

## EXPLANATORY STATEMENT

### EASTERN TUNA AND BILLFISH FISHERY MANAGEMENT PLAN AMENDMENT 2010 (No. 2)

The *Australian Fisheries Management Authority* (AFMA) has determined the *Eastern Tuna and Billfish Fishery Management Plan Amendment 2010 (No.2)* (Plan Amendment) to amend the *Eastern Tuna and Billfish Fishery Management Plan 2005* (the ETBF Plan).

Subsection 17(1) of the *Fisheries Management Act 1991* (the Act) provides that AFMA must determine written plans of management for each fishery that it manages.

Subsection 20(1) of the Act provides that AFMA may at any time amend a plan of management.

#### **The Eastern Tuna and Billfish Fishery**

The Eastern Tuna and Billfish Fishery (ETBF) is managed under the ETBF Plan, which defines the fishery area in Schedule 1. The ETBF area is that part of the Australian Fishing Zone (AFZ) from the tip of Cape York Peninsula in Queensland to the South Australia/Victoria border, and adjacent high seas areas throughout the Pacific Ocean consistent with the area of competency of the Western and Central Pacific Fisheries Commission (WCPFC) east of 141° E at its southern part. The ETBF also includes waters adjacent to Norfolk Island, excluding a 75 nautical mile by 53 nautical mile restricted area surrounding the island.

It is a multi-species, multi-method pelagic line fishery. The primary species are Yellowfin, Bigeye and Albacore Tunas, Broadbill Swordfish and Striped Marlin. The majority of catch and effort is attributable to the pelagic longline sector, with low minor line activity.

The ETBF Plan came into effect on 1 November 2009 with the fishery managed by input controls via pelagic longline and minor line (trolling, rod and reel and handline or pole) effort statutory fishing rights (SFRs). Input controls regulate fishing activity by restricting the amount or type of gear used or restricting the amount of fishing time. Pelagic longline and minor line SFRs allow the holder to expend the level of fishing effort attached to those pelagic longline or minor line SFRs as referenced by the total allowable effort (TAE) for both types of effort SFRs. The TAE will be set before each fishing season for both types of effort SFRs.

#### **Content of Plan Amendment**

The amendments to the plan allow AFMA to regulate how many hooks an operator sets in the fishery. Section 20 of the ETBF Plan provides the formula for estimating the number of effort units expended under the Plan during the fishing season. The Plan Amendment inserts an additional section (section 20A) which requires AFMA to determine the number of branchline clips for a fishing season based on the average number of branchline clips used by all holders of longline SFRs during each pelagic longline operation in the fishery or part of the fishery.

This method involves the deduction of a fixed determined number of branchline clips from an operator's holdings for every fishing operation (or longline shot) conducted in the fishery during the season and recorded in their logbook (each branchline clip represents one hook).

Section 48 of the Plan which currently allows hook deployment to be monitored in one of two ways, via a drum monitor or through a hook counting device is revoked.

The first season for the hook system commenced on 1 November 2009 and will run until 28 February 2011. All ETBF seasons, whether hook or quota, will then commence on 1 March each year.

## **Consultation**

Section 20 of the Act prescribes that section 17 of the Act applies in relation to amendments to a plan of management in the same way as it applies to the preparation of a new plan of management. Section 17 requires that AFMA must consult with such persons engaged in fishing as appear to be appropriate, and must give due consideration to any representations made to AFMA in connection with the draft plan. AFMA has met all consultation requirements required of it in the preparation of this instrument.

AFMA provided a draft of the Plan Amendment for public comment as required under section 20 the Act. The period for public comment opened on 11 March 2010, via special advertisements in the Commonwealth of Australia Gazette (No. S32) the Australian newspaper and the mailing of letters to all persons on AFMA's register of interested parties for the ETBF on that date. The register includes all boat SFR holders in the ETBF. The period for public comment closed on 16 April 2010.

Three submissions were received during the period for public comment. AFMA gave due consideration to the submissions that were received in respect of the draft Plan Amendment. All submission raised objections to the hook decrementatiton system, stating that all hooks should be counted as per the original intent of the Management Plan. Two submissions expressed the view that the larger vessels were given an unfair advantage and will result in an increase in effort. One submission raised concerns this system would undermine the security of tenure created statutory fishing rights.

AFMA consulted with the Tropical Tuna Management Advisory Committee (TTMAC), which is the main advisory body for the fishery and provides advice to the AFMA Commission, on the Plan amendment. TTMAC includes a range of stakeholders including industry, scientific, environment/conservation and recreational/charter fishing members. The interim Temporary Order and proposed amendment to the Plan were endorsed by TTMAC at its 27 August 2009 meeting.

After they were consulted about the submissions received during the formal round of public consultation, the TTMAC endorsed AFMA's assessment of the representations received and recommended that AFMA proceed with determining the Plan Amendment.

The Office of Regulation Review (ORR) advised AFMA that a Regulation Impact Statement (RIS) is not mandatory for the Plan Amendment because the proposal is of a minor or machinery nature and does not substantially alter existing arrangements (ORR ID No. 7957).

## **The Amendments**

Details of the Plan Amendment are set out below:

**Section 1** – provides that the Plan Amendment may be cited as the Eastern Tuna and Billfish Fishery Management Plan Amendment 2010 (No. 2).

**Section 2** – provides that the Plan Amendment will commence on the day after it is registered as a legislative instrument.

**Section 3** – provides that Schedule 1 amends the ETBF Plan.

#### **Schedule 1**

**Clause 1** – Clause 1 substitutes the definition of *ETBF Regulations* in section 3 of the ETBF Plan, to correct the date of the Regulations, which were registered on FRLI in October 2009.

**Clause 2** – Clause 2 revises the definition of *branchline clips* in section 20 of the ETBF Plan as the number of branchline clips determined under section 20A.

**Clause 3** – Clause 3 substitutes the definition of *SAF* in section 20 of the ETBF Plan.

**Clause 4** – Clause 4 inserts section 20A after section 20 in the ETBF Plan. Subsection 20A(1) requires AFMA to determine the number of branchline clips for a season based on the average number of branchline clips used by all longline SFR concession holders during each longline operation conducted in the fishery or part of the fishery. Subsection 20A(2) requires AFMA to determine the period which will be used to determine the average number of branchline clips under subsection 20A(1), and specifies that that number will be based on information provided by authorised concession holders in the fishery.

**Clause 5** – Clause 5 omits section 48 of the ETBF Plan. Section 48 is redundant as a consequence of the amendments made by clauses 2, 3 and 4.