



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 240311-0077]

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: Final rule.

SUMMARY: This final rule sets forth changes to the Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA) 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: revises regulations that specify the circumstances under which NMFS would deny issuance of a preapproval certificate that is required to legally import frozen *Dissostichus* species; adds 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; clarifies that the applicable authorization must be received prior to re-export or export; and removes the prohibition on the importation of *Dissostichus* species harvested from the Food and Agriculture Organization of the United Nations (FAO) Statistical Areas 51 and 57. NMFS also makes other non-substantive technical and procedural updates.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mi Ae Kim, Office of International Affairs, Trade, and Commerce (IATC), NMFS (phone 301-427-8365, or email 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 (CM) that apply to fishing for Antarctic marine living resources in the Convention Area, which generally consists of the Southern Ocean. 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 AMLRCA. 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. NMFS proposed changes to its AMLRCA regulations on May 5, 2023 (88 FR 29043), and the public comment period on that proposed rule ended on June 5, 2023, but was reopened until June 30, 2023 (88 FR 39216, June 15, 2023). Further background is provided in the proposed rule (88 FR 29043, May 5, 2023), and, therefore, is not repeated here.

To inhibit trade of illegal catches, CCAMLR adopted CM 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 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). For re-export or export of frozen or fresh product, those regulations require an electronically-generated *Dissostichus* re-export document (DRED), § 300.106(f)(1)(ii) or export document (DED), § 300.106(g)(1)(ii), respectively. As explained in more detail below, this final rule revises regulations at section 300.105 that apply to issuance of preapproval certificates required for importation of frozen *Dissostichus* species, adds new regulations to section 300.106 that apply to issuance of DREDs and DEDs, and makes corresponding changes to the prohibitions under § 300.114.

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

These 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 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. This final rule revises 50 CFR 300.105(h) by adding 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, under this final rule, NMFS 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. This implements the prohibition on such imports under other existing federal law, e.g., section 307(1)(Q) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1857(1)(Q), and the Lacey Act, 16 U.S.C. 3372(a)). By implementing this prohibition, NMFS aligns the bases for denying preapprovals with prohibitions under other laws and avoids a possible scenario where a preapproval certificate is issued for product determined to be subject to enforcement action.

Because this prohibition applies without geographic condition, 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 or other international agreement or organization.

This final rule also revises regulations to implement the prohibition on the export and re-export of *Dissostichus* species determined to have been harvested in a manner inconsistent with CCAMLR conservation measures provided in the conservation measure that established the CCAMLR CDS. Specifically, this final rule revises regulations at § 300.106 (f)(1)(ii) and (g)(1)(ii) to provide that NMFS will not issue a DRED or DED when *Dissostichus* species are harvested or transshipped in contravention of a CCAMLR conservation measure in force, AMLRCA, or the regulations of this subpart. In addition, NMFS revises these paragraphs to include, as relevant, the bases for denial that are added to § 300.105(h) (preapproval certificates) as discussed above. As with preapproval certificates, these bases for denial of a DRED or a DED will prevent a situation 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 the Magnuson-Stevens Act and the Lacey Act, 16 U.S.C. 3372(a)).

The final rule makes corresponding revisions to the prohibitions under § 300.114(o).

2. Removal of the prohibition on imports of *Dissostichus* species from FAO Statistical Areas 51 and 57.

This final rule removes the prohibition on the importation of *Dissostichus* species harvested from FAO Statistical Areas 51 and 57 in what was § 300.105(h)(1) and 300.114(o). The removal of this prohibition is appropriate because the management, monitoring, and control of fishing for *Dissostichus* species in the Southern and Indian Oceans have much improved since 2003, when this prohibition was implemented. For example, CCAMLR has enabled verification of *Dissostichus* species harvest locations reported in CDS documents, through vessel monitoring system (VMS) reporting requirements for vessels participating in *Dissostichus* species fisheries and processes for

comparing CDS data with relevant catch data. In addition, NMFS, as a condition for issuance of a preapproval certificate for importation of frozen *Dissostichus* species, requires 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(d)).

With these improvements, along with the Southern Indian Ocean Fisheries Agreement (SIOFA) management of bottom-fishing activities in the Indian Ocean including the high seas portions of Statistical Areas 51 and 57, the prohibition on imports from these areas is no longer warranted.

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 decreases the processing time for preapproval certificates and serves to facilitate entry processing for importers. This final rule revises § 300.105 by deleting the requirement to provide information “in writing,” and by noting that applications for a preapproval certificate are available from NMFS instead of NMFS Headquarters and the National Seafood Inspection Laboratory. This final rule removes the National Seafood Inspection Laboratory from the list of definitions in § 300.101.

2. Clarification on when a person must receive an electronically-generated DRED or DED.

Under § 300.106(f)(1)(ii) and (g)(1)(ii), a person must receive an electronically-generated DRED or DED in order to re-export or export *Dissostichus* species from the

United States. To ensure clarity on the timing of this requirement, this final rule revises § 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, consistent with the obligations of CCAMLR CM 10-05.

3. Updates to reflect the ACA, as amended.

Congress amended the 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 final rule updates § 300.101 to reflect that renaming. In addition, this final rule revises § 300.102(b) 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, this final rule removes a reference to the Agreed Measures in § 300.113(c)(1), removes a reference to the Protocol in § 300.113(a)(2) as there is no protected system under the Protocol that would apply to CCAMLR Ecosystem Monitoring Program (CEMP) sites, and updates a reference to specially protected areas regulated under the ACA.

4. Update to contact information for reporting violations of CCAMLR conservation measures.

This final rule updates the contact information under § 300.115 for reporting any violations of CCAMLR conservation measures observed in the Convention Area.

Changes from the Proposed Rule

With the exception of a minor, non-substantive editorial correction in § 300.107(a)(3) to correct a misspelling, this final rule includes no changes to the regulatory text that was published in the proposed rule.

Responses to Public Comments

NMFS received several public comments on the proposed rule, addressed below.

Comment 1. A commenter strongly supports the rule as it would contribute to fisheries monitoring and management.

Response 1. We appreciate the support.

Comment 2. For preapproval certificate applications, commenters noted that the proposed rule does not explain the process NMFS would use for determining violations of foreign laws and regulations pursuant to the new regulatory language. A commenter suggested adding a process for challenging or appealing a preapproval denial decision.

Response 2. The intent of this action is to align the bases for denying preapprovals, or re-export or export documents, with prohibitions under other existing federal laws. When processing preapproval applications under the current regulations, NMFS routinely checks that regulatory requirements have been met before issuance of a preapproval certificate. Such checks include compliance with CCAMLR measures, whether the vessel harvesting the product reported to the CCAMLR central-vessel monitoring system during its fishing trip, and that the product is accompanied by the required, accurate, complete, valid, and validated CDS document(s). As with enforcement matters, NMFS would consider all relevant information when evaluating whether violations of laws or regulations have occurred, including the history, nature, circumstances, extent, duration, and gravity of activities of concern. NMFS may also consult with relevant nation(s). However, NMFS does not have the resources or capacity to proactively investigate potential activities of concern occurring around the world. When NMFS determines that *Dissostichus* species product to be imported was taken, possessed, transported, or sold in violation of any foreign laws or regulations, this final rule clarifies that NMFS has the authority to deny issuance of preapprovals (and re-export or export documents) for those products. If NMFS denies preapproval, it will document the basis for that decision in a written response to the applicant. This final rule does not provide an administrative procedure to challenge a denial. Such a decision by NMFS

constitutes final agency action and therefore is subject to judicial review in a federal district court.

Comment 3. Several commenters referred to NMFS' denial of a preapproval certificate to import *Dissostichus* species harvested in waters surrounding South Georgia in a recent fishing season, expressing concern that the new basis for denial in this action (denial of a preapproval certificate for shipments of *Dissostichus* species determined to have been taken, possessed, transported or sold in violation of any foreign law or regulation or in contravention of any binding conservation measure adopted by an international agreement or organization in which the United States is a party) is related to that denial.

Response 3. NMFS issued the decision referenced in these comments – to deny a preapproval certificate for *Dissostichus* species that were harvested in Statistical Subarea 48.3 (which includes the waters around South Georgia) – on September 15, 2022. That decision was based on a specific CCAMLR conservation measure and existing regulations at 50 CFR 300.105(d) and (h)(2). This final rule is unrelated to that September 15, 2022, decision, and does not change those regulatory provisions except for making a technical change to renumber subparagraph (h)(2) as (h)(1). Thus, NMFS does not view this final rule as having any effect on the regulatory authority that the agency relied on in reaching that decision.

Comment 4. Related to the comments directly above about issuance of preapproval certificates, several commenters raised concerns that this rule would lead to more frequent denials of imports of *Dissostichus* species. Commenters also expressed concerns that the circumstances under which NMFS would deny issuance of a preapproval certificate may lead to uncertainty about what can be imported into the United States, or may enable foreign governments to disrupt what is imported into the United States for politically motivated reasons.

Response 4. 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). This prohibition has been in place for almost 20 years; similar provisions in the Lacey Act (16 U.S.C. 3372(a)) have been in place for much longer. To our knowledge, these prohibitions have not caused uncertainty about what can be imported into the United States or prompted changes to foreign laws or regulations with the intention of disrupting U.S. commerce. Moreover, because these prohibitions already exist, this final rule does not expand the scope of product that would be illegal to import. Instead, this final rule revises the *Dissostichus* species trade monitoring program regulations consistent with these prohibitions. This revision in this final rule clarifies that preapproval certificates will not be issued for product that would be subject to enforcement action if imported.

Comment 5. A commenter seeks confirmation that the United States will continue to comply with the procedural requirements of CM 10-05, including the obligation under paragraph 10 of CM 10-05 to consult with the states concerned at the preapproval and importation stages of the trade cycle.

Response 5. Paragraph 10 of CM 10-05 calls upon the exporting State and, as appropriate, the flag State whose vessel completed a *Dissostichus* Catch Document (DCD), to cooperate with the importing State to resolve any questions regarding the information contained in a DCD, DRED, or DED. This action does not change U.S. compliance with paragraph 10 of CM 10-05, which the United States implements when any questions about information contained in CDS documents arise. The United States is committed to implementation of all CCAMLR conservation measures, including CM 10-05.

Comment 6. Regarding the clarification that DREDs and DEDs must be obtained before re-exporting or exporting *Dissostichus* species shipments, a commenter asked if this restricts the ability to re-route the shipment if the shipment has already left port. The commenter noted that shipments, on occasion, need to be rerouted if a customer of the importing country no longer will accept the shipment. The commenter sought a process for intermediary shipping stages that may require additional or amended export documentation.

Response 6. In accordance with CM 10-05, DREDs and DEDs are to be validated with information about the importer before a company re-exports or exports a shipment of *Dissostichus* species. This final rule does not change this existing process. Amendments to CM 10-05, and likely an implementing rulemaking, would be necessary to add a process to change the content of DREDs and DEDs following their validation.

Comment 7. A commenter stated that there would be economic impacts on dealers of Antarctic marine living resources because the action prevents imports from the South Georgia fishery, and places compliance costs on dealers who will have to establish mechanisms to monitor the laws and regulations of every foreign nation to ensure access to preapproval certificates. The commenter also referred to the import data included by NMFS in the certification to the Small Business Administration (SBA) (14 million kilograms per year) and noted a lower value (8.8 million kg) using U.S. Census data for the 2018-2022 period to indicate the relative importance of every source of *Dissostichus* species. The commenter also noted that the removal of the import prohibition of *Dissostichus* species from FAO Statistical Areas 51 and 57 (Indian Ocean) would not have a material impact on the U.S. market or the availability of *Dissostichus* species for import.

Response 7. This rule does not prevent imports from the waters around South Georgia Island or any other waters within or outside the Convention Area. As explained

in the response to comment 3, NMFS's denial of a preapproval certificate in September 2022 is unrelated to this action and was based on existing regulations. This action does not include any compliance monitoring requirements for importers. It does, however, provide NMFS with additional authority to monitor trade of *Dissostichus* species, and, as explained in response to comment 4, it clarifies NMFS's authority to prevent importation of illegally harvested product and aligns the regulations with other Federal laws.

NMFS notes the updated information from the U.S. Census that, between 2017 and 2022, *Dissostichus* species imports averaged 9.3 million kilograms with an annual average value of \$238 million. NMFS also notes the information from the commenter that the removal of the import prohibition on *Dissostichus* species from the Southern Indian Ocean does not provide a significant new source of *Dissostichus* species for import. This updated and additional information, however, does not change NMFS' analysis of the economic impacts resulting from this action. As described in the proposed rule, this action does not require importers to change anything they currently do to apply for preapproval certificates, and is not expected to have a measurable impact on the availability of *Dissostichus* species for import.

Classification

This rule is published under the authority of the AMLRCA (16 U.S.C. 2431 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The NMFS Assistant Administrator has determined that this final rule 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 SBA at the proposed rule stage that this rule is not expected to have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule (88 FR 29043, May 5, 2023) and is not repeated here. This final rule contains no substantive changes from the proposed rule, and the factual basis for the certification remains the same. In addition, no comments were received that changed the basis for the certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This rule contains no new or revised collection-of-information requirements subject to the Paperwork Reduction Act. The 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: March 15, 2024.

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:

Subpart G—Antarctic Marine Living Resources

1. The authority citation for 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 revising the definition for “ACA”, and removing the definition for “National Seafood Inspection Laboratory”, 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) NMFS will not issue a preapproval certificate for any shipment of *Dissostichus* species:

(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 SVDCD.

5. Amend § 300.106 by revising paragraph (f)(1)(ii), adding paragraph (f)(3), revising paragraph (g)(1)(ii), and adding paragraph (g)(3) to 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 § 300.107, revise paragraph (a)(3) to read as follows:

§ 300.107 Vessel permits and requirements.

(a) * * *

(3) Permits issued under this section do not authorize vessels or persons subject to the jurisdiction of the United States to harass, capture, harm, kill, harvest, or import marine mammals. No marine mammals may be taken in the course of commercial fishing operations unless the taking is authorized under the Marine Mammal Protection Act and/or the Endangered Species Act pursuant to an exemption or permit granted by the appropriate agency.

* * * * *

7. 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>.

* * * * *

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

§ 300.114 Prohibitions.

* * * * *

(o) Import, export, or re-export *Dissostichus* species 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 U.S. 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 SVDCD.

* * * * *

9. 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, and the NMFS Office of International Affairs, Trade, and Commerce, <https://www.fisheries.noaa.gov/about/office-international-affairs-trade-and-commerce>.

* * * * *