

*F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

52. None.

### III. Procedural Matters

53. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this *FNPRM*. The IRFA is set forth above. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the *FNPRM* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the SBA.

54. *Paperwork Reduction Act.* The *FPRM* may contain proposed new and revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

### IV. Ordering Clauses

55. Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 202, 217, 227, 227b, 251(e), and 303(r), this *FNPRM* is adopted.

56. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *FNPRM*, including the IRFA analysis, to the Chief Counsel for Advocacy of the SBA.

Federal Communications Commission.

**Marlene Dortch,**  
*Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 230418–0104]

RIN 0648–BJ85

#### International Affairs; Antarctic Marine Living Resources Convention Act

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes to revise its Antarctic Marine Living Resources Convention Act regulations, including those that implement the trade-monitoring program for frozen and fresh *Dissostichus* species, commonly marketed or referred to as Chilean seabass or Patagonian toothfish. Specifically, this action would: revise regulations that specify the circumstances under which NMFS would deny issuance of a preapproval certificate that is required to legally import frozen *Dissostichus* species; add regulations that specify the circumstances under which NMFS would deny issuance of a re-export or export document that is required to legally re-export or export both frozen and fresh *Dissostichus* species; clarify that the applicable authorization must be received prior to re-export or export; and remove the prohibition on the importation of toothfish harvested from the Food and Agriculture Organization of the United Nations (FAO) Statistical Areas 51 and 57. NMFS also proposes other non-substantive technical and procedural updates.

**DATES:** Written comments must be received by June 5, 2023.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2023–0022, by any of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2023–0022 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to Mi Ae Kim, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service, 1315 East-West Highway (F/IS5), Silver Spring, MD 20910.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Mi Ae Kim, Office of International Affairs, Trade, and Commerce, NMFS (phone 301–427–8365, or email [mi.ae.kim@noaa.gov](mailto:mi.ae.kim@noaa.gov)).

#### SUPPLEMENTARY INFORMATION:

##### Background

The United States is a contracting party to the Convention on the Conservation of Antarctic Marine Living Resources (Convention) and a member of the governing body established under the Convention—the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR or Commission). During its annual meetings, the Commission formulates and adopts conservation measures (CMs) that apply to fishing for Antarctic marine living resources in the Convention Area, which generally consists of the Southern Ocean. The Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA), codified at 16 U.S.C. 2431, *et seq.*, provides the statutory authority for the United States to carry out its obligations under the Convention. Under section 307(b)(1) of AMLRCA, 16 U.S.C. 2436(b), the Secretary of Commerce has authority to promulgate regulations as necessary and appropriate to implement the Act. Acting under a delegation of that authority, the Assistant Administrator for Fisheries has implemented Commission-adopted conservation measures that are binding on the United States through regulations at 50 CFR part 300, subpart G.

To inhibit trade of illegal catches, CCAMLR adopted Conservation Measure 10–05, which established an electronic Catch Documentation Scheme (CDS) for tracking of *Dissostichus* species from harvest through the trade cycle, including transshipment, landing, import, export, and re-export, regardless of where the fish were harvested. Under the regulations at 50 CFR part 300, subpart G, the Assistant Administrator

has implemented the CCAMLR CDS, among other U.S. requirements, as a part of U.S. monitoring of trade in Antarctic marine living resources. Those regulations require a preapproval certificate for importation of frozen *Dissostichus* species, 50 CFR 300.105(a), and, for re-export or export of frozen or fresh product, an electronically-generated *Dissostichus* re-export document (DRED), 300.106(f)(1)(ii) or export document (DED), 300.106(g)(1)(ii). As explained in more detail below, this proposed rule would revise regulations at section 300.105 that apply to issuance of preapproval certificates required for importation of frozen *Dissostichus* species, add new regulations to section 300.106 that would apply to issuance of DREDS or DEDs, and make corresponding changes to the prohibitions under section 300.114.

In addition, NMFS proposes to clarify that a person must receive the electronically-generated DRED or DED required for re-export or export of *Dissostichus* species before re-exporting or exporting any shipments.

Lastly, NMFS proposes to update references to the Antarctic Conservation Act (16 U.S.C. 2401, *et seq.*, as amended) and associated regional agreements, and update contact information at NMFS and the Department of State for reporting violations of conservation measures adopted by CCAMLR.

These proposed regulatory revisions are further explained below.

#### *Required Import and Trade Authorizations for Dissostichus Species and Prohibitions*

##### 1. Revisions To Prevent Issuance of Documents Authorizing Import, Re-Export, or Export of Illegally-Harvested *Dissostichus* Species

U.S. regulations provide that: “No shipment of *Dissostichus* species shall be released for entry into the United States unless accompanied by an accurate, complete, valid and validated CCAMLR CDS document.” 50 CFR 300.106(a)(2). This applies to all shipments, whether or not the subject *Dissostichus* species were harvested within or outside of the CCAMLR Convention Area and regardless of whether the respective harvesting vessel is flagged to a CCAMLR contracting party or a non-contracting party cooperating with CCAMLR by participating in the CDS. See 50 CFR 300.106(a)(1). Regulations that apply to issuance of preapproval certificates for importation of frozen *Dissostichus* species at 300.105(h) provide the

circumstances when NMFS will not issue a preapproval certificate. These include any shipment of *Dissostichus* species determined to have been harvested or transshipped in contravention of any CCAMLR Conservation Measure in force at the time of the harvest or transshipment; or harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing. However, the current regulations do not provide that NMFS will deny a preapproval certificate for *Dissostichus* species illegally harvested or transshipped outside the Convention Area, including within foreign exclusive economic zones or high seas areas under the competence of a regional fisheries management organization, despite the fact that such imports would be prohibited under other existing federal law (*e.g.*, Section 307(1)(Q) of Magnuson-Stevens Fishery Conservation and Management Act, Lacey Act, 16 U.S.C. 3372(a)). To address this inconsistency, and to avoid a possible scenario where a preapproval certificate is issued for product determined to be subject to enforcement action, NMFS proposes to include additional bases for denial in 50 CFR 300.105(h).

Section 307(1)(Q) of the Magnuson-Stevens Act prohibits, among other things, imports or exports of any fish “taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party.” 16 U.S.C. 1857(1)(Q). Consistent with that provision, this proposed rule would revise 50 CFR 300.105(h) to provide that NMFS will not issue a preapproval certificate for any shipment of frozen *Dissostichus* species determined to have been taken, possessed, transported or sold in violation of:

- any foreign law or regulation; or
- any treaty within the meaning of section 2 of article II of the U.S. Constitution.

In addition, NMFS proposes that it will not issue a preapproval certificate for any shipment of frozen *Dissostichus* species determined to have been taken, possessed, transported or sold in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party.

NMFS has also noted a gap in the current regulations that apply to issuance of DREDS and DEDs for re-export or export of *Dissostichus* species.

These regulations at sections 300.106(f)(1)(ii) and (g)(1)(ii) do not explicitly provide that NMFS may deny issuance of a DRED or DED when *Dissostichus* species are harvested or transshipped in contravention of a CCAMLR conservation measure in force. Under the conservation measure that established the CCAMLR CDS, the export and re-export of *Dissostichus* species determined to have been harvested in a manner inconsistent with CCAMLR conservation measures is prohibited. Thus, in order to implement that requirement, NMFS is proposing to revise 300.106(f) and (g) to provide that a DRED or a DED will not be issued for *Dissostichus* species that NMFS has determined were harvested or transshipped in contravention of a CCAMLR Conservation Measure, AMLRCA, or the regulations of this subpart. In addition, NMFS proposes to revise these paragraphs to include, as relevant, the bases for denial of issuance of a DRED or DED that are proposed to be added to section 300.105(h) (preapproval certificates) as discussed above. As with preapproval certificates, these bases for denial of a DRED or a DED are necessary to avoid an inconsistency where NMFS issues a re-export or export document for *Dissostichus* species that is prohibited from trade and that may be subject to an enforcement action under other existing Federal law (*e.g.*, Section 307(1)(Q) of Magnuson-Stevens Fishery Conservation and Management Act, Lacey Act, 16 U.S.C. 3372(a)).

NMFS also proposes to make corresponding revisions to the prohibitions under 50 CFR 300.114(o).

##### 2. Removal of the Prohibition on Imports of Toothfish From FAO Statistical Areas 51 and 57

This action would remove the prohibition on the importation of toothfish harvested from FAO Statistical Areas 51 and 57 in 50 CFR 300.105(h)(1) and 300.114(o). NMFS believes removal of this prohibition is appropriate because the management, monitoring and control of toothfish fishing in the Southern and Indian Oceans has improved. In 2003, to prevent the entry of illegally-harvested toothfish into the U.S. market, NMFS implemented an import prohibition of those species identified as originating from FAO Statistical Areas 51 and 57. Information available to NMFS at that time suggested that catches attributed to Areas 51 and 57 in CDS documents had in fact been illegally harvested from the Convention Area by unlicensed vessels. Any catches of toothfish reported as originating from Statistical Areas 51 and

57 were deemed to be misrepresented because fisheries surveys and bathymetric data available at the time suggested those areas had no fishable concentrations of toothfish. In addition, there was insufficient vessel monitoring system (VMS) data from the vessels operating in those areas to verify the harvest location of catches reported as originating from Statistical Areas 51 and 57.

Since 2003, CCAMLR has made a number of improvements and advancements that enable verification of toothfish harvest locations reported in CDS documents. Among these, CCAMLR has strengthened VMS requirements for vessels participating in toothfish fisheries and processes are in place to compare CDS data with relevant catch data. In addition, since 2010, NMFS has, as a condition for issuance of a preapproval certificate for importation of frozen toothfish, required verifiable documentation that a harvesting vessel reported positions to CCAMLR's centralized VMS from port-to-port in real-time regardless of harvest location. 50 CFR 300.105(c).

In 2012, the Southern Indian Ocean Fisheries Agreement (SIOFA) entered into force. SIOFA manages bottom-fishing activities in the Southern Indian Ocean, including the high seas portions of Statistical Areas 51 and 57. Vessels operating in SIOFA-managed areas are now harvesting toothfish in commercial quantities under SIOFA-adopted catch limits. In the last few years, toothfish has been caught in Statistical Areas 51 and 57 by vessels of CCAMLR members, who are also members of SIOFA, and tracked as required through the CDS. Thus, the bases for the prohibition on imports from those areas (*i.e.*, apparent lack of fishable concentrations and insufficient monitoring and reporting) no longer appear to be concerns.

#### *Other Technical and Administrative Changes*

##### 1. Online Application for a Preapproval Certificate

The Office of International Affairs, Trade, and Commerce has made the application process for preapproval certificates available online, including the ability to access forms, submit required information, and complete payment through a web portal. This process is in addition to options for applying by mail or email using the portable document format application form. The online application decreased the processing time for preapproval certificates and serves to facilitate entry processing for importers. Language in 50 CFR 300.105 would be updated to delete

the requirement to provide information "in writing," as well as note that applications for a preapproval certificate are available from NMFS instead of NMFS Headquarters and the National Seafood Inspection Laboratory. Accordingly, the National Seafood Inspection Laboratory would be removed from the list of definitions in 50 CFR 300.101. These proposed regulatory text changes do not affect the previously approved public reporting burden for this information collection.

##### 2. Clarification on When a Person Must Receive an Electronically-Generated Dissostichus Re-Export Document (DRED) or Export Document (DED)

Under 50 CFR 300.106(f)(1)(ii) and (g)(1)(ii), a person must receive an electronically-generated DRED or export document DED in order to re-export or export *Dissostichus* species from the United States. While NMFS believed that it is clear that a person must have a DRED or DED before re-exporting or exporting *Dissostichus* species, in order to ensure that there is no confusion on when a person must have a DRED or DED to legally export or re-export *Dissostichus* species, NMFS proposes to revise 50 CFR 300.106(f)(1)(ii) and (g)(1)(ii) to explicitly provide that a person must receive the electronically-generated DRED or DED *before* shipments of *Dissostichus* species are re-exported or exported.

##### 3. Updates To Reflect the Antarctic Conservation Act, as Amended

Congress amended the Antarctic Conservation Act of 1978 (ACA) to implement the Protocol on Environmental Protection to the Antarctic Treaty (Protocol) and as part of those amendments the statute was renamed the "Antarctic Conservation Act." This proposed rule would update 50 CFR 300.101 to reflect that renaming. 50 CFR 300.102(b) would be revised to replace the reference to Agreed Measures for the Conservation of Antarctic Fauna and Flora, which is no longer in effect, with the Protocol. Similarly, the reference to the Agreed Measures would be removed from 50 CFR 300.113(c)(1). Also in 50 CFR 300.113(a)(2), the reference to the Protocol would be removed because there is no protected system under the Protocol that would apply to CCAMLR Ecosystem Monitoring Program (CEMP) sites. A reference related to specially protected areas regulated under the ACA is also updated.

##### 4. Update to Contact Information for Reporting Violations of CCAMLR Conservation Measures

In 50 CFR 300.115, NMFS is proposing amendments that would update contact information for reporting any violations of CCAMLR conservation measures observed in the Convention Area.

#### **Classification**

This proposed rule is published under the authority of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The NMFS Assistant Administrator has determined that this proposed action is consistent with the provisions of these and other applicable laws, subject to further consideration after any relevant public comment.

#### *Executive Order 12866*

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

#### *Regulatory Flexibility Act (RFA)*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule relates to trade of toothfish: Antarctic and Patagonian toothfish species (*Dissostichus mawsoni* and *D. eleginoides*, respectively). There are approximately 80 dealers who could fall within the scope of NMFS's AMLRCA regulations. All U.S. dealers are considered small entities under the "Small Business Size Regulations" established by the SBA under 13 CFR 121.201. Although all regulated entities are considered small under the SBA size standard, this rule is expected to have no significant economic impact on these regulated entities.

The proposed changes would amend the circumstances when NMFS will deny a preapproval certificate for importation of frozen *Dissostichus* species, to include the following additional circumstances, consistent with section 307(1)(Q) of the Magnuson-Stevens Fishery Conservation and Management Act: determined to have been taken, possessed, transported or sold in violation of:

- any foreign law or regulation; or
- any treaty within the meaning of section 2 of article II of the U.S. Constitution.

In addition, NMFS proposes that it will not issue a preapproval certificate for any shipment of frozen *Dissostichus* species determined to have been taken, possessed, transported or sold in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party.

These changes are not expected to have any economic impacts on dealers of Antarctic marine living resources (AMLR) product. These additional circumstances in which NMFS will deny a preapproval certificate would not require importers to change anything they currently do to apply for a preapproval certificate. Similarly, the addition of the same criteria for denying a DRED or DED is not expected to have any economic impacts on dealers of AMLR product and would not require exporters to do anything differently when re-exporting or exporting toothfish species. By providing additional circumstances in which NMFS will deny a preapproval certificate, DRED, or DED these proposed amendments will ensure that such documents are not issued for trade that would be prohibited under other existing federal law (e.g., Section 307(1)(Q) of Magnuson-Stevens Fishery Conservation and Management Act, Lacey Act, 16 U.S.C. 3372(a)). As this proposed change does not affect compliance costs or add any regulatory burden, AMLR dealers would not incur additional economic costs.

The proposed change to remove the import prohibition of *Dissostichus* species harvested in FAO Statistical Areas 51 and 57 (in the Indian Ocean) would allow AMLR dealers an additional potential source of toothfish for import into the United States. Toothfish imports from these dealers average 14 million kilograms per year and are valued at \$225 million per year. Toothfish is considered a luxury product due to its high market price (according to the industry source Urner Barry, the average market price for processed toothfish has ranged from \$18 to \$20 per pound since 2019, with more recent pricing on the upper end of that scale). The increased sourcing options for dealers of toothfish, in addition to the existing available sources, expands dealer access to product. This additional source of product may increase options for small entities to seek more competitive prices and increase profits from this high end product.

The other proposed changes in this rule: clarifying that an electronically-generated DRED or DED must be received before re-exporting or exporting shipments of *Dissostichus*

species; updating language by removing "in writing" in preapproval certificate application provisions; updating references to the Antarctic Conservation Act (ACA); and revising contact information are administrative in nature and not expected to economically impact dealers engaged in the import, re-export, and export of toothfish. The clarification of the requirement to receive the DRED or DED prior to re-exporting or exporting shipments of toothfish would not impact dealers of toothfish because this requirement already exists and dealers already have to comply with it. NMFS is clarifying the requirement to prevent any possible confusion. The remaining proposed changes listed here would not affect dealers of toothfish.

For the above reasons, this proposed rule is not expected to have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

*Paperwork Reduction Act*

This proposed rule contains no new or revised collection-of-information requirements subject to the Paperwork Reduction Act. The proposed regulatory text changes do not affect the previously approved public reporting burden for this information collection.

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

Antarctica, Antarctic marine living resources, Catch documentation scheme, Fisheries, Fishing, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 26, 2023.

**Samuel D. Rauch, III,**  
*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300 as follows:

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

**Subpart G—Antarctic Marine Living Resources**

- 1. The authority citation for part 300, subpart G is revised to read as follows:

**Authority:** 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*, 16 U.S.C. 1801 *et seq.*

- 2. Amend § 300.101 by removing the definition for *National Seafood Inspection Laboratory* and revising the definition for *ACA* to read as follows:

**§ 300.101 Definitions.**

\* \* \* \* \*

*ACA* means the Antarctic Conservation Act, 16 U.S.C. 2401, *et seq.*, as amended.

\* \* \* \* \*

- 3. Revise § 300.102 (b) to read as follows:

**§ 300.102 Relationship to other treaties, conventions, laws, and regulations.**

\* \* \* \* \*

(b) The ACA implements the Protocol on Environmental Protection to the Antarctic Treaty. The ACA and its implementing regulations (including, but not limited to, 45 CFR part 670) apply to certain defined activities of U.S. citizens south of 60° S lat.

\* \* \* \* \*

- 4. Amend § 300.105 by revising paragraphs (b), (g)(1) and (2), and (h) to read as follows:

**§ 300.105 Preapproval for importation of frozen *Dissostichus* species.**

\* \* \* \* \*

(b) *Application.* Applications for a preapproval certificate are available from NMFS. With the exception of the U.S. Customs 7501 entry number, a complete and accurate application must be received by NMFS for each preapproval certificate at least 10 working days before the anticipated date of the importation. Dealers must supply the U.S. Customs 7501 entry number at least three working days prior to the expected arrival of a shipment of frozen *Dissostichus* species at a U.S. port.

\* \* \* \* \*

(g) \* \* \*

(1) For pending preapproval certificates, applicants must report to NMFS any changes in the information submitted in their preapproval certificate applications. NMFS may extend the processing period for the application as necessary to review and consider any changes.

(2) For issued preapproval certificates, the certificate holder must report to NMFS any changes to information included in the preapproval certificate application. Any changes related to fish being imported, such as harvesting vessel or country of origin, type and quantity of the fish to be imported, or statistical subarea from which the resource was harvested, will void the preapproval certificate and the shipment may not be imported unless authorized by NMFS through issuance of a revised or new preapproval certificate.

\* \* \* \* \*

(h) \* \* \*

(1) Determined to have been harvested or transshipped in contravention of any CCAMLR Conservation Measure in force at the time of harvest or transshipment;

(2) Determined to have been taken, possessed, transported, or sold in violation of any foreign law or regulation or international agreement which is a treaty within the meaning of section II of article II of the U.S. Constitution;

(3) Determined to have been taken, possessed, transported or sold in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party;

(4) Determined to have been harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing; or

(5) Accompanied by inaccurate, incomplete, invalid, or improperly validated CDS documentation or by a SVDGCD.

■ 5. In § 300.106, revise paragraph (f)(1)(ii), add paragraph (f)(3), revise paragraph (g)(1)(ii), and add paragraph (g)(3). The revisions and additions read as follows:

§ 300.106 Catch Documentation Scheme (CDS): Documentation and other requirements.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) Obtain validation by a responsible official(s) designated by NMFS and receive an electronically-generated DRED before re-exporting shipments of *Dissostichus* species.

\* \* \* \* \*

(3) A DRED will not be issued for any shipment of *Dissostichus* species:

(i) Determined to have been harvested or transshipped in contravention of any CCAMLR Conservation Measure in force at the time of harvest or transshipment;

(ii) Determined to have been taken, possessed, transported, or sold in violation of any foreign law or regulation or international agreement which is a treaty within the meaning of section II of article II of the U.S. Constitution;

(iii) Determined to have been taken, possessed, transported or sold in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party;

(iv) Determined to have been harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing;

(v) Accompanied by inaccurate, incomplete, invalid, or improperly validated CDS documentation; or

(vi) Imported in violation of AMLRCA or this subpart.

(g) \* \* \*

(1) \* \* \*

(ii) Obtain validation by a responsible official(s) designated by NMFS and receive an electronically-generated DED before exporting shipments of *Dissostichus* species.

\* \* \* \* \*

(3) A DED will not be issued for any shipment of *Dissostichus* species:

(i) Determined to have been harvested or transshipped in contravention of a CCAMLR Conservation Measure, AMLRCA, or this subpart;

(ii) Determined to have been taken, possessed, transported or sold in violation of any foreign law or regulation or international agreement which is a treaty within the meaning of section II of article II of the U.S. Constitution;

(iii) Determined to have been taken, possessed, transported or sold in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party;

(iv) Determined to have been harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing; or

(v) Accompanied by inaccurate, incomplete, invalid, or improperly validated CDS documentation.

\* \* \* \* \*

■ 6. In § 300.113, revise paragraphs (a)(2), (c)(1), and (l) to read as follows:

§ 300.113 CCAMLR Ecosystem Monitoring Program sites.

(a) \* \* \*

(2) If a CEMP site is also an area specially protected under the Antarctic Treaty (such as the sites listed in 45 CFR 670.29(a)), an applicant seeking to enter such site must apply to the Director of the NSF for a permit under applicable provisions of the ACA or any superseding legislation. The permit granted by NSF shall constitute a joint CEMP/ACA Protected Site permit and any person holding such a permit must comply with the appropriate CEMP site management plan. In all other cases, an applicant seeking a permit to enter a CEMP site must apply to the Assistant Administrator for a CEMP permit in accordance with the provisions of this section.

\* \* \* \* \*

(c) \* \* \*

(1) The Antarctic Treaty as implemented by the ACA and any superseding legislation. (Persons interested in conducting activities subject to the Antarctic Treaty should

contact the Office of Polar Programs, NSF).

\* \* \* \* \*

(l) *Protected areas*. Specially protected areas designated under the Antarctic Treaty and regulated under the ACA are listed at 45 CFR 670.29(a). See also: <https://www.ats.aq/e/protected.html>.

■ 7. Amend § 300.114 by revising paragraph (o) to read as follows:

§ 300.114 Prohibitions.

\* \* \* \* \*

(o) Import, export or re-export *Dissostichus* spp. that were:

(1) Harvested or transshipped in contravention of a CCAMLR Conservation Measure, AMLRCA, or this subpart;

(2) Taken, possessed, transported or sold in violation of:

(i) Any foreign law or regulation or

(ii) Any international agreement which is a treaty within the meaning of section II of article II of the Constitution;

(3) Taken, possessed, transported or sold in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party;

(4) Harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing; or

(5) Unaccompanied by CDS documentation, accompanied by inaccurate, incomplete, invalid, or improperly validated CDS documentation or accompanied by a SVDGCD.

\* \* \* \* \*

■ 8. In § 300.115, revise paragraph (b) to read as follows:

§ 300.115 Facilitation of enforcement and inspection.

\* \* \* \* \*

(b) *Reports by non-inspectors*. All scientists, fishermen, and other non-inspectors present in the Convention Area and subject to the jurisdiction of the United States are encouraged to report any violation of CCAMLR conservation measures observed in the Convention Area to the Office of Ocean and Polar Affairs (CCAMLR Violations), Department of State, Room 2665, Washington, DC 20520, [antarctica@state.gov](mailto:antarctica@state.gov), and the NMFS Office of International Affairs, Trade, and Commerce, <https://www.fisheries.noaa.gov/about/office-international-affairs-trade-and-commerce>.

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