

§ 300.117

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alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly, the owner or operator must immediately contact OLE, and follow instructions from that office. If notified by NMFS that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's positions or returning to port until the VMS is operable.

(e) *Access to position data.* As a condition of authorized fishing for or possession of AMLR, a vessel owner or operator subject to the requirements for a VMS in this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS.

(f) *Installation and operation of the VMS.* NMFS has authority over the installation and operation of the VMS unit. NMFS may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by NMFS.

[72 FR 48511, Aug. 23, 2007, as amended at 75 FR 18113, Apr. 9, 2010]

§ 300.117 Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person to:

(a) Reduce to possession or attempt to reduce to possession any AMLRs without a permit for such activity as required by § 300.112.

(b) Import into or export from the United States any AMLRs taken by vessels without a permit to harvest those resources as required by § 300.112 (a)(1), or without applicable catch documentation as required by § 300.107 (c)(1), or without a dealer permit as required by § 300.113 (a)(1), or in violation of the terms and conditions for such import or export as specified on the permit.

(c) Engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in

force with respect to the United States under Article IX of the Convention.

(d) Ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any AMLR that he or she knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States under article IX of the Convention or in violation of any regulation promulgated under this subpart, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the AMLR.

(e) Refuse to allow any CCAMLR inspector to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for the purpose of conducting an inspection authorized by the Act, this subpart, or any permit issued under the Act.

(f) Refuse to provide appropriate assistance, including access as necessary to communications equipment, to CCAMLR inspectors.

(g) Refuse to sign a written notification of alleged violations of Commission measures in effect prepared by a CCAMLR inspector.

(h) Assault, resist, oppose, impede, intimidate, or interfere with a CCAMLR inspector in the conduct of any boarding or inspection authorized by the Act, this subpart, or any permit issued under the Act.

(i) Use any vessel to engage in harvesting after the revocation, or during the period of suspension, of an applicable permit issued under the Act.

(j) Fail to identify, falsely identify, fail to properly maintain, or obscure the identification of a harvesting vessel or its gear as required by this subpart.

(k) Fish in a closed area.

(l) Trawl with a mesh size in any part of the trawl net smaller than that allowed for any directed fishing for Antarctic finfishes as specified in management measures issued pursuant to § 300.111.

(m) Use any means or device that would reduce the size or obstruct the opening of the trawl meshes specified in management measures issued pursuant to § 300.111.

Int'l. Fishing and Related Activities

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(n) Possess fish in violation of the catch limit specified in management measures issued pursuant to § 300.111.

(o) Discard netting or other substances in the Convention Area in violation of § 300.109.

(p) Violate or attempt to violate any provision of this subpart, the Act, any other regulation promulgated under the Act or any permit issued under the Act.

(q) Provide incomplete or inaccurate information about the harvest, transshipment, landing, import or re-export of applicable species on any document required under this subpart.

(r) Receive AMLRs from a vessel without a dealer or harvesting permit issued under this subpart.

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

(t) Import shipments of frozen *Dissostichus* spp. without a preapproval issued under § 300.114.

(u) Assault, resist, oppose, impede, intimidate, harass, bribe, or interfere with an observer.

(v) Interfere with or bias the sampling procedure employed by an observer, including physical, mechanical, or other sorting or discarding of catch before sampling.

(w) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(x) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties.

(y) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(z) Fish for or process fish without observer coverage required under § 300.113.

(aa) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(bb) *Vessel monitoring systems.* (1) Use any vessel registered to an AMLR harvesting permit to conduct fishing operations unless that vessel carries an OLE type-approved mobile transceiver unit and complies with the requirements described in this subpart.

(2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified in this subpart.

(3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified in this subpart.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified in this subpart.

(5) Fail to contact OLE or follow OLE instructions when automatic position reporting has been interrupted as specified in this subpart.

(6) Register a VMS transceiver unit registered to more than one vessel at the same time.

(7) Connect or leave connected additional equipment to a VMS unit without the prior approval of the OLE.

(8) Make a false statement, oral or written, to an authorized officer regarding the installation, use, operation, or maintenance of a VMS unit or communication service provider.

(9) Fail to use real-time C-VMS port-to-port on board U.S. vessels harvesting AMLR in the Convention Area.

(cc) Fail to use the mitigation measures required in the course of longline fishing or longline fishing research in the Convention Area to minimize the incidental mortality of seabirds.

(dd) Fail to use the mitigation measures required in the Convention Area to minimize the incidental mortality of seabirds and marine mammals in the course of trawl fishing.

(ee) Set longlines in Subareas 48.6, 88.1 and 88.2 Divisions 58.4.1, 58.4.2, 58.4.3a, 58.4.3b and 58.5.2 during daylight hours without following the CCAMLR protocol designed to mitigate seabird interactions.

(ff) Trawl for krill in Convention Area fisheries without a seal excluder device.

(gg) Harvest any AMLR in Convention waters without a harvesting permit required by this subpart.

(hh) Ship, transport, offer for sale, sell, purchase, import, export, re-export or have custody, control, or possession of, any frozen *Dissostichus* species without verifiable documentation of the use of real-time C-VMS port-to-port by the vessel that harvested such *Dissostichus* species unless the *Dissostichus* species was harvested during a fishing trip that began prior to September 24, 2007.

[61 FR 35550, July 5, 1996, as amended at 65 FR 30017, May 10, 2000; 68 FR 23229, May 1, 2003. Redesignated and amended at 72 FR 48510, 48512, Aug. 23, 2007; 75 FR 18113, Apr. 9, 2010]

§ 300.118 Facilitation of enforcement and inspection.

In addition to the facilitation of enforcement provisions of § 300.5, the following requirements apply to this subpart.

(a) *Access and records.* (1) The owners and operator of each harvesting vessel must provide authorized officers and CCAMLR inspectors access to all spaces where work is conducted or business papers and records are prepared or stored, including but not limited to personal quarters and areas within personal quarters. If inspection of a particular area would interfere with specific on-going scientific research, and if the operator of the harvesting vessel makes such assertion and produces an individual permit that covers that specific research, the authorized officer or CCAMLR inspector will not disturb the area, but will record the information pertaining to the denial of access.

(2) The owner and operator of each harvesting vessel must provide to authorized officers and CCAMLR inspectors all records and documents pertaining to the harvesting activities of the vessel, including but not limited to production records, fishing logs, navigation logs, transfer records, product receipts, cargo stowage plans or records, draft or displacement calculations, customs documents or records, and an accurate hold plan reflecting the current structure of the vessel's storage and factory spaces.

(3) Before leaving vessels that have been inspected, the CCAMLR inspector will give the master of the vessel a Certificate of Inspection and a written notification of any alleged violations of Commission measures in effect and will afford the master the opportunity to comment on it. The ship's master must sign the notification to acknowledge receipt and the opportunity to comment on it.

(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 Commission conservation and management measures observed in the Convention area to the Office of Ocean Affairs (CCAMLR Violations), Department of State, Room 5801, Washington, DC 20520.

(c) *Storage of AMLRs.* The operator of each harvesting vessel storing AMLRs in a storage space on board the vessel must ensure that non-resource items are neither stowed beneath nor covered by resource items, unless required to maintain the stability and safety of the vessel. Non-resource items include, but are not limited to, portable conveyors, exhaust fans, ladders, nets, fuel bladders, extra bin boards, or other moveable non-resource items. These non-resource items may be in a resource storage space when necessary for the safety of the vessel or crew or for the storage of the items. Lumber, bin boards, or other dunnage may be used for shoring or bracing of product to ensure the safety of crew and to prevent shifting of cargo within the space.