

changes in the manner or amount of harvesting must be proposed in writing to the Assistant Administrator and may not be undertaken unless authorized by the Assistant Administrator through a permit revision or issuance of a new permit. If a requested change in the location, manner, or amount of harvesting could significantly affect the status of any Antarctic marine living resource, the Assistant Administrator will treat the requested change as an application for a new permit and so notify the holder.

(i) *Additional conditions and restrictions.* The Assistant Administrator may revise the harvesting permit, effective upon notification to the permit holder, to impose additional conditions and restrictions on the harvesting vessel as necessary to achieve the purposes of the Convention or the Act. The permit holder must, as soon as possible, direct the vessel operator to revise the harvesting vessel certificate, if any, accordingly.

(j) *Revision, suspension, or revocation for violations.* A harvesting permit may be revised, suspended, or revoked if the harvesting vessel is involved in the commission of any violation of its permit, the Act, or this subpart. Failure to report a change in the information contained in an application within 15 days of the change is a violation of this subpart and voids the application or permit, as applicable. If a change in vessel ownership is not reported, the violation is chargeable to the previous owner. Title 15 CFR part 904 governs permit sanctions under this subpart.

(k) *Transshipment vessels.* Any U.S. flagged vessel that receives or attempts to receive *Dissostichus* species from a harvesting vessel at sea, regardless of whether such transshipment occurs in waters under the jurisdiction of CCAMLR, must obtain from NMFS a harvesting permit authorizing transshipment. Transshipment vessels must comply with the permitting provisions of this section with respect to harvesting vessels.

[61 FR 35550, July 5, 1996, as amended at 65 FR 30017, May 10, 2000; 72 FR 48509, Aug. 23, 2007; 75 FR 18112, Apr. 9, 2010]

§ 300.113 Scientific observers.

This section applies to national and international observers as defined in § 300.101.

(a) This section applies to a national observer aboard U.S. vessels harvesting in the Convention Area, national observers placed on foreign flagged vessels and international observers placed on U.S. vessels harvesting in the Convention Area.

(b) All U.S. vessels fishing in the Convention Area must carry one or more scientific observers as required by CCAMLR conservation and management measures or as specified in a NMFS-issued AMLR Harvesting Permit.

(c) All U.S. vessels conducting longline sink rate testing outside the Convention area and pursuant to CCAMLR protocols must carry one or more scientific observers as specified in a NMFS-issued AMLR Harvesting Permit.

(d) *Procurement of observers by vessel.* Owners of vessels required to carry scientific observers under this section must arrange for observer services in coordination with the NMFS Southwest Fisheries Science Center Antarctic Ecosystem Research Division. The vessel owner is required to pay for observer services through an observer service provider who has provided observer services to the Federal government within the past year. In situations where no qualified observer is available through a qualified observer provider, the Secretary may authorize a vessel owner to arrange for an observer by alternative methods. An observer may not be paid directly by the vessel owner.

(e) *Insurance.* The observer service provider or vessel owner must provide insurance for observers that provides compensation in the event of an injury or death during the entire deployment, from the point of hire location to return, equivalent to the standards of the North Pacific Groundfish Observer Program set forth in § 679.80 of this title.

(f) *Educational requirements.* National observer candidates must:

(1) Have a Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences; or

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(2) Have successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course.

(g) *Health requirements.* National observers must have a signed and dated statement from a licensed physician that he or she has physically examined the observer. The statement must confirm that, based upon the physical examination, the observer does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer from performing his or her duties satisfactorily. The statement must declare that prior to the examination; the physician was made aware of the duties of an observer and the dangerous, remote and rigorous nature of the work. The physician's statement must be submitted to the NMFS Southwest Fisheries Science Center Antarctic Ecosystem Research Division program office prior to approval of an observer. The physical exam must have occurred during the 12 months prior to the observer's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(h) *Vessel responsibilities.* An operator of a vessel required to carry one or more scientific observers must:

(1) *Accommodations and food.* Provide, at no cost to the observers or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers of the vessel; and

(2) *Safe conditions.* (i) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(ii) Have on board:

(A) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR chapter I and 46 CFR chapter I. NMFS will grant a waiver from the Voluntary Safety

decal provision if the vessel is in compliance with the standards of the observer vessel safety check list developed by the Northeast Fisheries Science Center <http://www.nefsc.noaa.gov/femad/fsb/> or equivalent certification issued by the Flagging State;

(B) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(C) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(3) *Health and safety regulations.* Comply with the Observer health and safety regulations at part 600 of this title. NMFS will grant a waiver from the Voluntary Safety decal provision if the vessel is in compliance with the standards of the observer vessel safety check list.

(4) *Transmission of data.* Facilitate transmission of observer data by allowing observers, on request, to use the vessel's communications equipment and personnel for the confidential entry, transmission, and receipt of work-related messages.

(5) *Vessel position.* Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position, course and speed.

(6) *Access.* Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(7) *Prior notification.* Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(8) *Records.* Allow observers to inspect and copy the vessel's CCAMLR DCD, product transfer forms, any other logbook or document required by regulations, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(9) *Assistance.* Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:

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(i) Measuring decks, codends, and holding bins;

(ii) Providing the observers with a safe work area adjacent to the sample collection site;

(iii) Collecting bycatch when requested by the observers;

(iv) Collecting and carrying baskets of fish when requested by observers; and

(v) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(10) *Transfer at sea.* (i) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(i) *Standards of observer conduct*—(1) *Observers:* (i) Must not have a direct financial interest in the fishery being observed, including but not limited to:

(A) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish;

(B) Any business involved with selling supplies or services to any vessel, shoreside or floating stationary processing facility; or

(C) Any business involved with purchasing raw or processed products from any vessel, shoreside or floating stationary processing facilities.

(ii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(iii) May not serve as observers on any vessel or at any shoreside or floating stationary processing facility owned or operated by a person who previously employed the observers.

(iv) May not solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating processor while employed by an observer provider.

(2) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(j) *Standards of observer behavior.* Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the Observer Program or of the government, including but not limited to the following:

(1) Observers must perform their assigned duties as described in the CCAMLR Scientific Observers Manual and must complete the CCAMLR Scientific Observer Logbooks and submit them to the CCAMLR Data Manager at the intervals specified by the Data Manager.

(2) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(3) Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, or NMFS.

(4) Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to:

(i) Engaging in the use, possession, or distribution of illegal drugs; or

(ii) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(k) *Sampling station.* (1) Minimum work space aboard at sea processing

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vessels. The observer must have a working area of 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

(2) Table aboard at-sea processing vessels. The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(3) Other requirement for at-sea processing vessels. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

[72 FR 48510, Aug. 23, 2007]

§ 300.114 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 frozen *Dissostichus* species. The permit holder may only conduct those specific activities stipulated by the permit.

(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 §300.114(a)(1). AMLRs may not be released for entry into the United States unless accompanied by the harvesting permit or the individual permit or dealer permit and, in the case of frozen *Dissostichus* species, the preapproval certification granted by NMFS to allow import. NMFS will only accept electronic catch documents for toothfish imports.

(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. With the exception of the U.S. Customs 7501 entry number, 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. Dealers must supply the U.S. Customs 7501 entry number at least three working days prior to a *Dissostichus* species shipment's arrival.

(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 CCAMLR conservation measure or in violation of any regulation in this subpart. No preapproval will be issued for *Dissostichus* species without verifiable documentation, to include VMS reports with vessel location and messages, of the use of real-time C-VMS port-to-port by the vessel that harvested such *Dissostichus* species, except for *Dissostichus* species harvested during fishing trips that began prior to September 24, 2007.

(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