

Commission Implementing Regulation (EU) No 404/2011 of 8 April  
2011 laying down detailed rules for the implementation of Council  
Regulation (EC) No 1224/2009 establishing a Community control system  
for ensuring compliance with the rules of the Common Fisheries Policy

TITLE II

**GENERAL CONDITIONS FOR ACCESS TO WATERS AND RESOURCES**

*CHAPTER I*

***Fishing licences***

*Article 3*

**Issue and management of fishing licences**

- 1 A fishing licence referred to in Article 6 of the Control Regulation shall be valid for one EU fishing vessel only.
- 2 Fishing licences referred to in Article 6 of the Control Regulation shall be issued, managed and withdrawn by Member States for their fishing vessels in accordance with this Regulation.
- 3 Fishing licences referred to in Article 6 of the Control Regulation shall contain as a minimum the information set out in Annex II.
- 4 Fishing licences issued in accordance with Regulation (EC) No 1281/2005 shall be considered as fishing licences issued in accordance with this Regulation if they contain the minimum information required by paragraph 3 of this Article.
- 5 A fishing licence shall only be valid if the conditions on the basis of which it has been issued are still met.
- 6 If a fishing licence has been temporarily suspended or permanently withdrawn, the authorities of the flag Member State shall immediately inform the holder of the fishing licence.
- 7 At any moment the total capacity corresponding to the fishing licences issued by a Member State, in GT or kW, shall not be higher than the maximum capacity levels for that Member State established in accordance with Articles 12 and 13 of Regulation (EC) No 2371/2002, and Commission Regulation (EC) No 1438/2003<sup>(1)</sup>, Council Regulation (EC) No 639/2004<sup>(2)</sup>, and Commission Regulation (EC) No 2104/2004<sup>(3)</sup>.

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## CHAPTER II

### **Fishing authorisations**

#### *Article 4*

### **Fishing authorisations**

1 A fishing authorisation referred to in Article 7 of the Control Regulation shall be valid for one EU fishing vessel only.

2 Fishing authorisations referred to in Article 7 of the Control Regulation shall contain as a minimum the information set out in Annex III. The flag Member State shall ensure that the information contained in the fishing authorisation is accurate and consistent with the rules of the Common Fisheries Policy.

3 Special fishing permits issued in accordance with Council Regulation (EC) No 1627/94<sup>(4)</sup> shall be considered as fishing authorisations issued in accordance with this Regulation if they contain the minimum information required by paragraph 2 of this Article.

4 A fishing authorisation as referred to in paragraph 2 and a fishing licence as referred to in Article 3(2) of this Regulation may be contained in the same document.

5 Without prejudice to special rules EU fishing vessels of less than 10 metres' length overall which fish exclusively in the territorial waters of their flag Member States shall be excluded from the obligation to have a fishing authorisation.

6 Paragraph 2 and paragraph 5 of Article 3 of this Regulation shall apply correspondingly.

#### *Article 5*

### **List of fishing authorisations**

1 Without prejudice to special rules, when the websites as referred to in Article 114 of the Control Regulation have become operational and not later than 1 January 2012 Member States shall make available on the secure part of their official websites the list of their fishing vessels that have received fishing authorisations referred to in Article 7 of the Control Regulation before these fishing authorisations become valid. They shall update their list in case of any changes to this list before they become effective.

2 For the period 1 January 2011 until 31 December 2011, on request Member States shall make available to the Commission a list of their fishing vessels that have received fishing authorisations for 2011. They shall inform the Commission of any changes to this list before these changes become effective.

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## CHAPTER III

### **Marking and identification of EU fishing vessels and their gear**

#### *Section 1*

#### **Marking and identification of fishing vessels**

#### *Article 6*

#### **Marking of fishing vessels**

An EU fishing vessel shall be marked as follows:

- (a) the letter(s) of the port or district in which the EU fishing vessel is registered and the number(s) under which it is registered shall be painted or displayed on both sides of the bow, as high above the water as possible so as to be clearly visible from the sea and the air, in a colour contrasting with the background on which they are painted;
- (b) for EU fishing vessels over 10 metres length overall and less than 17 metres length overall, the height of the letters and numbers shall be at least 25 centimetres with a line thickness of at least 4 centimetres. For EU fishing vessels of 17 metres length overall or more, the height of the letters and numbers shall be at least 45 centimetres, with a line thickness of at least 6 centimetres;
- (c) the flag Member State may require the international radio call sign (IRCS) or the external registration letters and numbers to be painted on top of the wheelhouse, so as to be clearly visible from the air, in a colour contrasting with the ground on which it is painted;
- (d) the contrasting colours shall be white and black;
- (e) the external registration letters and numbers painted or displayed on the hull of the EU fishing vessel shall not be removable, effaced, altered, illegible, covered or concealed.

#### *Article 7*

#### **Documents carried on board an EU fishing vessel**

1 The master of a EU fishing vessel of 10 metres length overall or more shall carry on board documents, issued by a competent authority of the Member State in which it is registered, showing at least the following elements of the vessel:

- a the name if any;
- b the letters of the port or district in which it is registered, and the number(s) under which it is registered;
- c the international radio call sign, if any;
- d the names and addresses of the owner(s) and, where applicable, the charterer(s);
- e the length overall, propulsion engine power, gross tonnage and, for EU fishing vessels which entered into service from 1 January 1987 onwards, date of entry into service.

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2 On EU fishing vessels of 17 metres length overall or more with fish rooms the master shall keep on board accurate drawings with description of its fish rooms, including the indication of all access points and of their storage capacity in cubic metres.

3 The master of an EU vessel with chilled or refrigerated seawater tanks shall keep on board an up-to-date document indicating the calibration of the tanks in cubic metres at 10 centimetre intervals.

4 The documents referred to in paragraphs 2 and 3 shall be certified by the competent authority of the flag Member State. Any modification of the characteristics contained in the documents referred to in paragraphs 1 to 3, shall be certified by a competent authority of the flag Member State.

5 The documents referred to in this Article shall be presented for the purposes of control and inspection at the request of the officials.

## *Section 2*

### ***Marking and identification of fishing gear and crafts***

#### *Article 8*

##### **Marking of crafts and fish aggregating devices**

Any craft carried on board EU fishing vessels and fish aggregating devices shall be marked with external registration letters and numbers of the EU fishing vessel(s) which use them.

#### *Article 9*

##### **General rules for passive gear and beam trawls**

1 The provisions contained in Articles 9 to 12 of this Regulation shall apply to EU fishing vessels fishing in all EU waters and the provisions contained in Articles 13 to 17 of this Regulation to EU waters outside 12 nautical miles measured from the base lines of the coastal Member States.

2 It shall be prohibited in EU waters as set down in paragraph 1 to carry out fishing activities with passive gear, buoys, and beam trawls, which are not marked and identifiable in accordance with the provisions of Articles 10 to 17 of this Regulation.

3 It shall be prohibited in EU waters as set down in paragraph 1 to carry on board:

- a beams of a beam trawl which do not display the external registration letters and numbers in accordance with Article 10 of this Regulation;
- b passive gear which is not labelled in accordance with Article 11(2) of this Regulation;
- c buoys which are not marked in accordance with Article 13(2) of this Regulation.

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## *Article 10*

### **Rules for beam trawls**

The master of an EU fishing vessel or his representative shall ensure that each assembled beam trawl carried on board or used for fishing clearly displays the external registration letters and numbers of that fishing vessel on the beam of each beam trawl assembly.

## *Article 11*

### **Rules for passive gear**

1 The master of an EU fishing vessel or his representative shall ensure that each passive gear carried on board or used for fishing is clearly marked and identifiable in accordance with the provisions of this Article.

2 Each passive gear used for fishing shall permanently display the external registration letters and numbers displayed on the hull of the fishing vessel to which it belongs:

- a for nets, on a label attached to the upper first row;
- b for lines and long lines, on a label at the point of contact with the mooring buoy;
- c for pots and traps, on a label attached to the ground rope;
- d for passive gear extending more than 1 nautical mile, on labels attached in accordance with (a), (b) and (c) at regular intervals not exceeding 1 nautical mile so that no part of the passive gear extending more than 1 nautical mile shall be left unmarked.

## *Article 12*

### **Rules for labels**

1 Each label shall be:

- a made of durable material;
- b securely fitted to the gear;
- c at least 65 millimetres broad;
- d at least 75 millimetres long.

2 The label shall not be removable, effaced, altered, illegible, covered or concealed.

## *Article 13*

### **Rules for buoys**

1 The master of a EU fishing vessel or his representative shall ensure that two end marker buoys and intermediary marker buoys, rigged in accordance with Annex IV, are fixed to each passive gear used for fishing and are deployed in accordance with the provisions of this Section.

2 Each end marker buoy and intermediary buoy shall display the external registration letters and numbers displayed on the hull of the EU fishing vessel to which they belong and which has deployed such buoys as follows:

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- a letters and numbers shall be displayed as high above the water as possible so as to be clearly visible;
  - b in a colour contrasting with the surface on which they are displayed.
- 3 The letters and numbers displayed on the marker buoy shall not be effaced, altered or allowed to become illegible.

#### *Article 14*

##### **Rules for cords**

- 1 The cords linking the buoys to the passive gear shall be of submersible material, or shall be weighted down.
- 2 The cords linking the end marker buoys to each gear shall be fixed at the ends of that gear.

#### *Article 15*

##### **Rules for end marker buoys**

- 1 End marker buoys shall be deployed so that each end of the gear may be determined at any time.
- 2 The mast of each end marker buoy shall have a height of at least 1 metre above the sea level measured from the top of the float to the lower edge of the bottom most flag.
- 3 End marker buoys shall be coloured, but may not be red or green.
- 4 Each end marker buoy shall include:
  - a one or two rectangular flag(s); where two flags are required on the same buoy, the distance between them shall be at least 20 centimetres flags indicating the extremities of the same gear shall be of the same colour and may not be white and shall be of the same size;
  - b one or two light(s), which shall be yellow and give one flash each 5 seconds (F1 Y 5s), and be visible from a minimum distance of 2 nautical miles.
- 5 Each end marker buoy may include a top sign on the top of the buoy with one or two striped luminous bands which shall be neither red nor green and shall be at least 6 centimetres broad.

#### *Article 16*

##### **Rules for fixing of end marker buoys**

- 1 End marker buoys shall be fixed to passive gear in the following way:
  - a the buoy in the western sector (meaning the half compass circle from south through west to and including north) shall be rigged with two flags, two striped luminous bands, two lights and a label in accordance with Article 12 of this Regulation;
  - b the buoy in the eastern sector (meaning the half compass circle from north through east to and including the south) shall be rigged with one flag one striped luminous band, one light and a label in accordance with Article 12 of this Regulation.

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- 2 The label shall contain the information contained in Article 13(2) of this Regulation.

### *Article 17*

#### **Intermediary marker buoys**

1 Intermediary marker buoys shall be fixed to passive gear extending more than 5 nautical miles as follows:

- a intermediary marker buoys shall be deployed at distances of not more than 5 nautical miles so that no part of the gear extending 5 nautical miles or more shall be left unmarked;
- b intermediary marker buoys shall be fitted with a flashing light which shall be yellow and give one flash every 5 seconds (F1 Y 5s) and be visible from a minimum distance of 2 nautical miles. They shall have the same characteristics as those of the end marker buoy in the eastern sector, except that the flag shall be white.

2 By derogation from paragraph 1, in the Baltic Sea intermediary marker buoys shall be fixed to passive gear extending more than 1 nautical mile. Intermediary marker buoys shall be deployed at distances of not more than 1 nautical mile so that no part of the gear extending 1 nautical mile or more shall be left unmarked.

Intermediary marker buoys shall have the same characteristics as those of the end marker buoy in the eastern sector except for the following:

- a the flags shall be white;
- b every fifth intermediary marker buoys shall be fitted with a radar reflector giving an echo of at least 2 nautical miles.

### *CHAPTER IV*

#### ***Vessel monitoring system***

### *Article 18*

#### **Requirement of satellite-tracking devices on EU fishing vessels**

1 Without prejudice to Article 25(3) of this Regulation an EU fishing vessel subject to VMS shall not be allowed to leave a port without a fully operational satellite-tracking device installed on board.

2 When an EU fishing vessel is in port, the satellite-tracking device may only be switched off if:

- a prior notification has been given to the fisheries monitoring centre (FMC) of the flag Member State and the FMC of the coastal Member State; and
- b providing that the next report shows that the EU fishing vessel has not changed its position in relation to the previous report.

The competent authorities of the flag Member State may allow to replace the prior notification referred to in (a) with an automatic VMS message or alarm generated by the system, indicating that the EU fishing vessel is within a pre-defined geographical area of a port.

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3 This Chapter shall not apply to EU fishing vessels used exclusively for the exploitation of aquaculture.

### *Article 19*

#### **Characteristics of satellite-tracking devices**

1 The satellite-tracking device installed on board EU fishing vessels shall ensure the automatic transmission to the FMC of the flag Member State, at regular intervals, of data relating to:

- a the fishing vessel identification;
- b the most recent geographical position of the fishing vessel, with a position error which shall be less than 500 metres, with a confidence interval of 99 %;
- c the date and time (expressed in Coordinated Universal Time (UTC)) of the fixing of the said position of the fishing vessel; and
- d the instant speed and course of the fishing vessel.

2 Member States shall ensure that satellite-tracking devices are protected against input or output of false positions and cannot be manually over-ridden.

### *Article 20*

#### **Responsibilities of the masters concerning the satellite-tracking devices**

1 The masters of an EU fishing vessel shall ensure that the satellite-tracking devices are fully operational at all times and that the data referred to in Article 19(1) of this Regulation are transmitted.

2 Without prejudice to Article 26(1) of this Regulation, the master of an EU fishing vessel shall ensure in particular that:

- a the data are not altered in any way;
- b the antenna or the antennas connected to the satellite tracking devices are not obstructed, disconnected or blocked in any way;
- c the power supply of the satellite-tracking devices is not interrupted in any way; and
- d the satellite-tracking device is not removed from the fishing vessel.

3 It shall be prohibited to destroy, damage, render inoperative or otherwise interfere with the satellite-tracking device unless the competent authorities of the flag Member State have authorised its repair or replacement.

### *Article 21*

#### **Control measures to be adopted by flag Member States**

Each flag Member State shall ensure the continuous and systematic monitoring and control of the accuracy of the data referred to in Article 19 of this Regulation, and shall act promptly whenever data are found to be inaccurate or incomplete.



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## Article 22

### Frequency of data transmission

- 1 Each Member State shall ensure that its FMC receives, at least once every 2 hours, through the VMS the information referred to in Article 19 of this Regulation concerning its fishing vessels. The FMC may require the information at shorter time intervals.
- 2 The FMC shall have the capacity of polling the actual position of each of its fishing vessel.

## Article 23

### Monitoring of entry into and exit from specific areas

Each Member State shall ensure that through VMS data its FMC monitors, as regards its fishing vessels, date and time of entry into and exit from:

- (a) any maritime area where specific rules on access to waters and resources apply;
- (b) fishing restricted areas referred to in Article 50 of the Control Regulation;
- (c) regulatory areas of the Regional Fisheries Management Organisations to which the European Union or certain Member States are a party;
- (d) waters under the sovereignty and jurisdiction of a third country.

## Article 24

### Transmission of data to the coastal Member State

- 1 The VMS established by each Member State shall ensure the automatic transmission to the FMC of a coastal Member State of the data to be provided in accordance with Article 19 of this Regulation concerning its fishing vessels during the time they are in the waters of the coastal Member State. That data transmission shall be simultaneous with the receipt at the FMC of the flag Member State and shall be in accordance with the format set out in Annex V.
- 2 Coastal Member States monitoring jointly an area may specify a common destination for the transmission of the data to be provided in accordance with Article 19 of this Regulation. They shall inform the Commission and the other Member States thereof.
- 3 Each Member State shall transmit to the other Member States and the Commission in a, where possible electronic, format compatible with the World Geodetic System 1984 (WGS 84) a comprehensive list of the latitude and longitude coordinates which delineate its exclusive economic zone or exclusive fishery zone. It shall also communicate to the other Member States and the Commission any changes of these coordinates. Alternatively Member States may publish this list on the website referred to in Article 115 of the Control Regulation.
- 4 Member States shall ensure effective coordination between their competent authorities regarding the transmission of VMS data in accordance with Article 9(3) of the Control Regulation, including through the establishment of clear and documented procedures for this purpose.

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## Article 25

### Technical failure or non-functioning of the satellite-tracking device

1 In the event of a technical failure or non-functioning of the satellite-tracking device fitted on board a EU fishing vessel, the master or his representative shall, starting from the time that the event was detected or from the time that he was informed in accordance with paragraph 4 or Article 26(1) of this Regulation, communicate every 4 hours, to the FMC of the flag Member State the up-to-date geographical coordinates of the fishing vessel by appropriate telecommunication means. Member States shall decide on the telecommunication means to be used and indicate them on the website referred to in Article 115 of the Control Regulation.

2 The FMC of the flag Member State shall enter the geographical positions referred to in paragraph 1 into the VMS database without delay on their receipt. The manual VMS data shall be clearly distinguishable in a database from automatic messages. Where appropriate, those manual VMS data shall be transmitted without delay to coastal Member States.

3 Following a technical failure or non-functioning of the satellite-tracking device, an EU fishing vessel may only leave port once the satellite-tracking device fitted on board is fully functioning to the satisfaction of the competent authorities of the flag state. By derogation the FMC of the flag Member State may authorise its fishing vessels to leave the port with a non-functioning satellite-tracking device for its repair or replacement.

4 The competent authorities of the flag Member State or, where appropriate, of the coastal Member State shall seek to inform the master of or the person responsible for the vessel or their representative when the satellite-tracking device fitted on board a EU fishing vessel appears to be defective or not fully functioning.

5 The removal of the satellite-tracking device for repair or replacement shall be subject to the approval of the competent authorities of the flag Member State.

## Article 26

### Non-receipt of data

1 When the FMC of a flag Member State has not received data transmissions in accordance with Article 22 or Article 25(1) of this Regulation for 12 consecutive hours it shall notify the master or the operator of the EU fishing vessel or their representative(s) thereof as soon as possible. If, in respect of an EU particular fishing vessel, that situation occurs more than three times within a period of a calendar year, the flag Member State shall ensure that the satellite-tracking device of the fishing vessel is thoroughly checked. The flag Member State shall investigate the matter in order to establish whether the equipment has been tampered with. By way of derogation from Article 20(2)(d) of this Regulation, that investigation may entail the removal of such equipment for examination.

2 When the FMC of a flag Member State has not received data transmissions for 12 hours in accordance with Article 22 or Article 25(1) of this Regulation and the last received position was from within the waters of another Member State it shall notify the FMC of that coastal Member State thereof as soon as possible.

3 When the competent authorities of a coastal Member State observe an EU fishing vessel in its waters and have not received data in accordance with Article 24(1) or 25(2) of this

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Regulation, they shall notify the master of the fishing vessel and the FMC of the flag Member State thereof.

#### *Article 27*

### **Monitoring and recording of the fishing activities**

- 1 Member States shall use the data received pursuant to Article 22, Article 24(1) and Article 25 of this Regulation for the effective monitoring of the activities of fishing vessels.
- 2 Flag Member States shall:
  - a ensure that data received according to this Chapter are recorded in computer-readable form and safely stored in computerised databases for at least 3 years;
  - b take all necessary measures to ensure that they are only used for official purposes; and
  - c take all necessary technical measures to protect such data against any accidental or illicit destruction, accidental loss, deterioration, distribution or unauthorised consultation.

#### *Article 28*

### **Access to data by the Commission**

The Commission may request Member States in accordance with Article 111(1)(a) of the Control Regulation to ensure the automatic transmission to the Commission or to the body designated by it, of the data to be provided in accordance with Article 19 of this Regulation concerning a specific group of fishing vessels and during a specific time. That data transmission shall be simultaneous with receipt at the FMC of the flag Member State and shall be in accordance with the format set out in Annex V.

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- (1) OJ L 204, 13.8.2003, p. 21.
- (2) OJ L 102, 7.4.2004, p. 9.
- (3) OJ L 365, 10.12.2004, p. 19.
- (4) OJ L 171, 6.7.1994, p. 7.

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