



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 201110-0301]

RIN 0648-BJ63

### Fisheries Off West Coast States; Delay Implementation of West Coast Groundfish Electronic Monitoring Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule delays implementation of the Electronic Monitoring (EM) Program for the West Coast Groundfish Trawl Rationalization Program to January 1, 2022. NMFS is making this change to provide additional time for industry and prospective service providers to prepare for implementation, to strengthen Pacific Fishery Management Council (Council) and industry support for the EM program, and to increase participation when it is implemented in 2022.

**DATES:** Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The proposed rule and this final rule are accessible via the Internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region website at: <http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html> and at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/groundfish/fishery-management-plan/groundfish-amendments-in-development/>.

**FOR FURTHER INFORMATION CONTACT:** Melissa Hooper, Permits and Monitoring Branch Chief, phone: 206-526-4357, or e-mail: *melissa.hooper@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

At the recommendation of the Council, on June 28, 2019, NMFS published a final rule to implement an EM program for the West Coast Groundfish Trawl Rationalization Program (84 FR 31146). The EM Program allows vessels to use EM systems (video cameras and associated sensors) to meet the 100-percent at-sea observer coverage requirements of the Trawl Rationalization Program. The EM Program was set to begin January 1, 2021. The Council initiated a regulatory amendment at its April 2020 meeting to make several administrative changes to the EM Program requirements and to delay implementation of the EM Program to January 1, 2022. The Council took final action on EM regulatory changes at its June 2020 meeting and requested that NMFS delay implementation of the program to 2022. NMFS published a proposed rule August 28, 2020 (85 FR 53313) proposing to delay the EM Program, but postponed consideration of the other regulatory changes to a separate rulemaking to be completed at a later date. A more extensive discussion of the development of this regulatory amendment and the EM measures is available in the proposed rule and is not repeated here. Public comments were accepted on the proposed rule from August 28, 2020, through September 28, 2020. No public comments were received.

**Final Measures**

Through this final rule, NMFS is delaying implementation of the EM Program for the Trawl Rationalization Program to January 1, 2022. To implement this change, NMFS is revising the trawl fishery regulations at 50 CFR 660.603, which describes EM provider permits and responsibilities, and 50 CFR 660.604, which describes vessel and first receiver responsibilities, to delay the acceptance of EM service provider and EM vessel

owner applications to 2021, thereby delaying implementation of the EM program to January 1, 2022.

In this rule, NMFS is implementing the Council's request to delay implementation of the EM program to 2022, as it would strengthen industry support for the EM program and may increase participation when it is implemented in 2022. At its April and June 2020 meetings, the Council recommended NMFS delay implementation of the EM program to January 2022 to provide additional time for the industry and EM service providers to prepare for implementation of the EM program. Specifically, the Council wanted to provide more time for industry and the Pacific States Marine Fisheries Commission (PSMFC), a potential service provider, to develop a model for industry to fund PSMFC for review of video from their fishing trips. The Council believes that this delay is necessary to increase industry buy-in and for success of the EM program at reducing monitoring costs for the fishery. Increased support for and participation in the EM Program would further ensure the success of the EM Program at meeting its goals and the goals of the Pacific Coast Groundfish Fishery Management Plan, and would provide operational flexibility and reduce costs for vessel owners, while maintaining the best scientific information available for management.

As discussed in the proposed rule, delaying implementation of the EM program postpones the benefits that the EM program is expected to provide to vessel owners for an additional year. However, NMFS intends to maintain the current EM Exempted Fishing Permit (EFP) program through 2021 and to allow additional vessels to join. Vessels in the EFP program are able to use EM in place of human observers and benefit from its cost savings while NMFS collects information to use in developing the regulations for and implementing the EM program. Maintaining the EFP in 2021 would allow vessels to continue to use EM in place of observers and mitigate potential negative economic effects of delaying the regulations. In the proposed rule, NMFS noted that it

had not yet identified Federal funds to pay PSMFC to review, store, and report data from the EM EFP for 2021 and that, if NMFS did not receive Federal funds to pay PSMFC, vessel owners would be responsible for paying PSMFC or a private, third party EM service provider directly for the video review, storage, and reporting for the EM EFP. However, NMFS has since identified funding to pay PSMFC for the EM EFP in 2021. Therefore, NMFS expects the EFP program to continue through 2021 and to mitigate any negative economic effects of this rule.

### **Comments and Responses**

No comments were received on the proposed rule.

### **Changes From the Proposed Rule**

NMFS has made no changes from the proposed rule.

### **Classification**

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Pacific Coast Groundfish Fishery Management Plan, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule is considered an Executive Order 13771 deregulatory action.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this

certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, and Indian Fisheries.

Dated: November 13, 2020.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

**PART 660—FISHERIES OFF WEST COAST STATES**

1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C 7001 *et seq.*

2. In § 660.603, revise paragraph (b) introductory text to read as follows:

**§ 660.603 Electronic monitoring provider permits and responsibilities.**

\* \* \* \* \*

(b) *Provider permits.* To be an EM service provider, a person must obtain an EM service provider permit and endorsement by submitting an application to the NMFS West Coast Region Fisheries Permit Office. NMFS has already accepted any EM service provider application submitted as of [*insert date of publication in the Federal Register*]. NMFS will begin accepting additional applications for EM service providers permits May 1, 2021. A person may meet some requirements of this section through a partnership

or subcontract with another entity, in which case the application for an EM service provider permit must include information about the partnership. An applicant may submit an application at any time. If a new EM service provider, or an existing EM service provider seeking to deploy a new EMS or software version, submits an application by June 1, NMFS will issue a new permit by January 1 of the following calendar year. Applications submitted after June 1 will be processed as soon as practicable. NMFS will only process complete applications. Additional endorsements to provide observer or catch monitor services may be obtained under § 660.18.

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3. In § 660.604, revise paragraph (e) introductory text to read as follows:

**§ 660.604 Vessel and first receiver responsibilities.**

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(e) *Electronic Monitoring Authorization.* To obtain an EM Authorization, a vessel owner must submit an initial application to the NMFS West Coast Region Fisheries Permit Office, then a final application that includes an EM system certification and a vessel monitoring plan (VMP). NMFS will only review complete applications. NMFS has already accepted any EM Authorization application submitted as of the [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. NMFS will begin accepting applications for EM Authorizations September 1, 2021. A vessel owner may submit an application at any time. Vessel owners that want to have their EM Authorizations effective for January 1 of the following calendar year must submit their complete application to NMFS by October 1. Vessel owners that want to have their EM Authorizations effective for May 15 must submit their complete application to NMFS by February 15 of the same year.

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