EXPLANATORY STATEMENT

Issued by the authority 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 Total Allowable Catch (Quota Species) Determination 2012

The Southern and Eastern Scalefish and Shark Fishery Total Allowable Catch (Quota Species) Determination 2012 (the Determination) is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Subsection 17(5) of the Fisheries Management Act 1991 (the Act) provides that a plan of management made under the Act is to set out, amongst other things, the objectives of the plan of management and measures by which the objectives are to be attained.

Paragraph 17(6)(aa) of the Act provides that a plan of management made under the Act may provide for the Australian Fisheries Management Authority (AFMA) to determine the fishing capacity permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Section 11 of the Southern and Eastern Scalefish and Shark Fishery Management Plan 2003 (the Plan) provides that AFMA must no later than 31 March immediately before the commencement of a fishing year, determine a Total Allowable Catch (TAC) for each quota species for the fishing year. In determining a TAC for a quota species or a quota species in a particular area of the fishery, AFMA must have regard to reference points for the species determined under section 9 of the Plan. The determination of a TAC must specify the TAC expressed in whole weight or a specified other weight and must specify the particular parts of the fishery to which the TAC applies.

Section 12 of the Plan provides that, before AFMA determines a TAC for a quota species for a fishing year, it must consult and consider the views of each relevant management advisory committee. It must take into account advice from the relevant fishery assessment group about the stock status of a quota species and may consider the views of any other interested person. It must also take into account all fishing mortality from all sectors within the fishery and overlapping or adjacent fisheries, the ecological implications of harvesting the TAC, the distribution and population structure of the species and the precautionary principle.

The Determination determines the TAC for each quota species for the 2012 fishing year.

The Fishery

The Southern and Eastern Scalefish and Shark Fishery (SESSF) covers the area of waters from approximately 80 nautical miles off the coast near Fraser Island in Queensland, south around Tasmania and west to Cape Leeuwin in Western Australia. The area of the SESSF encompasses almost half of the waters within the Australian Fishing Zone. The SESSF operates in both Commonwealth and state waters under complex jurisdictional arrangements, due to different Offshore Constitutional Settlement arrangements with each state.
Management in the SESSF is mainly through output controls in the form of TAC limits set under the Commonwealth Harvest Strategy Policy and the specific SESSF Harvest Strategy Framework (HSF). Input controls used include a limit on the number of boats that operate in each sector due to a finite amount of fishing concessions authorising fishing in the fishery, as well as gear restrictions such as limits on mesh size and the amount of fishing gear that may be used.

**Consultation**

The AFMA consultation process was initiated by relevant species stock assessments, which were presented by scientific members to industry, management members and observers for discussion at Resource Assessment Groups (RAGs). The stock assessments are based on the HSF and include a recommended biological catch (RBC). The RBC provides the best scientific advice on what the total mortality should be for each species or stock, taking into account fishing and natural mortality and any ecological implications of harvesting the species.

The RBCs were translated into proposed TACs. The TAC represents the recommended Commonwealth commercial catch for each species or stock, and is derived by subtracting the expected mortality from incidental catch, discards, and landings in other jurisdictions from the RBC, and by applying decision rules contained in the HSF, which is endorsed by the AFMA Commission.

Advice from the RAGs was then considered by the South East Management Advisory Committees (SEMAC), Great Australian Bight Management Advisory Committee (GABMAC), and the Great Australian Bight Industry Association (GABIA) under co-management arrangements. The SEMAC, GABMAC and GABIA discussed the TAC recommendations, as well as undercatch and overcatch percentages and determined amounts which provide for ‘carry over’ or ‘carry under’ of quota between fishing seasons.

The recommended TACs for each quota species in the SESSF were then sent to the AFMA Commission for determination along with all comments from the MACs, GABIA, RAG, and individual submissions.

**Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required for this Determination consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature.

**Statement of compatibility prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011**

AFMA assesses under section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 that this legislative instrument is compatible with human rights. The Authority’s Statement of Compatibility is attached as a supporting document.
Details of the Determination are set out below:

Clause 1  Provides for the Determination to be cited as the *Southern and Eastern Scalefish and Shark Fishery Total Allowable Catch (Quota Species) Determination 2012*.

Clause 2  Provides that the Determination commences on the day after registration on the Federal Register of Legislative Instruments.

Clause 3  Provides that the Determination ceases on 1 May 2013 unless earlier revoked.

Clause 4  Provides that a term used in the Determination and in the Plan or Act has the same meaning in the Determination as in the Plan or Act.

Clause 5  Determines the total allowable catch (TAC) for each quota species in the fishery for the 2012 fishing year.