



Fisheries (Southern Bluefin Tuna Catch Documentation Scheme) Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 27th day of March 2017

Present:

The Right Hon Bill English presiding in Council

These regulations are made under section 297(1) of the Fisheries Act 1996 on the advice and with the consent of the Executive Council.

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Regulations

- 1 Title**
These regulations are the Fisheries (Southern Bluefin Tuna Catch Documentation Scheme) Regulations 2017.
- 2 Commencement**
These regulations come into force on 27 April 2017.
- 3 Application**
(1) These regulations apply in relation to commercial fishing against New Zealand's national allocation of southern bluefin tuna by New Zealand nationals or

by New Zealand ships, whether within or outside New Zealand fisheries waters.

- (2) These regulations do not apply in relation to—
- (a) recreational fishing for southern bluefin tuna; or
 - (b) Māori non-commercial customary fishing for southern bluefin tuna; or
 - (c) southern bluefin tuna that is returned to the waters from which it was taken in accordance with the requirements set out in Schedule 6 of the Fisheries Act 1996.

4 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

authorised person means a person authorised by the chief executive under regulation 16 to validate documents

catch monitoring form means a catch monitoring form approved by the chief executive under regulation 18(1)(b)

catch tagging form means a catch tagging form approved by the chief executive under regulation 18(1)(a)

permit holder—

- (a) means a person who holds a permit issued under section 91, 97, or 113H of the Fisheries Act 1996 and who fishes or intends to fish for southern bluefin tuna; and
- (b) includes a person who acts as an employee or agent of a person described in paragraph (a)

re-export and export after landing of domestic product form means a re-export and export after landing of domestic product form approved by the chief executive under regulation 18(1)(c)

southern bluefin tuna and **tuna** mean a fish of the species *Thunnus maccoyii*, whether living or dead

tag means a tag issued by the chief executive under regulation 6(1)

validate means the process described in regulation 17.

- (2) In these regulations,—
- (a) a southern bluefin tuna is whole even if—
 - (i) it has been cleaned, gilled, gutted, or frozen; or
 - (ii) it has had its fins, gill plates, tail, or head removed (or any combination of those); but
 - (b) a tuna is not whole if it has been filleted or loined or has undergone a similar process.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

Tagging requirements

6 Chief executive must issue tags

The chief executive must, before each calendar year, issue tags to be used for the purposes of these regulations to—

- (a) licensed fish receivers who the chief executive considers are likely to receive southern bluefin tuna in the year; and
- (b) permit holders who the chief executive considers are likely to take southern bluefin tuna in the year.

7 Notification of intention to receive or fish southern bluefin tuna

- (1) This regulation applies to a licensed fish receiver or permit holder who—
 - (a) intends to receive or take southern bluefin tuna in a calendar year; and
 - (b) has not received tags by 15 December of the year immediately before the calendar year.
- (2) A person to whom this regulation applies must, no later than 3 working days before the person receives or takes southern bluefin tuna, notify the chief executive that the person has not received tags.

8 Permit holders must carry tags on board fishing vessels

- (1) A permit holder must carry the tags on the fishing vessel that the permit holder uses to take southern bluefin tuna.
- (2) A permit holder who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
 - (a) an infringement fee of \$500; or
 - (b) a fine imposed by a court not exceeding \$1,000.

9 Permit holders must tag southern bluefin tuna

- (1) A permit holder must attach a tag to each southern bluefin tuna that the permit holder takes.
- (2) The permit holder must attach the tag to the tuna as soon as practicable, but, in any event, before selling or otherwise disposing of the tuna to a licensed fish receiver.
- (3) A permit holder who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—

- (a) an infringement fee of \$500; or
- (b) a fine imposed by a court not exceeding \$1,000.

10 Permit holders must replace detached tags

- (1) If a tag becomes detached from a southern bluefin tuna before the permit holder sells or otherwise disposes of the tuna to a licensed fish receiver, the permit holder who took the tuna must—
 - (a) reattach the tag to the tuna, if it is reasonably practicable to do so;
 - (b) if the tag cannot be reattached to the tuna, attach a new tag to the tuna as soon as practicable, but, in any event, before selling or otherwise disposing of the tuna to a licensed fish receiver.
- (2) A permit holder who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
 - (a) an infringement fee of \$500; or
 - (b) a fine imposed by a court not exceeding \$1,000.

11 Licensed fish receiver must tag southern bluefin tuna received without tag

- (1) If a licensed fish receiver receives a southern bluefin tuna without a tag attached, the licensed fish receiver must attach a tag to the tuna as soon as practicable.
- (2) A licensed fish receiver who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
 - (a) an infringement fee of \$500; or
 - (b) a fine imposed by a court not exceeding \$1,000.

12 Prohibition on removal of tags from whole southern bluefin tuna

- (1) A person must not remove a tag from a whole southern bluefin tuna.
- (2) A person who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
 - (a) an infringement fee of \$500; or
 - (b) a fine imposed by a court not exceeding \$1,000.

Weighing and measuring requirements

13 Permit holder must weigh and measure southern bluefin tuna

- (1) A permit holder who takes a southern bluefin tuna must weigh and measure the tuna on the fishing vessel used to take the tuna as soon as practicable, but, in any event, before the tuna is frozen.

- (2) However, if the fishing vessel used to take the tuna does not have the facilities or equipment necessary to accurately weigh or measure the tuna,—
- (a) the permit holder is not required to weigh and measure the tuna on the fishing vessel; but
 - (b) the permit holder must not freeze the tuna.

14 Licensed fish receiver must weigh and measure southern bluefin tuna that has not been weighed or measured

If a licensed fish receiver receives a southern bluefin tuna that has not been weighed or measured, the licensed fish receiver must weigh and measure the tuna as soon as practicable, but, in any event, before the tuna is frozen.

15 Weighing and measuring must comply with directions

A permit holder or licensed fish receiver who is required to weigh and measure a southern bluefin tuna must comply with any direction issued by the Director-General that specifies how the tuna must be weighed and measured.

Validation

16 Chief executive may authorise people to validate documents

- (1) The chief executive may authorise 1 or more people to validate documents required by these regulations.
- (2) The chief executive may revoke an authorisation at any time.

17 Validation of documents

An authorised person validates a document by—

- (a) checking the information entered in the document; and
- (b) on being satisfied that the information is complete and correct, signing and dating the document.

Required forms

18 Chief executive must approve forms

- (1) The chief executive must approve the following forms to be used for the purposes of these regulations:
 - (a) catch tagging forms;
 - (b) catch monitoring forms;
 - (c) re-export and export after landing of domestic product forms.
- (2) A form must comply with the requirements for that form in Schedule 2.

19 Permit holder must provide information to licensed fish receiver

- (1) A permit holder who disposes of a southern bluefin tuna to a licensed fish receiver must provide the licensed fish receiver with the information that the permit holder possesses that the licensed fish receiver requires in order to complete any forms required by these regulations for that tuna.
- (2) A permit holder who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
 - (a) an infringement fee of \$500; or
 - (b) a fine imposed by a court not exceeding \$1,000.

20 Catch tagging forms

- (1) A licensed fish receiver who receives a southern bluefin tuna must—
 - (a) complete a catch tagging form for that tuna; and
 - (b) provide the original copy of the form to the chief executive no later than the 15th day of the month after the month in which the tuna was received; and
 - (c) keep a copy of the form in accordance with regulation 23.
- (2) A permit holder who freezes a tuna on the fishing vessel used to take the tuna must record the pre-frozen weight and length of the tuna on a catch tagging form.

21 Catch monitoring forms

- (1) A licensed fish receiver who receives a southern bluefin tuna must—
 - (a) complete a catch monitoring form for that tuna; and
 - (b) ensure that the form is validated by an authorised person; and
 - (c) provide the original copy of the form to the chief executive no later than the 15th day of the month after the month in which the tuna was received; and
 - (d) when disposing of the tuna, provide a copy of the form to the person who acquires the tuna from the licensed fish receiver; and
 - (e) keep a copy of the form in accordance with regulation 23.
- (2) A person who receives a copy of a form under subclause (1)(d) and subsequently exports the tuna must provide the copy of the form to the person that imports the tuna.

22 Re-export and export after landing of domestic product form

- (1) A person who exports southern bluefin tuna must—
 - (a) complete a re-export and export after landing of domestic product form for that tuna; and

- (b) ensure that the information in the export section of the form is validated by an authorised person; and
 - (c) provide the original copy of the form to the chief executive no later than the 15th day of the month after the month in which the tuna was exported; and
 - (d) provide a copy of the form to the person who imports the tuna; and
 - (e) keep a copy of the form in accordance with regulation 23.
- (2) However, a licensed fish receiver who receives tuna from a fisher for the purpose of immediate export is not required to complete a re-export and export after landing of domestic product form for that tuna.

23 Copies of forms to be kept for 7 years

- (1) A person who is required to keep a copy of a form under regulations 20 to 22 must keep that form for 7 years after the date on which the person completes the form.
- (2) A person who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
- (a) an infringement fee of \$1,000; or
 - (b) a fine imposed by a court not exceeding \$2,000.

24 Failing to provide form to chief executive, or providing form after due date

- (1) A person who is required to provide a form to the chief executive under regulations 20 to 22 commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 if the person provides the form to the chief executive in the period—
- (a) starting on the 16th day of the month in which the person is required to provide the form; and
 - (b) ending on the 20th day of the month in which the person is required to provide the form.
- (2) A person who commits an infringement offence against subclause (1) is liable to—
- (a) an infringement fee of \$400; or
 - (b) a fine imposed by a court not exceeding \$800.
- (3) A person who is required to provide a form to the chief executive under regulations 20 to 22 commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 if the person provides the form to the chief executive in the period—

- (a) starting on the 21st day of the month in which the person is required to provide the form; and
 - (b) ending on the 15th day of the month after the month in which the person is required to provide the form.
- (4) A person who commits an infringement offence against subclause (3) is liable to—
- (a) an infringement fee of \$750; or
 - (b) a fine imposed by a court not exceeding \$1,500.
- (5) A person who is required to provide a form to the chief executive under regulations 20 to 22 commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 if the person—
- (a) fails to provide the form to the chief executive; or
 - (b) provides the form to the chief executive later than the 15th day of the month after the month in which the person is required to provide the form.
- (6) A person who commits an infringement offence against subclause (5) is liable to—
- (a) an infringement fee of \$1,000; or
 - (b) a fine imposed by a court not exceeding \$2,000.

25 Providing incomplete form to chief executive

- (1) A person who is required to provide a form to the chief executive under regulations 20 to 22 must—
- (a) correctly complete all information required on the form in the required format; and
 - (b) ensure that the form, or the relevant part of the form, is validated by an authorised person (if required).
- (2) A person who fails to comply with this regulation commits an infringement offence for the purposes of sections 260A to 260C of the Fisheries Act 1996 and is liable to—
- (a) an infringement fee of \$400; or
 - (b) a fine imposed by a court not exceeding \$800.

Sale

26 Prohibition on sale of southern bluefin tuna without tag

- (1) A person must not sell a whole southern bluefin tuna unless the tuna has a tag attached.
- (2) However, a person who catches southern bluefin tuna as bycatch may sell or otherwise dispose of the tuna to a licensed fish receiver.

- (3) A person who fails to comply with this regulation commits an offence and is liable on conviction to a fine not exceeding \$100,000.

Notices for infringement offences

27 Infringement notices

An infringement notice issued under section 260A of the Fisheries Act 1996 for an infringement offence against these regulations must be in the form set out in Schedule 2 of the Fisheries (Infringement Offences) Regulations 2001.

28 Infringement offence reminder notices

An infringement offence reminder notice issued under section 260B of the Fisheries Act 1996 for an infringement offence against these regulations must be in the form set out in Schedule 3 of the Fisheries (Infringement Offences) Regulations 2001.

**Schedule 1
Transitional, savings, and related provisions**

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**Part 1
Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions relating to these regulations as made.

**Schedule 2
Forms**

r 18(2)

**Part 1
Catch tagging form**

1 Information to be inserted

A catch tagging form must provide for the following information to be inserted:

- (a) the document number of the associated catch monitoring form:
- (b) the name and registration number of the fishing vessel that took the tuna:
- (c) the flag State of the fishing vessel:
- (d) the following tag information for the tuna:
 - (i) the number of the tag attached to each tuna:

- (ii) the length and weight of each tuna:
- (iii) the fishing method:
- (iv) the area in which the tuna was taken:
- (v) the date on which the tuna was taken.

2 Certificate

- (1) A catch tagging form must provide for the person who completes the form to certify that the information the person has entered is complete and correct to the best of the person's knowledge.
- (2) The form must require the person who gives the certificate to enter the person's name and title and to sign and date the form.

Part 2 Catch monitoring form

3 Information to be inserted

- (1) A catch monitoring form must require the person completing the form to insert the document numbers of associated catch tagging forms.
- (2) The form must have a catch/harvest section that provides for the following information to be inserted:
 - (a) the name and registration number of the fishing vessel that took the tuna:
 - (b) the flag State of the fishing vessel:
 - (c) a description of the tuna taken, including—
 - (i) whether the tuna is fresh or frozen:
 - (ii) the processed state of the tuna:
 - (iii) the weight of the tuna:
 - (iv) the number of tuna:
 - (v) how the tuna was caught, including the gear code for the gear used to take the tuna:
 - (vi) the date on which the tuna was taken:
 - (vii) the area in which the tuna was taken:
 - (viii) the name and address of the place where the tuna was processed (if applicable).
- (3) The form must have an intermediate product destination section that provides for the following information to be inserted in relation to export of the tuna:
 - (a) the place from which the tuna is exported:
 - (b) the place at which the tuna is imported:
 - (c) the name of the person exporting the tuna.

- (4) The form must have a final product destination section that provides for the following information to be inserted in relation to tuna sold or otherwise disposed of to a licensed fish receiver for domestic sale in New Zealand:
 - (a) the name and address of the licensed fish receiver:
 - (b) the date on which the licensed fish receiver received the tuna:
 - (c) the weight of the tuna received:
 - (d) the signature of the licensed fish receiver.

4 Certificates

- (1) A catch monitoring form must provide for a certificate to be given (as applicable) by—
 - (a) the exporter:
 - (b) the licensed fish receiver:
 - (c) the importer.
- (2) The certificate must state that the person giving the certificate certifies that the description of the tuna entered in the catch/harvest section of the form is complete and correct to the best of the person's knowledge.
- (3) The form must require the person who gives the certificate to enter the person's name and title and to sign and date the form.

5 Validation

A catch monitoring form must provide for an authorised person to validate the description of the tuna entered in the catch/harvest section of the form—

- (a) in the catch/harvest section; and
- (b) in the export part of the intermediate product destination section of the form.

Part 3

Re-export and export after landing of domestic product form

6 Information to be inserted

- (1) A re-export and export after landing of domestic product form must require the person completing the form to insert the document numbers of any associated catch monitoring form or re-export and export after landing of domestic product form (the **associated form**).
- (2) The form must have an export section that provides for the following information to be inserted:
 - (a) the city, the State or province, and the flag State from which the tuna is exported:

- (b) if the tuna has been processed since the completion of the associated form, the name and address of the place where the tuna was processed:
 - (c) the document numbers of the associated catch tagging forms (if applicable):
 - (d) the description of the tuna from the associated form, including—
 - (i) whether the tuna is fresh or frozen:
 - (ii) the processed state of the tuna:
 - (iii) the weight of the tuna:
 - (iv) the number of tuna:
 - (e) a description of the tuna being exported, including—
 - (i) whether the tuna is fresh or frozen:
 - (ii) the processed state of the tuna:
 - (iii) the weight of the tuna:
 - (iv) the number of tuna:
 - (f) the flag State or the fishing entity to which the tuna is exported.
- (3) The form must have an import section that provides for the final point of import to be inserted, including the city, the State or province, and the flag State or fishing entity.

7 Certificates

- (1) A re-export and export after landing of domestic product form must provide for a certificate to be given by the exporter and the importer.
- (2) The certificate must state that the person giving the certificate certifies that the information entered in the form is complete and correct to the best of the person's knowledge.
- (3) The form must require the person who gives the certificate to enter the person's name and title and to sign and date the form.

8 Validation

A re-export and export after landing of domestic product form must provide for an authorised person to validate the information entered in the export section of the form.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 27 April 2017, give effect to the Resolution on the Implementation of a CCSBT Catch Documentation Scheme adopted by the Commission for the Conservation of Southern Bluefin Tuna (the **Commission**) in 2009. The regulations establish a catch tagging and documentation scheme for commercial fishing against New Zealand's national allocation of southern bluefin tuna by New Zealand nationals and New Zealand ships, whether within or outside New Zealand fisheries waters.

The regulations require the chief executive of the Ministry for Primary Industries to issue tags to persons who fish for southern bluefin tuna (**permit holders**) and to licensed fish receivers who receive southern bluefin tuna. Permit holders are required to tag, weigh, and measure tuna that they catch. However, if a licensed fish receiver receives tuna that has not been tagged, weighed, or measured, then the licensed fish receiver must tag, weigh, or measure the tuna. The regulations prohibit the removal of a tag from a southern bluefin tuna that has not been filleted or loined (a **whole** southern bluefin tuna).

The regulations require the chief executive to approve forms to be used for the purposes of these regulations. Licensed fish receivers and persons who export southern bluefin tuna must complete the forms and provide them to the chief executive. In some cases, the forms must be validated by a person authorised to do so by the chief executive.

The regulations prohibit the sale of whole southern bluefin tuna that does not have a tag attached, except in the case of a person who catches southern bluefin tuna as by-catch. In that case, the person may sell the tuna to a licensed fish receiver.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 30 March 2017.

These regulations are administered by the Ministry for Primary Industries.