

EXPLANATORY STATEMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Eastern Tuna and Billfish Fishery Management Plan 2010

2013 Eastern Tuna and Billfish Fishery Overcatch and Undercatch Determination

Subsection 17(5) of the *Fisheries Management Act 1991* (the FM Act) provides that a plan of management made under the FM Act may provide for the Australian Fisheries Management Authority (AFMA) to give particular determinations for the purposes of attaining the objectives of the plan of management.

Subsection 17(6)(aa) of the Act provides that a plan of management may determine or provide for AFMA to determine the fishing capacity measured, by that method or those methods permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Section 3.2 of the *Eastern Tuna and Billfish Fishery Management Plan 2010* (the Plan) provides that AFMA must determine the weight or the percentage (or both) for section 4.5 of the Plan and determine the percentage for section 4.6 of the Plan.

Section 4.5 of the Plan provides that AFMA must determine a percentage (the ‘determined percentage’) and weight (the ‘determined weight’) for the purpose of applying the overcatch provisions to individual SFR holders who exceed their quota for the season. Section 4.6 of the Plan provides that AFMA must determine a percentage (the ‘determined percentage’) for the purpose of applying the undercatch provisions to individual SFR holders whose catch is less than their quota for the season.

This instrument determines the amounts and percentages for each quota species in relation to undercatch and overcatch for the 2013 fishing season commencing on 1 March 2013 and ending on 28 February 2014. Undercatch and overcatch provides for ‘carry over’ or ‘carry under’ of a small amount of end of season quota between fishing seasons thereby allowing fishers the flexibility to catch a certain amount of fish over or under their quota, and debit or credit this to or from the following season’s quota.

The Fishery

The Eastern Tuna and Billfish Fishery (ETBF) covers the area of waters in the Australian Exclusive Economic Zone (EEZ) included on the east coast of Australia between the south Australia/Victoria border and Cape York in the North. The ETBF also includes a restricted entry zone in the Coral Sea and a high seas zone that provides specific arrangements for fishing in the ETBF beyond the Australian EEZ.

Management in the ETBF has recently moved to output controls in the form of individually transferable quotas under the Plan. The fishery was previously managed under the *Eastern Tuna and Billfish Fishery Management Plan 2005* that utilised input controls to restrict the number of hooks that could be set in the fishery. The new quota arrangements came into effect in the ETBF on 1 March 2011.

Consultation

The Recommended Biological Commercial Catch (RBCC) for each quota species, determined in accordance with the ETBF harvest strategy, and species stock assessments conducted on the broader western central pacific stock, were presented to the Tropical Tuna Resource Assessment Group (TTRAG). This group comprises scientific, industry and management representatives as well as observers. The RBCC 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.

Advice from TTRAG was considered by the relevant management advisory committee, the Tropical Tuna Management Advisory Committee (TTMAC), which recommended undercatch and overcatch percentages and the determined amount (which applies only in the case of overcatch). (Management advisory committees are established under section 56 of the *Fisheries Administration Act 1991* (the FA Act) to assist AFMA in the performance of its functions).

Regulation Impact Statement

The Office of Best Practice Regulation 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. AFMA's Statement of Compatibility is attached as a supporting document.

The Commission's Decision

The AFMA Commission determined the undercatch and overcatch percentages and determined amount on 26 February 2013.

The Commission was satisfied that the percentages and amount it determined were consistent with AFMA's obligation to pursue its statutory objectives, specified in section 3 of the FM Act and section 6 of the FA Act.

Details of the Determination are set out below:

- Clause 1** Provides for the Determination to be cited as the *2013 Eastern Tuna and Billfish Fishery Overcatch and Undercatch Determination*.
- 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 as if it were revoked on 1 March 2014

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 percentage and weight, under section 4.5 of the Plan (Obligations relating to overcatch), and the percentage under section 4.6 of the Plan (Obligations relating to undercatch) for each quota species for the 2013 fishing season commencing on 1 March 2013 and ending on 28 February 2014.