EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 322

Issued by the authority of the Minister for Fisheries, Forestry and Conservation

Fisheries Management Act 1991
Fisheries Management (Western Tuna and Billfish Fishery) Regulations 2006

Subsection 168(1) of the Fisheries Management Act 1991 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, in carrying out or giving effect to the Act.

Sections 44 and 45 of the Act, respectively, provide that the Australian Fisheries Management Authority (AFMA) must keep a Register of Statutory Fishing Rights, and must enter certain information in the Register for each statutory fishing right (SFR) that it grants such as the name of the person to whom the SFR is granted; the description of the SFR; the period of time for which the SFR is granted; the name of the fishery; the conditions of the SFR and such other particulars as are prescribed. These particulars, as well as those prescribed under the Regulations, are generally considered essential standard public contact information necessary for regulatory purposes. The particulars facilitate the administration of SFRs, including the administration of SFR transfers, for the Western Tuna and Billfish Fishery (WTBF).

The Regulations prescribe the additional information that AFMA must enter in the Register in respect of the WTBF. For each SFR granted for the WTBF, the information AFMA must enter in the Register includes the holder's name, contact information, ABN and ACN (if the holder is a corporation) and particulars relating to the holder's nominated boat, including the name of the boat and its distinguishing symbol. All of AFMA's SFR managed fisheries have similar SFR Registers. The onus is on AFMA to update any new relevant particulars as they become available to AFMA.

The WTBF

Fishing in the WTBF is managed under the provisions of the Western Tuna and Billfish Fishery Management Plan 2005 (the Plan) and associated instruments.

The WTBF is located throughout the Australian Fishing Zone (AFZ) west of Cape York in Queensland to the South Australia/Victoria border and High Seas areas throughout the Indian Ocean consistent with the area of competency of the Indian Ocean Tuna Commission (IOTC) but west of 141° E at its southern part. The WTBF includes waters seaward of territorial waters (outside 12 nautical miles from the baselines) adjacent to Christmas and Cocos (Keeling) Islands. The AFZ is defined consistently with the Exclusive Economic Zone (EEZ) and extends out to 200 nautical miles from the baselines, except where overlaps exist between Australian and EEZs of other countries.

The Plan applies to the area of the WTBF within the AFZ and for Australian boats to the High Seas within the area of competence of the IOTC.
Albacore tuna (Thunnus alalunga), bigeye tuna (Thunnus obesus), billfish (Families Istiophoridae and Xiphiidae), longtail tuna (Thunnus tonggol), northern bluefin tuna (Thunnus thynnus), rays bream (Family Bramidae), skipjack tuna (Katsuwonus pelamis) and yellowfin tuna (Thunnus albacares) are the primary species in the WTBF.

Regulation Impact Statement

The Office of Regulation Review advised that a Regulation Impact Statement was not required (ID8777) as the Regulations are of a minor nature and do not substantially alter existing arrangements. No new fees or charges result from the Regulations.

Consultation

No consultation requirements are contained in the Fisheries Management Act 1991 regarding regulations. The preparation of the Plan included full consultation with the Western Tuna and Billfish Fishery Advisory Committee (WTBFMAC) and a statutory public consultation phase. AFMA received no comments relating to the content of the SFR Register from either consultation process.

The Regulations provide a framework for a SFR Register which is required to implement the Plan. As full consultation was undertaken for the Plan, consultation on the Regulations was not required.

The Regulations are a legislative instrument under the Legislative Instruments Act 2003. The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

The Regulations

Details of the Regulations are set out below:

Regulation 1 provides for the Regulations to be cited as the Fisheries Management (Western Tuna and Billfish Fishery) Regulations 2006.

Regulation 2 provides that the Regulations commence on the day after they are registered.

Regulation 3 provides that in these Regulations the term Act means the Fisheries Management Act 1991; Fisheries Regulations means the Fisheries Management Regulations 1992; identification code has the meaning given by regulation 12 of the Fisheries Regulations; and Management Plan means the Western Tuna and Billfish Fishery Management Plan 2005. The terms holder, nominated boat and statutory fishing right have the same meaning as that given in the Plan. The terms AFMA, boat, Joint Authority, Register and statutory fishing right have, unless the contrary opinion appears, the same meaning as that given in the Act.

Regulation 4 provides a list of the specific details of holders of SFRs that will be recorded in the Register. The particulars facilitate the administration of SFRs, including the administration of SFR transfers, for the WTBF.
Subregulation 4(1) provides that AFMA must enter the following particulars in the Register: the name of the holder of a statutory fishing right; the postal address of the holder of the right; the telephone number, fax number and e-mail address (if any) of the holder of the right; and if the holder of the right is a corporation – its Australian Business Number (ABN) and Australian Company Number (ACN) (if any).

Subregulation 4(2) provides that AFMA must also enter in the Register the following particulars that relate to a nominated boat of the holder: the name of the boat, and the identification code or a distinguishing symbol for the boat.