - (ii) for all other fisheries, before 1 December 2019—at least once every 4 hours; and
 - (iii) for all other fisheries, on and after 1 December 2019—at least once every hour; and
 - (c) ensure that:

- (i) the ALC is not tampered with; and
- (ii) VMS data are not altered; and
- (iii) the antennae connected to the ALC are not obstructed; and
- (iv) the power supply of the ALC is not interrupted; and
- (v) the ALC is not removed from the boat (except for the purposes of repairing or replacing it in accordance with paragraph 4.2(b)).

- 4.2 If the ALC fails to transmit the VMS data, the person must:
- (a) provide manual reporting to the FMC of the flag State at least once every 4 hours; and
 - (b) repair or replace the ALC as soon as possible, and, in any event, before the end of 2 months after the failure.

11 At the end of clause 4 of Schedule 1

Add:

- 4.4 In this clause:

ALC (short for automatic location communicator) means a satellite position transmitter that is capable of continuously and automatically transmitting VMS data for a boat, independently of any intervention of a person on the boat.

FMC (short for fisheries monitoring centre) means the government authority or agency of a flag State responsible for managing the VMS for its flagged fishing boats.

manual reporting means the transmission by email or fax of the latitude and longitude of a fishing boat when an ALC fails to transmit VMS data for the boat.

VMS (short for vessel monitoring system) means a satellite-based monitoring system which provides VMS data for a boat at regular intervals.

VMS data, for a boat, includes the following:

- (a) the ALC unique identifier for the boat;
- (b) the latitude and longitude of the boat;
- (c) the date and time (expressed in UTC) of the fixing of the latitude and longitude of the boat;
- (d) the boat's speed (calculated based on the data referred to in paragraphs (b) and (c));
- (e) the boat's course (derived from the data referred to in paragraphs (b) and (c)).

12 Subclauses 5.2 and 5.2A of Schedule 1

Repeal the subclauses.

13 Paragraph 16.8(b) of Schedule 1

After "streamer line", insert " , in accordance with Annex 25-02/A of CCAMLR Conservation Measure 25-02,".

14 Paragraph 37A.2(a) of Schedule 1

After "according to", insert "Annex 41-01/C of CCAMLR Conservation Measure 41-01 and".

15 Subclause 37B.4 of Schedule 1

Repeal the subclause, substitute:

- 37B.4 The fishing season for the longline fishery for *Dissostichus eleginoides* in Statistical Subarea 48.3 is the period starting on 16 April in a year and ending on the earlier of:
- (a) 14 September in that year; and
 - (b) the time the catch limit is reached.

16 After subclause 37B.6 of Schedule 1

Insert:

- 37B.6A A person using a boat to fish for *Dissostichus eleginoides* in Statistical Subarea 48.3 must not exceed the following by-catch limits in the 2016/17 season:
- (a) 138 tonnes for *Macrourus* species;
 - (b) 138 tonnes for skates and rays.
- 37B.6B A person using a boat to fish for *Dissostichus eleginoides* in Statistical Subarea 48.3 must, if the by-catch of either the species referred to in paragraph 37B.6A(a), or the species referred to in paragraph 37B.6A(b), is equal to or greater than 1 tonne in any one haul or set:
- (a) move the boat at least 5 nautical miles from the path followed by the boat while taking the catch; and
 - (b) ensure that the boat does not return to any point within 5 nautical miles of that path for a period of at least 5 days.

17 Subclause 48.2 of Schedule 1 (note)

Omit “2014”, substitute “2017”.

Part 2—Indian Ocean Tuna Commission

Fisheries Management (International Agreements) Regulations 2009

18 Regulation 2.3 (table item 11, column headed “IOTC measure”)

Omit “11/04”, substitute “16/04”.

19 Regulation 2.3 (table item 18, column headed “IOTC measure”)

Omit “15/08”, substitute “16/01”.

20 Regulation 2.3 (table item 20, column headed “IOTC measure”)

Omit “15/07”, substitute “16/07”.

21 Regulation 2.3 (at the end of the table)

Add:

21	21	16/08	Ban on use of aircraft or unmanned aerial vehicles as fishing aids
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22 At the end of subclause 11.1 of Schedule 2

Add:

- ; and (d) provide the observer with access to boat staff and to the gear and equipment that is necessary to carry out the observer’s duties, including the following (if present on the boat):
- (i) satellite navigation equipment;
 - (ii) radar display viewing screens;
 - (iii) electronic means of communication.

23 Paragraphs 18.4(a) and (c) of Schedule 2

Repeal the paragraphs, substitute:

- (a) no more than 425 active instrumented buoys are used at any one time; and
- (b) no more than 850 instrumented buoys are acquired for the boat each year.

24 Clause 20 of Schedule 2 (heading)

Repeal the heading, substitute:

20 Ban on using artificial lights to attract fish

25 Paragraph 20.1(b) of Schedule 2

Omit “tuna-like species;”, substitute “tuna-like species.”.

26 Subclause 20.1 of Schedule 2

Omit “on drifting fish aggregating devices.”.

27 At the end of clause 20 of Schedule 2

Add:

- 20.2 A person using a boat in the IOTC Area for fishing must not fish around or near any boat or drifting fish aggregating device equipped with artificial lights for the purpose of attracting tuna or tuna-like species.

28 At the end of Schedule 2

Add:

21 Ban on using aircraft or unmanned aerial vehicles as fishing aids

- 21.1 A person using a fishing boat, support boat or supply boat in the IOTC Area must not use an aircraft or an unmanned aerial vehicle as a fishing aid for fishing for tuna or tuna-like species.

Part 3—Western and Central Pacific Fisheries Commission

Fisheries Management (International Agreements) Regulations 2009

29 Regulation 2.4 (table item 7, column headed “WCPFC measure”)

Omit “2012-07”, substitute “2015-03”.

30 Regulation 2.4 (table item 8, column headed “WCPFC measure”)

Omit “2014-01”, substitute “2015-01”.

31 Regulation 2.4 (at the end of the table)

Add:

19	20	2011-03	Protection of cetaceans from purse seine fishing operations
20	21	2011-04	Oceanic whitetip sharks

32 Paragraph 8.1(b) of Schedule 3

Repeal the paragraph, substitute:

- (b) if the boat is 24 metres or more in overall length, and the person is fishing in an area north of 23°N in the Convention Area—use at least 2 of the mitigation measures mentioned in the following table, including at least one mentioned in column 1 of the table; or
- (c) if the boat is less than 24 metres in overall length, and the person is fishing in an area north of 23°N in the Convention Area—use at least one of the mitigation measures mentioned in column 1 of the following table.

33 After subclause 8.1 of Schedule 3

Insert:

- 8.1A For the purposes of subclause 8.1, a person using the mitigation measure mentioned in column 1 of item 4 of the table in that subclause is taken to be using 2 mitigation measures mentioned in column 1 of that table.

34 At the end of Schedule 3

Add:

20 Protection of cetaceans from purse seine fishing operations

- 20.1 This clause applies to a person using a boat to fish for tuna or tuna-like species:
- (a) on the high seas within the Convention Area; or
 - (b) in an exclusive economic zone in the Convention Area.
- 20.2 The person must not set a purse seine net on a school of tuna associated with a cetacean if the cetacean is sighted before the commencement of the set.
- 20.3 If a cetacean is encircled in a purse seine net, the person must take all reasonable steps to ensure its safe release, including:

- (a) stopping the net roll; and
- (b) not recommencing fishing until the cetacean has been released and is no longer at risk of capture.

20.4 If a cetacean is encircled in a purse seine net, the person must also:

- (a) record the following information:
 - (i) the species of cetacean (if known);
 - (ii) the number of cetaceans involved;
 - (iii) the location;
 - (iv) the date;
 - (v) the steps taken to ensure the safe release of the cetacean;
 - (vi) the life status of the cetacean on release, including (if possible) whether the cetacean was released alive but subsequently died; and
- (b) report the information to the appropriate authority of the flag State of the boat.

21 Conservation measure for oceanic whitetip sharks

21.1 A person using a boat in the Convention Area for fishing:

- (a) must release all oceanic whitetip sharks that are brought alongside the boat as soon as possible and in a manner that results in as little harm to the shark as possible; and
- (b) must not retain on board, tranship, store or land any part or whole of an oceanic whitetip shark caught in the Convention Area.

Part 4—Commission for the Conservation of Southern Bluefin Tuna

Fisheries Management (International Agreements) Regulations 2009

35 Regulation 1.3

Insert:

IMO means the International Maritime Organization.

36 Regulation 2.5 (table item 1, column headed “CCSBT measure”)

Omit “over 24 metres”.

37 Regulation 2.5 (at the end of the table)

Add:

6	7	CCSBT scheme for minimum standards for inspection in port
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38 Clause 1 of Schedule 1 (definition of *IMO*)

Repeal the definition.

39 Schedule 3A (heading)

Repeal the heading (not including the note), substitute:

Schedule 3A—Prescribed measures—Commission for the Conservation of Southern Bluefin Tuna

40 Paragraph 2.1(a) of Schedule 3A

Before “Record of Vessels”, insert “CCSBT”.

41 Paragraph 2.1(e) of Schedule 3A

Omit “CCSBT Record of Fishing Vessels”, substitute “CCSBT Record of Vessels”.

42 After paragraph 2.1(e) of Schedule 3A

Insert:

; and (f) if the boat:

- (i) is not a wooden or fibreglass boat; and
 - (ii) has either a gross tonnage or a gross registered tonnage of 100 or more;
- the boat has an IMO number issued to it.

43 Subclause 2.1 of Schedule 3A (note)

Omit “2015”, substitute “2017”.

44 At the end of Schedule 3A

Add:

7 Inspection in port

- 7.1 This clause applies to a person using a boat (other than a container vessel):
- (a) that is carrying southern bluefin tuna, or products made from southern bluefin tuna, which have not been previously landed or transhipped at port; and
 - (b) that seeks access to a port for the purpose of landing or transhipment of the southern bluefin tuna or the products.
- 7.2 The person must:
- (a) provide the information set out in Annex A to the CCSBT Resolution for a CCSBT Scheme for Minimum Standards for Inspection in Port (15 October 2015) to the appropriate authority of the port State at least 72 hours before the estimated time of arrival at the port; and
 - (b) cooperate with the competent authorities, including by:
 - (i) providing safe access to the boat; and
 - (ii) facilitating the inspection of the boat; and
 - (iii) facilitating communication with the inspectors; and
 - (iv) not obstructing, intimidating or interfering with the inspectors, or causing other persons to obstruct, intimidate or interfere with the inspectors.

Note: The CCSBT Resolution for a CCSBT Scheme for Minimum Standards for Inspection in Port (15 October 2015) could in 2017 be viewed on the CCSBT's website (<http://www.ccsbt.org>).

Part 5—South Pacific Regional Fisheries Management Organisation

Fisheries Management (International Agreements) Regulations 2009

45 Regulation 2.6 (table)

Repeal the table, substitute:

SPRFMO measures			
Item	Schedule 3B clause number	SPRFMO measure	Brief description
1	2	CMM 08-2013	Conservation and management measure for gillnets
2	3	CMM 04-2017	SPRFMO illegal, unreported and unregulated fishing vessels list
3	4	CMM 01-2017	Conservation and management measure for <i>Trachurus murphyi</i>
4	5	CMM 02-2017	Standards for the collection, reporting, verification and exchange of data
5	6	CMM 03-2017	Management of bottom fishing
6	7	CMM 05-2017	Record of fishing vessels
7	8	CMM 09-2017	Minimising by-catch of seabirds
8	9	CMM 12-2017	Conservation and management measure for regulating transshipment and other transfer activities
9	10	CMM 13-2016	Conservation and management measure for exploratory fisheries
10	11	CMM 14-2016	Conservation and management measure for exploratory fishing for toothfish

46 Subclause 1.1 of Schedule 3B

Insert:

exploratory fishery means:

- (a) a fishery in the Convention Area that has not been subject to fishing in the previous 10 years; or
- (b) a fishery in the Convention Area that is identified by reference to fishing by a particular gear type or technique, if the fishery has not been subject to fishing by that particular gear type or technique in the previous 10 years; or
- (c) any other fishery in the Convention Area if:
 - (i) fishing has been undertaken in the fishery in the previous 10 years in accordance with SPRFMO Conservation and Management Measure 13-2016; and
 - (ii) a decision has not yet been made under SPRFMO Conservation and Management Measure 13-2016 to either close or manage the fishery as an established fishery.

47 Subclause 8.2 of Schedule 3B (the subclause 8.2 inserted by item 68 of Schedule 1 to the *Fisheries Management (International Agreements) Amendment (2012 to 2014 Measures) Regulation 2015*)

Omit “subclause 8.3”, substitute “subclauses 8.3 and 8.3A”.

48 After subclause 8.3 of Schedule 3B (the subclause 8.3 inserted by item 68 of Schedule 1 to the *Fisheries Management (International Agreements) Amendment (2012 to 2014 Measures) Regulation 2015*)

Insert:

- 8.3A Subclause 8.2 does not apply to the use of a boat in a particular fishery (identified by reference to gear type and geographical location) at a particular time if:
- (a) there have been no bird mortalities in relation to the boat within one year before the time; and
 - (b) the flag State of the boat has maintained 100% observer coverage of the fishery for the 5-year period ending at the time; and
 - (c) during that 5-year period, there have been fewer than one recorded bird mortalities per boat of that flag State in the fishery per year.

49 Clause 8 of Schedule 3B (the clause 8 inserted by item 99 of Schedule 1 to the *Fisheries Management (International Agreements) Amendment (Other 2014 Measures) Regulation 2016*)

Renumber as clause 9 of Schedule 3B.

50 At the end of Schedule 3B

Add:

10 Conservation and management measure for exploratory fisheries

- 10.1 Subject to clause 11, a person using a boat in the Convention Area for fishing:
- (a) must not fish in an exploratory fishery otherwise than in accordance with a fishery operations plan approved, from time to time, by the SPRFMO Commission under SPRFMO Conservation and Management Measure 13-2016 in relation to the fishery; and
 - (b) must:
 - (i) collect the data specified in the data collection plan approved, from time to time, by the SPRFMO Scientific Committee under SPRFMO Conservation and Management Measure 13-2016 in relation to the fishery; and
 - (ii) collect and report that data in accordance with SPRFMO Conservation and Management Measure 02-2017; and
 - (c) must ensure that one or more independent observers, as necessary for the collection of data in accordance with the data collection plan, are on board the boat.

11 Conservation and management measure for exploratory fishing for toothfish

- 11.1 Clause 10 does not prevent a person from using a boat for fishing for toothfish in accordance with SPRFMO Conservation and Management Measure 14-2016.

Part 6—Transitional provisions

Fisheries Management (International Agreements) Regulations 2009

51 In the appropriate position in Part 4

Insert:

4.2 Transitional provision—*Fisheries Management (International Agreements) Amendment (2015 and 2016 Measures) Regulations 2017*

- (1) For the purposes of subclause 37B.6A of Schedule 1, as inserted by the amending regulations:
 - (a) the amounts of by-catch referred to in paragraphs 37B.6A(a) and (b) include by-catch caught, in the 2016/17 season, before the commencement of the amending regulations; but
 - (b) if a by-catch limit in paragraph 37B.6A(a) and (b) is exceeded in relation to a boat before that commencement, a person contravenes subclause 37B.6A only if the person uses the boat to fish for *Dissostichus eleginoides* in Statistical Subarea 48.3 on or after that commencement.
- (2) For the purposes of applying subclause 18.4 of Schedule 2, as amended by the amending regulations, in relation to 2017:
 - (a) the number of instrumented buoys referred to in paragraph 18.4(b) includes buoys acquired during 2017 but before the commencement of the amending regulations; but
 - (b) if the limit in paragraph 18.4(b) is exceeded in relation to a boat before that commencement, a person contravenes subclause 18.4 in relation to the boat only if at least one more instrumented buoy is acquired for the boat in 2017.
- (3) In this regulation:

amending regulations means the *Fisheries Management (International Agreements) Amendment (2015 and 2016 Measures) Regulations 2017*.