EXPLANATORY STATEMENT

Issued by the Authority of the Chief Executive Officer
of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Southern and Eastern Scalefish and Shark Fishery Management Plan 2003

Southern and Eastern Scalefish and Shark Fishery (Minimum Gear Requirements)
Direction 2010

The purpose of the Southern and Eastern Scalefish and Shark Fishery (Minimum Gear Requirements) Direction 2010 (the Direction) is to mandate minimum fishing gear requirements in sectors of the Southern and Eastern Scalefish and Shark Fishery (the SESSF) to reduce the capture of non-target species, as well as small and juvenile commercial species.

Section 17(5A) of the Fisheries Management Act 1991 (the Act) provides that a plan of management made under the Act may provide for the Australian Fisheries Management Authority (AFMA), after such consultations (if any) as are set out in the plan of management, to direct that fishing is not to be engaged in the fishery, or a particular part of the fishery, during a particular period or periods.

Section 17(5B) of the Act provides that a direction made under section 17(5A)(a) in relation to a part of a fishery may identify the part concerned in any way or ways, including by reference to a particular kind, size or quantity of fishing equipment, a particular method of fishing, or any combination of the above.

Accordingly, section 56(1) of the Southern and Eastern Scalefish and Shark Fishery Management Plan 2003 (SESSF Plan) provides that AFMA may direct that fishing is not to be engaged in the fishery, or in a specified part of the fishery, during a specified period.

Section 56(2) of the SESSF Plan provides that, before AFMA issues a direction, it must consult and consider the views of each relevant management advisory committee about the content of the direction unless the direction is given in an emergency.

Objectives

The Direction continues the requirements of the Southern and Eastern Scalefish and Shark Fishery (Minimum Gear Requirements) Direction 2007 (the Previous Direction), which will expire on 30 June 2010.

The Direction is in pursuit of AFMA’s objectives and in particular the objective of ensuring that the exploitation of fisheries resources is conducted in accordance with the principles of ecologically sustainable development and has regard to the impact of fishing activities on non-target species. Further, the Direction implements measures required by the Ministerial Direction (S234, 20 December 2005) to the extent that it requires AFMA to implement measures to manage the broader environmental impacts of
fishing, including minimising the levels of interactions with threatened or protected species under the *Environmental Protection and Biodiversity Conservation Act 1999*.

The Direction specifies minimum gear requirements for fishing within the Commonwealth South East Trawl Sector, East Coast Deepwater Trawl Sector, Commonwealth Great Australian Bight Trawl Sector, Commonwealth Gillnet, Commonwealth Scalefish Hook and Commonwealth Shark Hook Sectors (together the Gillnet Hook and Trap fishery) of the SESSF.

Prior to the Previous Direction, minimum gear requirements for the SESSF were implemented through sector specific gear directions and/or conditions on fishing permits and boat statutory fishing rights (SFRs). Through the renewal of requirements of the Previous Direction, AFMA will continue to consolidate all gear requirements for the SESSF in a single direction, to improve administration and compliance.

The gear requirements specified in the Direction will improve the selective properties of fishing gear used in the SESSF, and therefore, to result in significant reductions in bycatch of small and juvenile fish. This is expected to result in improvements over time in fish stocks, and in turn, to an increase in potential revenue from fishing.

**Consultation**

The gear requirements specified in this Direction are the result of past consultation with, and recommendations from, SESSF Management Advisory Committees including the South East Trawl Management Advisory Committee (SETMAC), the Gillnet Hook and Trap Management Advisory Committee (GHATMAC) and the Great Australian Bight Management Advisory Committee (GABMAC).

Before renewing the Direction, AFMA consulted with SEMAC and GABMAC throughout 2010 meetings.

**Regulation Impact Statement**

Office of Best Practice Regulation have issued a RIS exemption (OBPR ID 11534) on the basis that the proposal is of a minor or machinery nature that does not substantially alter existing arrangements.

**Direction**

Details of the Direction are set out below:

*Clause 1* provides for the Direction to be cited as the *Southern and Eastern Scalefish and Shark Fishery (Minimum Gear Requirements) Direction 2010*.

*Clause 2* provides that the Direction commences on 1 July 2010.

*Clause 3* provides that the Direction applies to a holder of fishing concession in the SESSF, and to a person acting on behalf of a holder. This means that the direction applies to fishing that is subject to the Management Plan, and not to fishing that is
engaged in in the areas of the SESSF, but under a fishing concession, permit or other authority that is not subject to the Management Plan.

Clause 4 provides that the direction will end on 30 June 2013.

Clause 5 defines terms used in the Direction.

Clauses 6 to 9 specify the minimum requirements for using particular types of fishing methods (gear) in particular areas of the SESSF, as defined in the Management Plan.

Clause 6 specifies the minimum requirements for otter trawl gear in the Commonwealth South East Trawl sector and East Coast Deepwater Trawl Sector.

Clause 7 specifies the minimum net size for fishing in the Great Australian Bight Trawl Sector using trawl methods.

Clause 8 specifies the minimum requirements for using gillnet methods (being demersal gillnet) in the Gillnet Sector, as defined in the Management Plan.

Clause 9 provides that automatic bating equipment cannot be used when fishing using hook methods in the Scalefish and Shark Hook Sector.

Clause 10 enables AFMA to authorise a person to use particular fishing gear, contrary to the requirements of the Direction, if this is warranted in the circumstances – by authorising the use of the gear as a condition attached to a boat SFR held by the person in the SESSF.