

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

E-MONITORING (SOUTHERN AND EASTERN SCALEFISH AND SHARK FISHERY) DIRECTION 2015

Subsection 40A of the *Fisheries Management Act 1991* (the Management Act) provides that the Australian Fisheries Management Authority (the Authority) may make a written direction requiring any person who holds a fishing concession, or a scientific permit, of a class prescribed in the direction, to comply with obligations that are prescribed in the direction relating to the e-monitoring of fishing related activity or prescribed restrictions on engaging in fishing if any obligation in the direction has not been, or is not being complied with.

The direction is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Fishery

The 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 fishery encompasses almost half of the waters within the Australian Fishing Zone. The fishery 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 Total Allowable Catch limits set under the Commonwealth Fisheries Harvest Strategy Policy and Guidelines 2007 and the specific fishery Harvest Strategy Framework. Input controls used include a limit on the number of boats that operate in each sector, as well as gear restrictions such as limits on mesh size, the amount of fishing gear that may be used and spatial closures.

Closures serve to place restrictions on effort to protect spawning grounds, minimise impact on deepwater species, facilitate the recovery of certain species and protect threatened and endangered species.

Background to Direction

The Authority is established under the *Fisheries Administration Act 1991* (FA Act) and the objectives that it must pursue are contained in section 3 of the Management Act and section 6 of the FA Act.

In order to effectively carry out its legislative objectives and functions, AFMA requires accurate and comprehensive data on fishing activity. Under legislation, AFMA is required to ensure that the exploitation of fisheries resources is ecologically sustainable, to implement efficient and cost-effective fisheries management and to collect information about possible breaches of the law and the management of and research into fisheries and the marine environment.

E-monitoring involves the electronic recording of fishing and related activities for data collection and compliance purposes, through the use of specialised equipment installed on boats. E-monitoring equipment can include cameras, global positioning systems or sensors, and vessel monitoring systems, and can therefore

generate a range of visual and non-visual e-monitoring data. E-monitoring complements other monitoring techniques, such as logbooks and observers and, over time, is expected to largely replace the use of observers.

E-monitoring has previously been trialled on all SESSF gillnet boats operating in South Australia from 2009 to monitor bycatch of marine mammals. During this time, e-monitoring has been found to meet the independent monitoring needs in the Gillnet Hook and Trap Fishery (GHAT) sector and is a cost effective alternative to human observers.

The Direction

The E-MONITORING (SOUTHERN AND EASTERN SCALEFISH AND SHARK FISHERY) DIRECTION 2015 directs concession holders in the SESSF to comply with e-monitoring obligations. The direction requires certain concession holders in the SESSF to have an e-monitoring system installed and operating on a nominated boat by 1 July 2015.

The direction also requires concession holders to monitor the functioning of the e-monitoring system and provide certain information to the Authority.

Consultation

AFMA consulted widely before developing this direction.

After establishing an operational e-monitoring program in South Australia, AFMA presented a proposal to the South East Management Advisory Committee (SEMAC) in October 2013 outlining a plan to expand e-monitoring across the GHAT sector of the SESSF. SEMAC supported the implementation of e-monitoring across the GHAT provided it delivered a cost saving when compared to on-board observers.

AFMA subsequently provided SEMAC with a cost benefit analysis on the implementation of e-monitoring in May 2014 and supported the implementation of e-monitoring across the GHAT sector. SEMAC reviewed the draft direction for e-monitoring at its out of session meeting in April 2015 and suggested some minor changes to wording in the draft direction. All recommended changes suggested by SEMAC have been incorporated into the direction.

Additionally, face to face meetings were held at all major GHAT ports during 2015 to discuss the implementation of e-monitoring with concession holders and skippers. AFMA also consulted with individual fishing concession holders, a number of whom made submissions which were taken into account by the Authority.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required for this direction consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature (ID:17027).

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

The direction is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011. The direction places limitations on the prohibition on interference with privacy and the right to work; however, those limitations are reasonable, necessary and proportionate.

Details of the direction are set out below:

Clause 1	Provides for the direction to be cited as the <i>E-MONITORING (SOUTHERN AND EASTERN SCALEFISH AND SHARK FISHERY) DIRECTION 2015</i> .
Clause 2	Provides that the direction commences on the day after it is registered on the Federal Register of Legislative Instruments.
Clause 3	Provides that the direction ceases on 31 December 2024 unless earlier revoked.
Clauses 4- 8	Provides definitions for certain terms mentioned in the direction and that terms used in the direction that are defined in the Southern and Eastern Scalefish and Shark Fishery Management Plan 2003 (the Plan) and the Management Act, have the same meanings they have in the Plan and Management Act.
Clauses 9-12	Provides for the requirements to install and operate an e-monitoring system.
Clauses 13-18	Provides for the requirements to monitor the functioning of an e-monitoring system and to provide e-monitoring data.
Clauses 19-20	Provides for the requirements to provide certain information to AFMA.
Clauses 21-23	Provides for miscellaneous requirements.
Schedule 1	Specifies the methods and areas referred to in Clause 14