

EXPLANATORY STATEMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Southern Bluefin Tuna Fishery Management Plan 1995

Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2014

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 FM 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.

Subclause 9B.1 of the *Southern Bluefin Tuna Fishery Management Plan 1995* (the Plan) provides that AFMA may determine for a season the determined percentage, the determined amount and the determined additional weight in relation to overcatch.

Subclause 9C.1 of the Plan provides that AFMA may determine for a season the determined percentage of undercatch.

The *Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2014* (the Determination) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Determination determines the amounts and percentages for overcatch and undercatch for the 2014 fishing season commencing on 1 December 2013 and ending on 30 November 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

Southern Bluefin Tuna (SBT) is a highly migratory species and is widely distributed throughout waters of the southern oceans, including the Australian Fishing Zone (AFZ). The Australian Southern Bluefin Tuna Fishery encompasses SBT fishing operations inside the AFZ (i.e. adjacent from 3 to 200 nautical miles around Australia) and on the high seas. Aside from New South Wales, under an Offshore Constitutional Settlement (OCS) agreement between the Commonwealth and the States/Territories, management of the SBT Fishery to the area of low water mark is the responsibility of the Commonwealth through AFMA.

The SBT Fishery is primarily managed using Statutory Fishing Rights (SFRs) which allow holders to fish for SBT within the AFZ and the high seas. The key areas where SBT is caught are the Great Australian Bight and to a lesser extent the west and east coasts of Australia. SBT are caught live and transferred from a tow cage into a farm where the fish are kept for an approximate 6 months grow out period. The transfer weighing is conducted at the time of transfer to determine the weight of fish transferred. This weight is used for quota decrementation purposes.

Consultation

The undercatch/overcatch arrangements have been developed in consultation with the Australian Southern Bluefin Tuna Industry Association (ASBTIA) and the Department of Agriculture.

The Southern Bluefin Tuna Management Advisory Committee (SBTMAC) recently considered the proposed arrangements and provided advice to AFMA's Commission.

The Commission's Decision

The AFMA Commission determined the overcatch and undercatch percentages, amounts and additional weight at their meeting of 24 October 2013. The Commission was satisfied that the percentages, amount and additional weight 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 *Fisheries Administration Act 1991*.

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.

Details of the Determination are set out below:

- | | |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Clause 1 | Provides for the Determination to be cited as the <i>Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2014</i> . |
| 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 was revoked on 1 December 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 determined percentage, determined weight and determined additional weight for the purposes of subclause 9B.1 of the Plan (Overcatch), and the determined percentage for the purposes of subclause 9C.1 of the Plan (Undercatch) for the fishing season commencing on 1 December 2013 and ending on 30 November 2014.