

Attachment A – General Conditions – Change 22/05/20

Conditions applying to this High Seas Fishing Permit

In addition to the conditions specified in section 32(5) 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 section 41A in accordance with sub section 32(7A), the condition to comply with section 42A requiring facilitating boarding and cooperating with inspection by foreign officials under the United Nations Fish Stocks Agreement or measure established by an international fisheries management organisation, and the condition in section 40C to comply with any obligation and restriction concerning the e-monitoring of fishing activity, the following conditions are specified for the purposes of sub section 32(6) sub paragraph (a)(i):

Note: Under sub section 32(8) these conditions may be varied, revoked or a further condition specified by written notice from AFMA.

By section 42B(1) of the *Fisheries Management Act 1991*, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019* (the Regulations) 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 66 - 68:	Fish processing during a trip.
Regulation 70:	No interaction with protected organism.
Regulation 71:	Reporting interaction with protected organism.
Regulation 72:	Requirements if protected organisms is injured by interaction.
Regulation 73:	Requirements if protected organisms killed by interaction

*not applicable to some concessions

Definitions

In these conditions:

Abandoned fishing gear means fishing gear deliberately left at sea by a vessel due to force majeure or other unforeseen reasons.

AFMA VMS Unit means a VMS unit wholly owned by AFMA, marked with AFMA identifications and supplied by AFMA and fitted by an AFMA approved technician.

Interfere includes, but is not limited to;

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

AFMA VMS unit.

Lost fishing gear means fishing gear which is either discarded at sea without any attempt of recovery by the vessel, left at sea by a vessel due to force majeure or other unforeseen reasons or gear over which the vessel has accidentally lost control and which cannot be located and/or retrieved.

Plastics means a solid material which contains as an essential ingredient one or more high molecular mass polymers and which is formed (shaped) during either manufacture of the polymer or the fabrication into a finished product by heat and /or pressure. These include, but are not limited to, synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products.

Shot means:

- i. in the case of trawling, from the location at which the fishing gear was first deployed from the boat to the location at which the fishing gear was retrieved by the boat;
- ii. in the case of longlining, from the location at which the first anchor of a set was deployed to the location at which the last anchor of that set was deployed; and
- iii. in the case of droplining, the location at which the dropline entered the water

SIOFA Agreement Area means the area described in Article 3 of the Southern Indian Ocean Fisheries Agreement.

SPRFMO Convention Area means the area defined in Article 5 to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean.

Transshipping means boat to boat transfer of fish or other products.

Area Limitations

1. The holder must only fish in the SRFMO or SIOFA area of waters as defined in Schedule 1 to Attachment C and Attachment D.
2. While fishing in the SPRFMO area of water the holder must abide by the conditions specified in Attachment C.
3. While fishing in the SIOFA area of waters the holder must abide by the conditions specified in Attachment D.

Movement Limitations

4. The holder must ensure that after the nominated boat leaves port and at all times before entering the specified zone of the high seas fishery, all fishing gear remains stowed and secured unless prior authorisation has been given by AFMA.

Concession on Board Obligation

5. This concession, or a true copy of it, must be carried on board the boat nominated to this concession at all times whilst on a trip under this concession and must be produced upon demand by an authorised officer.

Applicable Boat

6. 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 shown:

- i. by white characters on a black background;
 - ii. by black characters on a white background; or
 - iii. by black characters on a background of international safety yellow, and
- (b) the characters of the international radio call sign of the boat are shown in Roman capital letters, or Arabic numerals, without ornamentation and where the boat is:
- i. less than 20 m long, the characters are at least 50 cm high and consist of strokes at least 6.25 cm wide; or
 - ii. more than 20 m long, the characters are at least 1 m high and consist of strokes at least 12.5 cm wide.
7. The holder must provide good quality high resolution photographs of the boat of appropriate brightness and contrast, no older than 5 years, which consist of:
- (a) one photograph not smaller than 12×7 cm showing the starboard side of the boat displaying its full overall length and complete structural features;
 - (b) one photograph not smaller than 12×7 cm showing the port side of the boat displaying its full overall length and complete structural features;
 - (c) one photograph not smaller than 12×7 cm showing the stern taken directly from astern.

Foreign ports or Jurisdictions

8. The holder must seek approval from AFMA prior to unloading any fish in a foreign port. The approval must be sought by contacting AFMA by fax on (02) 6225 5500 or by email to monitoring@afma.gov.au.
9. At least 48 hours prior to entering a foreign port for the purposes of unloading, the holder must provide AFMA with the following information via email to monitoring@afma.gov.au or fax (02) 6225 5500:
- (a) the name and international distinguishing symbol of the boat;
 - (b) the proposed foreign port or ports of unloading;
 - (c) the estimated time and date the boat will arrive at that foreign port; and
 - (d) quantities of all species on board the boat.
10. The holder must ensure that:
- (a) all fishing gear remains stowed and secured on the nominated boat when transiting any other country's Exclusive Economic Zone (EEZ);
 - (b) where the boat has entered the EEZ of another country 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;
 - (c) 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;

- (d) fishing activity is not conducted within the EEZ of another country during a trip unless approval for fishing within that EEZ has been obtained from that country in respect of the boat; and
- (e) any unloading activity is not undertaken within any foreign port unless an approval for unloading within that foreign port has been obtained from that country in respect of the boat.

Gear Limitation

11. This concession authorises the use of the gear specified in Attachment B only.

Species Limitations

12. The holder must not take the following species:

- (a) Blue Marlin (*Makaira indica*);
- (b) Black Marlin (*Makaira mazara*);
- (c) Black Cod (*Epinephelus daemeli*); or
- (d) Tuna and tuna-like species including fish of the Families *Istiophoridae* (commonly known as marlins) and *Xiphiidae* (commonly known as billfish).

Transshipping Limitations

13. The holder must not tranship fish taken with the use of the nominated boat to another boat unless prior authorisation has been given by AFMA. The authorisation must be sought by contacting AFMA by fax on (02) 6225 5500 or by email to licensing@afma.gov.au at least 7 days in advance of the transshipment. The holder must notify AFMA 24 hours prior to the estimated time of the transshipment.
14. The holder must not carry fish taken by another boat on the nominated boat unless prior authorisation has been given by AFMA. The authorisation must be sought by contacting AFMA by fax on (02) 6225 5500 or by email to licensing@afma.gov.au at least 7 days in advance of the transshipment. The holder must notify AFMA 24 hours prior to the estimated time of the transshipment.

Purposes Limitation

15. The holder must not fish on the high seas if the nominated boat has engaged in fishing in the Australian Fishing Zone on the same trip unless prior written authorisation has been given by AFMA. The authorisation must be sought by contacting AFMA by fax on (02) 6225 5500 or by email to licensing@afma.gov.au.

Observer Obligations

16. The holder must contact AFMA's Observer section by phone on 0427 496 446 or by email on observers@afma.gov.au:
- (a) at least 72 hours before the nominated boat leaves an Australian port with the intention of entering the high seas; and
 - (b) at least four weeks before the nominated boat leaves a foreign port with the intention of entering the high seas.

17. If a decision to depart a foreign port is made with a departure date of less than four weeks, or the intended date of departure changes after AFMA has been notified, the holder must immediately, on becoming aware of such a departure date, notify AFMA's observer section.

Reporting Obligations

18. At least 48 hours before the nominated boat leaves port with the intention of entering the high seas fishery, the holder must notify AFMA via email to monitoring@afma.gov.au or via fax to (02) 6225 5500 with the following information:
- (a) the boat name and international distinguishing symbol;
 - (b) the estimated time and date of departure;
 - (c) the port of departure; and
 - (d) the area of destination.
19. At least two hours before the time that the nominated boat is intending to moor or anchor in a port or another place, the holder must notify AFMA via email to monitoring@afma.gov.au or by fax to (02) 6225 5500, with the following information:
- (a) the boat name and international distinguishing symbol;
 - (b) an accurate estimate of the total live weight on board the boat;
 - (c) the port;
 - (d) the estimated time of arrival in the port or other place; and
 - (e) the date and estimated time that unloading will commence.
20. The holder must not commence unloading until the date and time specified in the notification.

Lost Fishing Gear Reporting Obligations

21. The holder must take all reasonable steps to avoid abandoning, losing or otherwise discarding any fishing gear.
22. In the event of abandoned, lost or otherwise discarded fishing gear, the holder must notify AFMA, in writing, within 48 hours after the loss of the gear (including, a description of the type/material and quantity of lost gear, the time, date and position at which it was lost, the measures taken by the vessel to retrieve the lost or abandoned gear, and the circumstances that led to the gear being lost, or abandoned for safety reasons).
23. In the event of retrieving abandoned, lost or otherwise discarded fishing gear not linked to that vessel, the holder must notify AFMA, in writing, within 48 hours after retrieving the gear (including: a description of the type/material and quantity of the retrieved gear; the name, IMO number and call sign of the vessel that lost or abandoned the gear (if known); the time, date and position at which it was retrieved; photographs of the gear retrieved (if possible)).

Disposal of plastics

24. The holder must ensure that plastics are not discharged into the sea. All plastics must be stored on-board the vessel until they can be discharged at adequate port reception facilities.

Landing/Disposal Obligations

25. The holder may only sell or otherwise dispose of fish taken from the high seas to a person if the holder completes Parts A and B of the Commonwealth Catch Disposal Record GAB2C, SESS2A or SESS2B.

Other Obligations

26. The holder must provide AFMA with a current emergency contact facility at all times when a nominated boat is being used under this concession.

27. 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.

28. AFMA must be notified immediately of any change in contact details, by fax sent to (02) 6225 5500 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.

Agent Obligations

29. 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.

30. 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.

31. The holder may avoid concurrent liability for conduct of servants or agents under this concession 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.

32. The giving of an indemnity by the servant or agent to the holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.

Temporary Orders Obligations

33. 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.

Handling and treatment of bycatch

34. The concession holder (or a person acting on the holder's behalf) must not mistreat bycatch. In these conditions “**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.

In these conditions “**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*.

In these conditions “**mistreat**” does not include the taking, or failing to take, action where it is reasonably necessary to take, or not take, the action;

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

Navigating In Closed Zones

35. 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 Regulations, to meet the exempting provisions of sub 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) of the *Fisheries Management Act 1991*; whichever is the earlier.

Mandatory AFMA supplied VMS

36. 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);
 - iii. the provision of an un-interrupted connection to the boat’s main power source, and
 - iv. 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.

Notes

Must make boat available

Where the boat is not made available in accordance condition 36 (a) or 36 (b), 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 Regulations.

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.