

specifications is appropriate to the needs of the grantee.

#### **§ 1309.52 Procurement procedures.**

(a) All facility construction and major renovation transactions must comply with the procurement procedure in 45 CFR parts 74 or 92, and must be conducted in a manner to provide, to the maximum extent practical, open and free competition.

(b) All contracts for construction or major renovation of a facility to be paid for in whole or in part with Head Start funds require the prior, written approval of the responsible HHS official and shall be on a lump sum fixed-price basis.

(c) Prior written approval of the responsible HHS official is required for unsolicited modifications that would change the scope or objective of the project or would materially alter the costs of the project by increasing the amount of grant funds needed to complete the project.

(d) All construction and major renovation contracts for facilities acquired with grant funds shall contain a clause stating that the responsible HHS official or his or her designee shall have access at all reasonable times to the work being performed pursuant to the contract, at any stage of preparation or progress, and require that the contractor shall facilitate such access and inspection.

#### **§ 1309.53 Inspection of work.**

(a) The grantee must provide and maintain competent and adequate architectural or engineering inspection at the work site to insure that the completed work conforms to the approved plans and specifications.

(b) The grantee must submit a final architectural or engineering inspection report of the facility to the responsible HHS official within 30 calendar days of substantial completion of the construction or renovation.

#### **§ 1309.54 Davis-Bacon Act.**

Construction and renovation projects and subcontracts financed with funds awarded under the Head Start program are subject to the Davis-Bacon Act (40 U.S.C. 276a *et seq.*) and the Regulations of the Department of Labor, 29 CFR part 5. The grantee must provide an assurance that all laborers and mechanics employed by contractors or subcontractors in the construction or renovation of affected Head Start facilities shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 021016236-3089-02; I.D. 082002A]

RIN 0648-AP74

#### **Antarctic Marine Living Resources; CCAMLR Ecosystem Monitoring Permits; Vessel Monitoring System; Catch Documentation Scheme; Fishing Season; Registered Agent; and Disposition of Seized AMLR**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to: lengthen the duration of the permit required to enter a Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) Ecosystem Monitoring Program (CEMP) site from 1 year to up to 5 years; define the CCAMLR fishing season and require the use of an automated satellite-linked vessel monitoring system (VMS) for U.S. vessels harvesting Antarctic marine living resources (AMLR) in the area of the Convention on the Conservation of Antarctic Marine Living Resources (Convention); require foreign entities to designate and maintain a registered agent within the United States; prohibit the import of *Dissostichus* species (toothfish) identified as originating from certain high seas areas outside the Convention Area; incorporate into the Code of Federal Regulations the prohibition on the import of toothfish issued a Specially Validated *Dissostichus* Catch Document (SVD CD); and institute a preapproval system for U.S. receivers and importers of *Dissostichus eleginoides* (Patagonian toothfish) and *Dissostichus mawsoni* (Antarctic toothfish). This final rule is intended to implement U.S. obligations as a Member of CCAMLR and to conserve Antarctic and Patagonian toothfish by preventing and discouraging unlawful harvest and trade in these species and streamlining the administration of the *Dissostichus* Catch Document (DCD) scheme.

**DATES:** This final rule is effective June 2, 2003, except that amendments to §§ 300.107 and 300.113 are effective June 16, 2003.

**ADDRESSES:** Copies of the Environmental Assessment and Regulatory Impact Review/Final

Regulatory Flexibility Analysis (EA and RIR/FRFA) supporting this action may be obtained from Dean Swanson, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule to Dean Swanson at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Dean Swanson at 301-713-2276, fax 301-713-2313.

**SUPPLEMENTARY INFORMATION:** Antarctic fisheries are managed under the authority of the Antarctic Marine Living Resources Convention Act of 1984 (Act) codified at 16 U.S.C. 2431 *et seq.* NMFS implements conservation measures developed by CCAMLR and adopted by the United States, through regulations at 50 CFR part 300, subparts A and G. Background information about the need for revisions to the Antarctic fisheries regulations was provided in the preamble to the proposed rule (67 FR 64853, October 22, 2002) and is not repeated here.

Fees will be charged for reviewing and processing preapproval DCDs. A system of calculating fees and billing for fees was discussed in the proposed rule. NMFS will use a much simpler procedure already in use by an unrelated permitting system by specifying the application fee in the instructions accompanying each application form for DCD preapproval. The methodology for calculating the fee is in accordance with procedures specified in the NOAA Finance Handbook for determining administrative costs of special products and services. "Instructions for Completing the NOAA Product/Service Cost Computation Form" from Chapter 9, Section 10 of the NOAA Finance Handbook, may be obtained by contacting NMFS (see **ADDRESSES**). This action will simplify the DCD application process for applicants and DCD program personnel without affecting the amount of the fee.

#### **Comments and Responses**

NMFS received written comments during the 30-day comment period on the proposed rule. When drafting the final regulations and the final EA and RIR/FRFA, NMFS considered all comments received. Comments were received on the proposed rule from

several importers of toothfish or their representatives and several environmental organizations. All commenters supported the need for the proposed regulations in general. Some had specific concerns.

*Comment 1:* One commenter said that the proposed change regarding registered agents was unnecessary because any foreign-based importer of record must, under Customs Service regulations, appoint a registered agent in the United States authorized to accept service of process.

*Response:* NMFS disagrees that requiring a registered agent is unnecessary. The registered agent required in Customs Service regulations is not necessarily authorized to facilitate the implementation of NMFS regulations. However, it would be acceptable to NMFS for any foreign-based importer of record to appoint the same registered agent to NMFS and to the Customs Service.

*Comment 2:* One commenter strongly supported the proposal to prohibit the importation of *Dissostichus* ssp. identified as being harvested from Food and Agriculture Organization (FAO) Statistical Areas 51 and 57. Other commenters opposed the proposal, believing that NMFS lacks sufficient evidence that these areas cannot sustain a healthy fishery. One of these latter commenters argued that: the proposed action is based on speculation and inconsistent data; that action should not be taken until a stock assessment is completed; that NMFS does not have information that the DCDs from these areas are fraudulent; and that NMFS and CCAMLR should examine other alternatives.

*Response:* As the preamble to the proposed rule states, in October 2001, the Chair of the Scientific Committee advised CCAMLR that the catches reported in Area 51 were not credible. This same advice was ardently concurred in by the Scientific Committee in October 2002. In 2002, CCAMLR noted the following advice from the Scientific Committee:

-The catches attributed by catch documentation scheme (CDS) reports outside the Convention Area in Areas 51 and 57 were unlikely to have come from those areas (as explained in the preamble to the proposed rule) and most likely came from within the Indian Ocean sector of the Convention Area;

-Illegal, unregulated, and unreported (IUU) catches within the Indian Ocean sector of the Convention Area were most likely to be underestimated;

-The current levels of IUU fishing reported from Areas 51 and 57 would

have seriously depleted whatever stocks might have been present in those areas;

-Current levels of IUU fishing have depleted stocks in Division 58.4.4, and Subareas 58.6 and 58.7, while the catch rates in Division 58.5.1 have declined substantially.

CCAMLR noted with great concern that the information presented by the Scientific Committee indicated continued high levels of IUU fishing in the Convention Area. The majority of Members of CCAMLR agreed that catches reported from Areas 51 and 57 were not credible. They also expressed concern that the information reported in catch documents did not match available knowledge of toothfish distribution and potential biomass for waters in these two adjacent areas, outside the Convention Area.

After extensive discussion at CCAMLR XXI concerning the use of VMS to confirm areas of harvest for vessels fishing outside the Convention Area and specifically on the high seas, it was concluded that most flag states whose vessels had reported large catches from high seas areas had not, in fact, implemented the required VMS in accordance with the applicable CCAMLR conservation measure. Although some states reported compliance with this requirement, it came to light during the discussions that there were serious flaws in the types of systems being used including, but not limited to, the use of manual systems that could be easily manipulated, systems that could simply be turned on and off at will, systems not inspected at port for proper operation, and even the complete absence of any operational VMS on some vessels. Therefore, verification of catch dates and locations of harvest on the high seas by landing or importing states via VMS reports is not a viable option. The view of the United States, in light of these shortcomings and without the reliability of verification procedures, is that there is no alternative to the implementation of a ban on all imports whose catch is reported as having been harvested from FAO Areas 51 and 57.

CCAMLR requested all Members fishing for toothfish on the high seas outside the Convention Area to again submit verifiable documentation next year on VMS and other catch verification procedures. In particular, the reports should include verification procedures, specifications of the VMS equipment installed on board each fishing vessel, and details of software used to monitor the position and movement of vessels. Australia tabled a proposal for a centralized VMS, or a dual reporting VMS system that would

provide CCAMLR with real-time VMS information on all fishing vessels.

Although most Members supported the idea that CCAMLR should receive VMS data, some took the view that this information should be provided to CCAMLR from the fishing monitoring center of the vessel's flag state. The United States, along with Australia, viewed this support as progress but believes that it does not provide the level of integrity to the VMS data that would give importing states a well-documented instrument to supply solid verification of catch.

The combination of the lack of confidence that catches are being reported accurately from vessels claiming to fish on the high seas, specifically FAO Areas 51 and 57, and the failure of CCAMLR Members to either adopt a centralized VMS system or to fully comply with the current VMS requirements convinces NMFS that a ban on the importation of toothfish originating in Areas 51 or 57 is the only solution.

*Comment 3:* One commenter strongly supported the proposal to require VMS transponders on all U.S. fishing vessels authorized to fish for AMLRs.

*Response:* NMFS agrees.

*Comment 4:* One commenter supported the proposal to prohibit the importation of toothfish harvested in violation of CCAMLR's conservation measures even if accompanied by a SVDCCD.

*Response:* NMFS agrees.

*Comment 5:* One commenter did not want seized AMLRs to be allowed to re-enter trade, but also did not want them destroyed.

*Response:* NMFS has not resolved all issues associated with the disposition of AMLRs denied entry and has decided to continue to reserve § 300.116(d), "Disposition of resources denied entry" as a place-holder for future regulations governing this issue.

*Comment 6:* One commenter supports requiring preapproval as proposed for § 300.113.

*Response:* NMFS agrees.

#### Changes From the Proposed Rule

Section 300.107(c)(1)(iii) was clarified to say that fish taken from either Statistical Area 51 or Statistical Area 57 would not be issued a preapproval.

Section 300.107(c)(7) and the reference to it in § 300.107(c)(1)(ii) have been removed because they created a 60-day exception to a requirement for a DCD which expired in 2000.

The paragraphs in § 300.113 have been redesignated to include a new paragraph (c) regarding the simplified means to be used for collecting fees for

DCDs, and to reflect that the final two paragraphs under § 300.113 (i.e., (j) and (k)) are not subsets of the "Exception" paragraph as set forth in the proposed rule.

Section 300.113(a) was revised to make it clear that dealers intending to import or re-export AMLR must obtain an AMLR dealer permit and that preapproval is required for each shipment of *Dissostichus* species.

Provisions governing changes to applications under § 300.113(g)(1) have been modified to make the extension period for applications discretionary with NMFS. This modification has been made to give NMFS the flexibility to avoid frivolous extensions.

Section 300.113(i)(2) was modified to make it easier for a foreign-based importer of record to identify its resident agent to NMFS.

Section 300.118 has been eliminated to reduce the complexity of collecting fees for DCDs.

#### Classification

This final rule is published under the authority of the Antarctic Marine Living Resources Convention Act of 1984, codified at 16 U.S.C. 2431 *et seq.* This final rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (RFA), NMFS prepared an "Initial Regulatory Flexibility Analysis for the Proposed Rule to Institute Various Measures Pertaining to United States Obligations Regarding Antarctica and Antarctic Living Marine Resources, Including Implementation of Preapproval Procedure for *Dissostichus* spp. Catch Documentation Scheme." No comments from the public were received on this document. That analysis has been finalized and incorporated with the Environmental Assessment and Regulatory Impact Review as the EA and RIR/FRFA. It describes the effects of the various measures in this final rule, as well as alternatives where appropriate, as follows:

1. The measure to *lengthen the duration of the permit* required to enter a CEMP site from 1 year to up to 5 years would apply to parties currently holding, or who obtain in the future, a CEMP permit. To date, the only entity to hold a CEMP permit has been the NMFS Antarctic Research Group, which is not a small entity. The effect of this action would be to ease a restriction by allowing permits to last for a longer period of time. As such, there is no significant economic impact that NMFS must consider minimizing.

2. The measure to *define the CCAMLR fishing season as December 1—November 30* would apply to U.S. vessels that fish for AMLR. There are currently three U.S. vessels permitted to fish for AMLR (1 for crab and 2 for krill) all of which NMFS believes to be small entities. The establishment of the fishing season is intended to improve administration of CCAMLR's annual conservation measures. It would not affect the amount of quota available for fishermen, nor would it affect when fishing could occur. Therefore, the measure would not result in any significant economic impacts that NMFS must consider minimizing. It is an administrative change that would not be expected to affect the practices of the fishermen.

3. The measure to *require the use of an automated satellite-linked VMS* for all U.S. vessels harvesting AMLR in the area of the Convention would apply to the three vessels permitted to participate in such fisheries (the 1 crab vessel and the 2 krill vessels), all of which NMFS believes to be small entities. Currently, the vessel permitted for crab does not participate in the fisheries. NMFS estimates the cost of purchasing and installing the VMS units at about \$3,250 per unit. The cost of operating the unit while in Convention waters is estimated to be no more than \$1,000 per year.

NMFS considered the alternative of excluding vessels fishing exclusively for krill from the requirement. CCAMLR did not explicitly require Parties to implement a VMS program in the krill fishery. However, for reasons articulated in the preamble to the proposed rule, NMFS believes that applying the VMS requirement to the krill fishery will further its compliance with its obligations with respect to the Antarctic and AMLR. Therefore, this alternative is not the preferred alternative.

4. The measure to *require foreign entities to designate and maintain a registered agent within the United States* would not apply to any "small entities" as defined pursuant to the RFA. This measure would not apply to any small government jurisdictions or small organizations. While it would apply to businesses, some of which may be considered small, the Small Business Administration has defined "small business concern" to apply only to businesses operating primarily within the United States (13 CFR 121.105). NMFS is not aware of an alternative approach that would accomplish its objectives with regard to this provision.

5. The measure to *define SVDCCD* currently has no regulatory requirements attached to it. It is

informational only and as such has no effect on any small entities. No alternatives have been identified.

6. The measure to *institute a preapproval system for U.S. receivers and importers of Patagonian toothfish and Antarctic toothfish* would apply to dealers, importers, and, as applicable, re-exporters. It is estimated that about 60 dealers/importers are involved in the permitted trade and that 80 firms would apply for dealer permits and preapproval. The estimated costs to importers of toothfish are approximately \$4,134 per firm per year, and \$330,750 industry-wide per year. These costs include the burden-hour costs of submitting an annual permit, per-shipment preapproval permits, catch documentation, and NMFS's fees. It is estimated that there are about 50 re-exporters. The estimated costs to re-exporters of toothfish are about \$11 per firm per year and \$550 industry-wide per year. These costs include the burden hours associated with annual permit applications and catch documentation requirements, and NMFS's fees.

U.S. imports of toothfish in 2001 had an estimated value of \$97 million. Compliance costs (industry and agency) would likely not exceed \$600,000 per year during the next 3 years. Currently, no U.S. fishing entity participates in the harvesting of toothfish. It is not possible to determine the number of firms that would qualify as small entities. The final rule would impose annual burden costs of \$330,750 and \$550 on importing and re-exporting firms, respectively.

NMFS considered two alternatives to the final preapproval system: maintaining the status quo, and implementing a total ban on imports of toothfish. Maintaining the current system may not have a short-term economic or social impact on importers or other dealers of toothfish in trade networks, but could have harmful long-term economic implications if further steps are not taken to discourage and prevent IUU fishing of toothfish.

Overfishing, which eventually leads to reduced supply, and the associated price increases will, in all likelihood, dampen this trade. Price increases would likely result in some substitution by consumers. Toothfish products may also be diverted to alternate markets in East Asia where consumers are willing to pay higher prices for species deemed to be luxury items. As a consequence, toothfish could become increasingly rare in the U.S. marketplace.

Similarly, the "status quo" alternative would have little short-term economic or social impacts on the U.S. consumer, but, in the long-term, would jeopardize the availability of toothfish to

consumers at prices they are willing to pay or, in the extreme, at any price.

Alternatively, the total ban measure would address concerns over the overharvesting of toothfish by denying the U.S. market (estimated at 15–20 percent of the world market) to IUU harvested toothfish. (Note: in this document, non-IUU harvested toothfish means toothfish harvested in the CCAMLR Convention Area in conformity with CCAMLR rules, toothfish harvested in high seas areas outside of the CCAMLR Convention Area, or toothfish harvested in areas of national jurisdiction in conformity with the rules applicable in those national jurisdictions. Harvesting in high seas areas where no regional fishery management organization's rules apply is often unreported and unregulated, and thus may pose an obstacle to achieving a sustainable fishery. In the case of such toothfish fisheries, this assumption is almost certainly correct.) However, it would also prohibit importation of toothfish legally harvested within the CCAMLR Convention Area or in exclusive economic zones and impose an unreasonable and unfair burden on U.S. importers and consumers. Given the U.S. portion of the global market, there is a very real possibility that the market would simply shift to other locations, thereby contributing nothing toward bringing IUU fishing for toothfish under control. This alternative also could be incompatible with U.S. obligations under international trade law and pending obligations under the CCAMLR Convention. As a result, this alternative is not preferred.

7. The measure to *prohibit imports of toothfish identified as being harvested in FAO Areas 51 or 57* would apply to the U.S. dealers and importers described above (up to 60 of unknown size). The economic impacts of this prohibition are difficult to quantify. Because the rule is intended to address fraudulent trade in toothfish, the availability of toothfish on the world market could be reduced. This could result in the price of toothfish rising. However, to the extent that the permitted entities experience an increase in the cost of purchasing toothfish, they would most likely pass that cost on to consumers. On the other hand, it is likely that illegally harvested toothfish can be harvested and marketed more cheaply than toothfish harvested pursuant to the applicable CCAMLR conservation rules. To the extent that this rule would remove the market for illegally harvested toothfish, the rule might make it easier for dealers in legitimately harvested toothfish to make a profit (in that they would no longer

have to compete with unregulated fishermen).

As an alternative to the ban on imports identified as having been harvested in Areas 51 or 57, NMFS considered allowing importers to provide independent VMS data to support claims of catches from these two areas. For the reasons explained in the preamble to the proposed rule, current problems with reliability and lack of international protocol, NMFS believes that this alternative is impracticable.

The reporting, recordkeeping, and compliance requirements associated with this final rule are described in the Paperwork Reduction Act (PRA) discussion in this preamble, which follows below. In summary, this final rule modifies existing reporting requirements pertaining to the import of toothfish. The new burdens associated with these requirements would apply to the approximately 60 dealers who import. In addition, the requirement to install and operate VMS units would apply to the 3 U.S. vessels permitted to participate in the AMLR fisheries for crab/krill. The associated burden is estimated as no more than \$1,000 per year per vessel.

NMFS is not aware of any other Federal rules that would duplicate, overlap with, or conflict with the final rule.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648–0194. The requirements and their estimated response times are: 3 minutes for a DCD, 60 minutes for a CCAMLR Ecosystem Monitoring Program permit, 30 minutes for a CCAMLR Ecosystem Monitoring Program report, 15 minutes for a dealer permit application, 4 hours to install a VMS unit, 2 hours for annual maintenance of a VMS unit, 0.033 seconds every 4 hours for an automated position report from a VMS, and 15 minutes for a preapproval application.

The response estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS, Office of Sustainable Fisheries, and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

The effective date for revisions to §§ 300.107 and 300.113 is 45 days instead of 30 days for the remaining sections in order to accommodate toothfish shipments in transit.

#### List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Fishing vessels, Foreign relations, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: April 25, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 300, subpart G is amended as follows:

### PART 300—INTERNATIONAL FISHERIES REGULATIONS

#### Subpart G—Antarctic Marine Living Resources

1. The authority citation for 50 CFR part 300, subpart G continues to read as follows:

**Authority:** 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

■ 2. In § 300.101, new definitions for “Specially Validated *Dissostichus* Catch Document” and “Vessel Monitoring System” are added in alphabetical order to read as follows:

#### § 300.101 Definitions.

\* \* \* \* \*

*Specially Validated Dissostichus Catch Document* (SVDCD) means a *Dissostichus* catch document that has been specially issued by a State to accompany seized or confiscated catch of *Dissostichus* spp. offered for sale or otherwise disposed of by the State.

\* \* \* \* \*

*Vessel Monitoring System* (VMS) means a system that allows a Flag State, through the installation of satellite-tracking devices on board its fishing vessels to receive automatic transmission of certain information.

■ 3. In § 300.103, paragraph (h) is revised to read as follows:

#### § 300.103 Procedure for according protection to CCAMLR Ecosystem Monitoring Program Sites.

\* \* \* \* \*

(h) *Duration.* Permits issued under this section are valid for a period of up to five years. Applicants requesting a permit to reenter a Protected Site must include the most recent report required

by the general condition in the previously issued CEMP permit describing the activities conducted under authority of that permit.

\* \* \* \* \*

■ 4. In § 300.107, paragraphs (a), (c)(1), and (c)(5) are revised to read as follows and paragraph (c)(7) is removed:

**§ 300.107 Reporting and recordkeeping requirements.**

(a) *Vessels.* The operator of any vessel required to have a harvesting permit under this subpart must:

(1) Accurately maintain on board the vessel all CCAMLR reports and records required by its permit.

(2) Make such reports and records available for inspection upon the request of an authorized officer or CCAMLR inspector.

(3) Within the time specified in the permit, submit a copy of such reports and records to NMFS at an address designated by NMFS.

(4) Install a NMFS-approved VMS unit on board the vessel and operate the VMS unit whenever the vessel enters Convention waters.

\* \* \* \* \*

(c) \* \* \*

(1) *General.* (i) The CCAMLR DCD must accompany all shipments of *Dissostichus* species as required in this paragraph (c).

(ii) No shipment of *Dissostichus* species shall be released for entry into the United States unless accompanied by a complete and validated CCAMLR DCD.

(iii) No shipment of *Dissostichus* species identified as originating from a high seas area designated by the Food and Agriculture Organization of the United Nations as Statistical Area 51 or Statistical Area 57 in the eastern and western Indian Ocean outside and north of the Convention Area shall be issued a preapproval.

\* \* \* \* \*

(5) *Import.* (i) Any dealer who imports *Dissostichus* species must:

(A) Obtain the DCD and stamp on the DCD showing that NMFS has certified that preapproval has been granted for importation (and *Dissostichus* re-export document if applicable) with a unique export reference number that accompanies the import shipment,

(B) Ensure that the quantity of toothfish listed on the DCD (or *Dissostichus* re-export document if product is to be re-exported) matches the quantity listed on the preapproval application within a variance of 10 percent,

(C) Express mail or fax the catch documentation described in paragraphs

(c)(5)(i)(A) and (B) of this section to an address designated by NMFS so that NMFS receives the documentation at least 15 working days prior to import, and

(D) Retain a copy of the DCD for his/her records and provide copies to exporters as needed.

(ii) Dealers must retain at their place of business a copy of the DCD for a period of 2 years from the date on the DCD.

(iii) Exception. For shipments of *Dissostichus* species which are fresh and less than 2,000 kilograms in quantity, the application for approval of catch documents of toothfish must be submitted to NMFS within 24 hours of import.

\* \* \* \* \*

■ 5. In § 300.111, a new paragraph (e) is added to read as follows:

**§ 300.111 Framework for annual management measures.**

\* \* \* \* \*

(e) The fishing season for all Convention Area species is December 1 through November 30 of the following year, unless otherwise set in specific CCAMLR conservation measures.

■ 6. Section 300.113 is revised to read as follows:

**§ 300.113 Dealer permits and preapproval.**

(a) *General.* (1) A dealer intending to import or re-export AMLR must obtain an AMLR dealer permit valid for one year. Preapproval from NMFS is required for each shipment of *Dissostichus* species. Only those specific activities stipulated by the permit are authorized for the permit holder.

(2) An AMLR may be imported into the United States if its harvest has been authorized by a U.S.-issued individual permit issued under § 300.112 (a)(1) or its importation has been authorized by a NMFS-issued dealer permit and preapproval issued under paragraph (a) of this section. AMLRs may not be released for entry into the United States unless accompanied by the harvesting permit or the individual permit and the DCD for that shipment which has been stamped by NMFS certifying that preapproval has been granted to allow import.

(3) In no event may a marine mammal be imported into the United States unless authorized and accompanied by an import permit issued under the Marine Mammal Protection Act and/or the Endangered Species Act.

(4) A dealer permit or preapproval issued under this section does not authorize the harvest or transshipment

of any AMLR by or to a vessel of the United States.

(b) *Application.* Application forms for AMLR dealer permits and preapproval are available from NMFS. A complete and accurate application must be received by NMFS for each preapproval at least 15 working days before the anticipated date of the first receipt, importation, or re-export.

(c) *Fees.* A fee to recover the administrative expenses associated with processing preapproval applications will be charged. The amount of the fee will be determined in accordance with procedures specified in the NOAA Finance Handbook for calculating administrative costs of special products and services. The fee is specified with the preapproval application form. The appropriate fee must accompany each application and be paid by check, draft, or money order.

(d) *Issuance.* NMFS may issue a dealer permit or preapproval if it determines that the activity proposed by the dealer meets the requirements of the Act and that the resources were not or will not be harvested in violation of any conservation measure in force with respect to the United States or in violation of any regulation in this subpart.

(e) *Duration.* A permit issued under this section is valid from its date of issuance to its date of expiration unless it is revoked or suspended. A preapproval is valid until the product is imported (and re-exported, if applicable).

(f) *Transfer.* A permit issued under this section is not transferable or assignable.

(g) *Changes in information—*(1) Pending applications. Applicants for permits and preapproval under this section must report in writing to NMFS any change in the information submitted in their permit and preapproval applications. The processing period for the application may be extended as necessary to review and consider the change.

(2) Issued permits and preapprovals. Any entity issued a permit or preapproval under this section must report in writing to NMFS any changes in previously submitted information. Any changes that would result in a change in the receipt or importation authorized by the preapproval, such as harvesting vessel or country of origin, type and quantity of the resource to be received or imported, and Convention statistical subarea from which the resource was harvested, must be proposed in writing to NMFS and may not be undertaken unless authorized by

NMFS through issuance of a revised or new preapproval.

(h) *Revision, suspension, or revocation.* A permit or preapproval issued under this section may be revised, suspended, or revoked, based upon a violation of the permit, the Act, or this subpart. Failure to report a change in the information contained in a permit or preapproval application voids the application, permit, or preapproval as applicable. Title 15 CFR part 904 governs permit sanctions under this subpart.

(i) *Exception.* For shipments of *Dissostichus* species which are fresh and less than 2,000 kilograms in

quantity, the application for approval of catch documents of toothfish must be submitted to NMFS within 24 hours of import.

(j) *SVD*CD. Dealer permits will not be issued for *Dissostichus* spp. offered for sale or other disposition under a Specially Validated DCD.

(k) *Registered agent.* Foreign entities shall, as a condition of possessing a dealer permit, designate and maintain a registered agent within the United States that is authorized to accept service of process on behalf of that entity. Foreign based importers of record may identify to NMFS the

registered agent identified for Customs Service purposes.

■ 7. In § 300.115, new paragraphs (s) and (t) are added to read as follows:

**§ 300.115 Prohibitions.**

\* \* \* \* \*

(s) Import *Dissostichus* spp. with a Specially Validated DCD.

(t) Import shipments of fresh *Dissostichus* spp. in quantities of 2,000 kilograms or more, or frozen *Dissostichus* spp., without a preapproval issued under § 300.113.

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