



# Southern Bluefin Tuna Fishery Management Plan Amendment 2008 (No. 1)

*Fisheries Management Act 1991*

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The AUSTRALIAN FISHERIES MANAGEMENT AUTHORITY determines this amendment of the *Southern Bluefin Tuna Fishery Management Plan 1995* under section 20 of the *Fisheries Management Act 1991*.

Dated 5 February 2008

Common seal of the  
Australian Fisheries  
Management Authority

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Accepted on

TONY BURKE  
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 2008 (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, after definition of *live weight value***

*insert*

*national catch allocation* means the total amount (by weight) of Southern Bluefin Tuna that may be taken in a season in the SBT Fishery.

**[2] Subclause 3.1, after definition of *nominated boat***

*insert*

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

**[3] Paragraph 4A.2 (f)**

*omit*

**[4] After subclause 4A.2**

*insert*

4A.2A The measures also include that AFMA:

- (a) once every 5 years; or

- 
- (b) more frequently than every 5 years if:
- (i) AFMA finds evidence of quota misreporting; or
  - (ii) AFMA agrees with the recommendations of the Southern Bluefin Tuna Management Advisory Committee that there is a need for an evaluation; or
  - (iii) the Minister recommends that there is a need for an evaluation;
- evaluates the mechanisms that have been put in place to monitor fishing catch against granted statutory fishing rights and Australia's national catch allocation for Southern Bluefin Tuna, and implement any required changes to commence at the beginning of the season following that evaluation.

**[5] Clause 4B**

*substitute*

**4B Objective 3 — Maximising net economic returns**

- 4B.1 In managing the SBT Fishery under this Plan, AFMA will pursue the objective of maximising the net economic returns to the Australian community from the management of the SBT Fishery.
- 4B.2 The measures by which this objective is to be attained include that, in developing management arrangements for the SBT Fishery, AFMA has regard to the need to pursue the objective of maximising net economic returns to the Australian community in the exploitation of the SBT Fishery resources.
- 4B.3 The performance criteria against which the measures taken will be assessed include the following:
- (a) that AFMA has developed and implemented, before 1 October 2008, a framework and criteria for the assessment of management arrangements to determine the extent to which they promote the objective of maximising net economic returns, and has procedures in place for review of achievement of this objective every 2 years after inception;
  - (b) that the framework and criteria mentioned in paragraph (a) allow holders of statutory fishing rights for the SBT Fishery to pursue practices consistent with maximising net economic returns to the Australian community.

**[6] Paragraph 8.1 (b)**

*omit*

a national catch allocation

*insert*

the national catch allocation

**[7] Paragraph 9.1 (e)**

*omit*

subject to subclause 9A.2,

*insert*

subject to subclause 9A.2 and clause 9B,

**[8] Clause 9A**

*substitute*

**9A Take in excess of quota**

9A.1 This clause applies if:

- (a) an amount of Southern Bluefin Tuna taken by a holder, using the purse seine method, is:
  - (i) in excess of the holder's quota (whether the holder's quota or quota nominated against the boat used to take the Southern Bluefin Tuna); and
  - (ii) subsequently towed, within a tow cage, to a farm (a ***tow operation***); or
- (b) an amount of Southern Bluefin Tuna taken by a holder, using the pelagic longline method, is in excess of the holder's quota (whether the holder's quota or quota nominated against the boat used to take the Southern Bluefin Tuna).

9A.2 The holder, or a person acting for the holder, does not contravene paragraph 9.1 (e) or 10.1 (f) in relation to a take that causes the holder's quota to be exceeded, if the holder obtains sufficient statutory fishing rights to cover the take within the period:

- (a) if the Southern Bluefin Tuna are taken using the purse seine method — specified in subclause 9A.4; or
- (b) if the Southern Bluefin Tuna are taken using the pelagic longline method — ending 14 days after the Southern Bluefin Tuna are taken.

9A.3 The holder, or a person acting for the holder, does not contravene paragraph 9.1 (f) or 10.1 (g) in relation to a take that causes the quota nominated against the boat to be exceeded, if the holder nominates sufficient quota against the boat within the period:

- (a) if the Southern Bluefin Tuna are taken using the purse seine method — specified in subclause 9A.4; or
- (b) if the Southern Bluefin Tuna are taken using the pelagic longline method — ending 14 days after the Southern Bluefin Tuna are taken.

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- 9A.4 For paragraphs 9A.2 (a) and 9A.3 (a), the period specified is the period:
- (a) if a verified count has been undertaken — ending 14 days after the time that the weight for the take (including a decision by AFMA under subclause 22D.2 to count the estimate) is entered against the holder's quota or the nominated boat, as the case may be; or
  - (b) if no verified count is undertaken within 30 days of the commencement of the tow operation — ending 58 days after the tow operation commenced; or
  - (c) if no verified count is undertaken within 30 days of the take being transferred to a tow cage and AFMA was not told of the commencement of the tow operation — ending 58 days after the date the take was transferred to the tow cage under subclause 22A.1.

## 9B Overcatch

9B.1 In this clause:

*holder* includes a person acting for the holder.

*SFR* means statutory fishing right.

*Overcatch — 500 kilograms or less*

9B.2 This subclause applies to the holder of an SFR if:

- (a) in a season (the *first season*), the holder takes an overcatch of Southern Bluefin Tuna of 500 kilograms or less; and
- (b) at the beginning of the following season (the *second season*) and in the absence of this clause, the holder's SFR would allow the holder to take an amount of Southern Bluefin Tuna at least equal to the overcatch taken by the holder in the first season; and
- (c) clause 22CA does not apply to the holder.

9B.3 If subclause 9B.2 applies to a holder, the holder is considered to have taken:

- (a) during the first season, an amount of Southern Bluefin Tuna equal to the quota allocated to the holder's SFR in the first season; and
- (b) immediately after the beginning of the second season, the overcatch taken by the holder in the first season.

*More than 500 kilograms — pelagic longline method*

9B.4 This subclause applies to a holder if:

- (a) in a season (the *first season*), the holder, using the pelagic longline method, takes an overcatch of Southern Bluefin Tuna of more than 500 kilograms; and

- (b) at the beginning of the following season (the *second season*) and in the absence of this clause, the holder's SFR would allow the holder to take an amount of Southern Bluefin Tuna, expressed in kilograms, at least equal to the amount of Southern Bluefin Tuna calculated using the formula:

$$3 \times (\text{1st season take} - 500 - \text{1st season quota}) + 500$$

where:

*1st season take* is the amount of Southern Bluefin Tuna, in kilograms, taken by the holder in the first season.

*1st season quota* is the quota, in kilograms, allocated to the holder's SFR in the first season.

- 9B.5. If subclause 9B.4 applies to a holder, the holder is considered to have taken:
- (a) during the first season, an amount of Southern Bluefin Tuna equal to the quota allocated to the holder's SFR in the first season; and
  - (b) immediately after the beginning of the second season, the amount of Southern Bluefin Tuna, expressed in kilograms, calculated using the formula in paragraph 9B.4 (b).

**[9] Subclause 12A.4**

*substitute*

12A.4 AFMA may refuse an application by a holder if:

- (a) both of the following apply to the holder:
  - (i) in the season immediately before the season in which the application is made, the holder took an overcatch of Southern Bluefin Tuna;
  - (ii) subclause 9B.2 or 9B.4 does not apply to the holder; or
- (b) the boat is incapable of carrying a fishery observer and the fishery observer's safety and monitoring equipment.

12A.4A AFMA may also refuse an application by a holder if:

- (a) in the season immediately before the season in which the application is made (the *first season*), the nominated boat was used by the holder to take an amount of Southern Bluefin Tuna that exceeded the quota nominated against the nominated boat for that season; and
- (b) immediately after the beginning of the season in which the application is made, the quota nominated against the nominated boat is less than the amount by which the quota nominated against the boat in the first season was exceeded.

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**[10] Subclause 17.2**

*substitute*

- 17.2 AFMA must determine the amount of Australia's national catch allocation for each season to be an amount that does not exceed the allocation to Australia under any decision, made under paragraph 3 of article 8 of the Convention, by the Commission, that applies to the season.
- 17.2A AFMA may determine the amount of Australia's national catch allocation for one or more seasons if the Commission has made a decision, under paragraph 3 of article 8 of the Convention, about the allocation to Australia for those seasons.
- 17.2B Before the commencement of a season for which AFMA has determined the national catch allocation, AFMA may, by determination, vary the national catch allocation for that season if any of the following circumstances apply:
- (a) AFMA receives evidence of stock deterioration in the SBT Fishery area;
  - (b) AFMA receives new scientific evidence relevant to the SBT Fishery area;
  - (c) the Southern Bluefin Tuna Management Advisory Committee recommends that AFMA vary the national catch allocation;
  - (d) the Minister gives a direction to AFMA under section 91 of the *Fisheries Administration Act 1991* that affects the SBT Fishery area;
  - (e) the national catch allocation for the season immediately before the current season was exceeded.

**[11] Clause 17, at the foot**

*insert*

*Note* A determination mentioned in clause 17 is a disallowable instrument: see subsection 17 (6B) of the Act.

**[12] Subclause 22B.2, at the foot**

*insert*

*Note* A count is a verified count only if it meets the requirements of subclause 22B.2.

**[13] Clause 22C, heading**

*substitute*

**22C Release of fish — immediately after capture**

**[14] After clause 22C**

*insert*

**22CA Restricted overcatch — approved by AFMA**

22CA.1 In this clause:

**2008 season** means the period from 1 December 2007 to 30 November 2008 (inclusive).

**2009 season** means the period from 1 December 2008 to 30 November 2009 (inclusive).

**2010 season** means the period from 1 December 2009 to 30 November 2010 (inclusive).

**holder** includes a person acting for the holder.

22CA.2 This clause applies to the holder of a statutory fishing right who, in the 2008 season, 2009 season or 2010 season:

- (a) takes an amount of overcatch of Southern Bluefin Tuna, using the purse seine method; and
- (b) transfers the fish to a tow cage.

22CA.3 The holder may, not more than once each season, apply to AFMA, in the approved form:

- (a) for permission to release a quantity of Southern Bluefin Tuna; and
- (b) to:
  - (i) retain an amount of overcatch of Southern Bluefin Tuna of less than 25 tonnes; and
  - (ii) reduce the holder's quota in the season following the season in which the overcatch was taken, by an amount equal to the overcatch mentioned in subparagraph (i).

22CA.4 When considering an application under paragraph 22CA.3 (a) or (b), AFMA must:

- (a) take into account the objectives of the plan; and
- (b) make a decision as soon as practicable after receiving the application.

22CA.5 If AFMA approves an application under paragraph 22CA.3 (a) or (b), AFMA must:

- (a) give the holder a copy of the approval; and
- (b) tell the holder about any conditions to which the approval is subject.

22CA.6 When releasing a quantity of Southern Bluefin Tuna, the holder must comply with any conditions to which the approval is subject.

22CA.7 If:

- (a) the holder releases a quantity of Southern Bluefin Tuna; and
- (b) the fish are alive and vigorous; and

- 
- (c) the release is in accordance with the approval mentioned in subclause 22CA.5;

the weight of the fish released does not count against the holder's quota.

22CA.8 AFMA must, as soon as practicable after the release:

- (a) estimate the weight of Southern Bluefin Tuna that are likely to have died before or during the release; and
- (b) count the weight of the fish mentioned in paragraph (a) against the quota (whether the holder's quota or quota nominated against the boat used to take the Southern Bluefin Tuna) for the season in which the fish were taken.

22CA.9 If the amount of overcatch of Southern Bluefin Tuna retained by the holder is 25 tonnes or more, the holder has contravened a condition of the holder's statutory fishing right.

22CA.10 Each of the following decisions of AFMA is reviewable as if the decision were a reviewable decision under section 165 of the Act:

- (a) a decision to refuse an application made under subclause 22CA.3;
- (b) a decision in relation to an estimate made under subclause 22CA.8.

**[15] Before subclause 22D.1**

*insert*

22D.1A In this clause:

***relevant weight***, in relation to a tow operation, means the total of the following:

- (a) the weight of Southern Bluefin Tuna determined by a verified count conducted for the tow operation;
- (b) the weight of any Southern Bluefin Tuna likely to have died during the take and tow operation;
- (c) the weight of any Southern Bluefin Tuna likely to have died during any subsequent release operation.

**[16] Subclause 22D.1**

*omit everything before paragraph (a), insert*

22.D1 Subject to subclause 22D.2, the relevant weight:

**[17] Subclause 22D.2**

*substitute*

22D.2 If the relevant weight is less than the estimate given to AFMA under paragraph 22A.1 (g), AFMA must count the estimate against the holder's quota and against the nominated boat from which the fish were taken.

**[18] Subclause 35.3**

*substitute*

35.3 A notice required or permitted by this Plan to be given in writing to AFMA must be delivered, posted or sent electronically to the Manager of Licensing and Quota Management, Australian Fisheries Management Authority.

*Note* The contact details of AFMA's Manager of Licensing and Quota Management are available on AFMA's website: <http://www.afma.gov.au>.

**[19] Subclause 36.3**

*omit*