

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