EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 145

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

Fisheries Management Act 1991
Fisheries Management (Small Pelagic Fishery) Regulations 2010

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.

Section 44 of the Act prescribes that the Australian Fisheries Management Authority (AFMA) must keep a Register of Statutory Fishing Rights (the Register).

Section 45 of the Act then specifies what information, for each fishing right granted by AFMA, is to be included in the Register. A fishing right is defined in section 4 of the Act as a statutory fishing right (SFR).

The particulars to be included in the Register under section 45 of the Act include: the name of the person to whom the fishing right is granted; a description of the fishing right; the duration of the fishing right; the managed fishery in relation to which the fishing right is granted; the conditions of the fishing right; and such other particulars as are prescribed.

The Regulations prescribe the additional particulars to be entered in the Register for each fishing right granted under the Small Pelagic Fishery Management Plan 2009 (the Plan). The Regulations ensure that the Register contains: the current SFR holder’s name; contact information; Australian Business Number and Australian Company Number (if applicable); and the name of the boat and any identification code or distinguishing symbol.

AFMA will update any new relevant particulars as they become available.

The Small Pelagic Fishery

The area of the Fishery is that part of the Australian Fishing Zone that extends from near the Queensland/New South Wales border, typically outside three nautical miles, around southern Australia to a line at latitude 31° south (near Lancelin, north of Perth).

The primary species in the Fishery are Blue Mackerel (*Scomber australasicus*), Jack Mackerels (*Trachurus declivis* and *Trachurus murphyi*), Redbait (*Emmelichthys nitidus*), and Australian Sardine (*Sardinops sagax*).

Fishing in the Fishery is managed under the Plan and legislative instruments made under the Act and the Plan.
Regulation Impact Statement

A preliminary assessment about the regulatory impacts was conducted by the Office of Best Practice Regulation (OBPR). They advised that no further regulatory impact analysis was required (ID 10840).

Consultation

The preparation of the Plan included full consultation with the Small Pelagic Fishery Management Advisory Committee (SPFMAC) 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.

Commencement

The Regulations are a legislative instrument under the Legislative Instruments Act 2003 and 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 (Small Pelagic Fishery) Regulations 2010*.

**Regulation 2** provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

**Regulation 3** provides the interpretation of terms in the Regulations:

- *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*;

- *Management Plan* means the *Small Pelagic Fishery Management Plan 2009*;

- the terms *holder, nominated boat* and *statutory fishing right* have the same meaning as that given in the Management Plan; and

- 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 Small Pelagic Fishery.

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.