



Victoria Government Gazette

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Fisheries Act 1995

FISHERIES NOTICE 2022

I, Travis Dowling, Chief Executive Officer of the Victorian Fisheries Authority (VFA), as delegate for the Minister for Fishing and Boating, having undertaken consultation in accordance with section 3A of the **Fisheries Act 1995** (the Act), make the following Fisheries Notice under sections 114 and 152 of the Act.

Dated 14 October 2022

TRAVIS DOWLING
Chief Executive Officer
Victorian Fisheries Authority

FISHERIES (GIANT CRAB FISHERY ELECTRONIC MONITORING SYSTEM) NOTICE 2022

This Notice may be cited as the Fisheries (Giant Crab Fishery Electronic Monitoring System) Notice 2022.

1. Objectives

The objectives of this Notice are to:

- i. require the installation of an Electronic Monitoring System on the registered boat specified for use on an active Giant Crab Fishery (Western Zone) Access Licence;
- ii. require the operation of an Electronic Monitoring System for the duration of a fishing operation under an active Giant Crab Fishery (Western Zone) Access Licence.

2. Authorising provisions

This Notice is made under sections 114 and 152 of the Act.

3. Commencement

- (1) This Notice comes into operation on 15 November 2022.

4. Definitions

In this Fisheries Notice –

active licence means any Giant Crab Fishery (Western Zone) Access Licence that has landed more than 1 tonne of giant crab under the licence between 1 July 2020 and 30 June 2022;

contractor means the party contracted as the VFA's agents to provide Electronic Monitoring Systems and associated services;

data drive means a component of an Electronic Monitoring System that can store electronic monitoring data and can be removed by the operator of the Electronic Monitoring System but does not include removable Random Access Memory;

Electronic Monitoring System means electronic monitoring equipment and peripheral equipment approved by the VFA, that can:

- (a) record, store and transmit details of a boat's position and activity; and
- (b) record, store and transmit details of the Electronic Monitoring System's status; and
- (c) record (including visually) and store all fishing events –

but does not include a vessel monitoring system installed and operated for the purposes of regulation 77 of the Fisheries Regulations 2019.

fishing operation means the carrying out of any activities authorised under an active licence and includes –

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- (a) the using, setting, retrieving, transporting or inspecting of a rock lobster pot in or on the western rock lobster zone; and
- (b) the use of a boat in or on the western rock lobster zone in connection with the carrying out of activities authorised under the licence;

licence operator has the same meaning as in the Fisheries Regulations 2019.

5. Prohibition on the use of a boat under an active licence unless an Electronic Monitoring System is installed and operated

- (1) For the purposes of section 114 of the Act, the use of a boat to conduct a fishing operation under an active licence is prohibited.
- (2) Sub-clause (1) does not apply to the licence holder or licence operator of an active licence, who –
 - (a) has installed on the boat specified on the licence, an Electronic Monitoring System of a type that is approved by the Victorian Fisheries Authority; and
 - (b) is operating the Electronic Monitoring System on the boat specified on the licence, in compliance with the conditions for the use of the system set out in clause 6 of this notice.

6. Conditions for using Electronic Monitoring System

- (1) The licence operator must ensure that after an Electronic Monitoring System is installed on the boat, that –
 - (a) the system is operated in the manner approved by the VFA; and
 - (b) the system is maintained in accordance with the manufacturer's instructions; and
 - (c) they take all reasonable steps to ensure the system is not –
 - (i) interfered with or tampered with in any way; or
 - (ii) altered, damaged or disabled; and
 - (d) the system is operational at all times and capable of recording and reporting all fishing events and the boat's position; and
 - (e) system function tests are undertaken –
 - (i) immediately after a data drive exchange;
 - (ii) prior to starting a new trip;
 - (iii) when there is a reasonable suspicion of issues or fault with the system; and
 - (iv) after any periods of inactivity greater than 14 days.
 - (f) any suspected issues with the system are reported to the VFA, or the contractor, as soon as practicable;
 - (g) at all times while undertaking a fishing operation, the –
 - (i) the camera views of catch handling and gear deployment remain unobstructed and adequately lit; and
 - (ii) camera lenses are clean to ensure that a clear field of view is maintained at all times; and
 - (h) if the system is not fully operational, no fishing activity is undertaken unless authorised by the VFA.
- (2) For the purposes of sub-clause (1)(h), the VFA may authorise in writing a licence holder or licence operator, to undertake a fishing operation if the VFA is satisfied that there are special circumstances justifying such an authorisation.
- (3) The VFA must specify in an authority under sub-clause (2) –
 - (a) the place at which the authority applies; and
 - (b) the period during which the authority applies; and

- (c) the circumstances in which the authority applies; and
- (d) any conditions which apply to the authority.

7. Requirement to provide Electronic Monitoring System data

- (1) The licence operator must ensure that, in accordance with the requirements in sub-clause (2), the Electronic Monitoring System's data drive is exchanged and returned to the VFA when:
- (a) the data drive's storage capacity is reached; or
 - (b) the data drive has failed a systems test and a replacement data drive has been issued; or
 - (c) instructed by the VFA or the contractor whichever occurs first.

Penalty: 50 penalty units

- (2) The Electronic Monitoring System's data drive is exchanged and returned to the VFA by:
- (a) removing the data drive from the Electronic Monitoring System; and
 - (b) immediately packaging the removed data drive in a pre-addressed, pre-paid envelope provided by the VFA or contractor; and
 - (c) posting the data drive within 24 hours of returning to port or, if the data drive is not removed at sea, from removing the data drive.
- (3) The licence operator must ensure that a new or replacement data drive is installed by following the instructions issued by the VFA, the contractor, or the manufacturer of the Electronic Monitoring System.

Penalty: 50 penalty units

8. Duties if Electronic Monitoring System Stops Operating

If the Electronic Monitoring System stops operating, licence operator must:

- (a) not undertake any fishing activities authorised by the licence unless authorised by the VFA under clause 6(2);
- (b) contact the VFA or the contractor as soon as practicable after the licence operator becomes aware that the Electronic Monitoring System has stopped operating to organise repairs of the Electronic Monitoring System; and
- (c) take all reasonable steps to make the boat available for the Electronic Monitoring System to be repaired at the earliest times agreed to with the VFA or the contractor.

Penalty: 50 penalty units

9. Offence to interfere with Electronic Monitoring System

- (1) A person must not interfere or tamper with, or damage, the correct operation of an Electronic Monitoring System installed on a boat used for carrying out an activity authorised under a fishery licence.

Penalty: 50 penalty units

- (2) Sub-clause (1) does not apply to a person who is a contractor or an agent of the manufacturer of the system or who is repairing, modifying or configuring the system.

10. Application to Fisheries Reserves

For the purposes of section 152(4), this notice applies to all Fisheries Reserves.

11. Revocation

Unless sooner revoked, this Notice will be revoked on 15 September 2023.

Notes:

Contravention of any prohibition under section 114 of the Act, as set out in this Fisheries Notice, is an offence under section 114(3) of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.

A Vessel Monitoring System is still required in accordance with regulation 77 of the Fisheries Regulations 2019.

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