
ATTENTION IMPORT DEALERS

- ▶ Under the new regulations, there are measures to: 1) prohibit imports of toothfish identified as being harvested in FAO Areas 51 and 57; 2) require foreign entities to designate and maintain a registered agent within the United States; and 3) institute a preapproval system for U.S. receivers and importers of toothfish.
- ▶ Dealers who import fresh toothfish in shipments of less than 2000 kgs are exempt from the preapproval requirement and will continue to file import tickets for each shipment within 24 hours, along with a copy of the DCD(s).
- ▶ Dealers who import frozen toothfish or shipments of fresh toothfish equal to or greater than 2000 kgs will be required to follow the preapproval process as detailed in the attached pamphlet. The effective date for the new preapproval process is June 16, 2003.



Q *What if I import fresh toothfish shipments under 2000 kgs?*

A If you are a current dealer and import only fresh shipments of toothfish and all shipments are less than 2000 kgs, then you will continue to file Import Tickets within 24 hours of import with the NMFS' National Seafood Inspection Laboratory. These types of shipments **will not** require a preapproval certificate and, therefore, **will not** incur a fee as required under the new regulations.

Q *What if I import frozen toothfish shipments or fresh toothfish shipments that equal or exceed 2000 kgs?*

A If you are importing any frozen toothfish or fresh toothfish shipments that equal or exceed 2000 kgs, you **will** be required to file a preapproval certificate for each shipment. There **will** be a fee for each preapproval action and the preapproval application must be submitted 15 working days prior to the shipment's arrival.

REGISTERED AGENTS

NOAA Fisheries will, for the purpose of importing toothfish, require that any foreign-based importer of record must appoint a registered agent in the United States authorized to accept service of process. This appointment opportunity will be in the form of a question on the new annual permit application for Antarctic Marine Living Resources Permit to Import. In order to receive a permit, a foreign based firm will be required to include this information on their permit application.



Q *What if I have already appointed a registered agent through U.S. Customs? Does this action cover the requirement?*

A No, the registered agent requirement in U.S. Customs regulations is not automatically available to facilitate the implementation of NMFS regulations. However, it would be acceptable to NMFS for any foreign based importer of record to appoint the same registered agent to NMFS as identified for U.S. Customs Services purposes.

**For more information on
current import requirements, please contact:**

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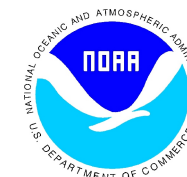
NOAA Fisheries, Office of Sustainable Fisheries
National Seafood Inspection Laboratory
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For more information about CCAMLR,
please visit their website at
<http://www.ccamlr.org>

Toothfish Import Monitoring Program

Dealers' General Information

(*Dissostichus* species)



NOAA Fisheries
Office of Sustainable Fisheries

PROGRAM OVERVIEW

The 1982 Convention for the Conservation of Antarctic Marine Living Resources established the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) for the purpose of protecting and conserving the marine living resources in the waters surrounding Antarctica. The Convention is based upon an ecosystem approach to the conservation of marine living resources incorporating standards designed to ensure the conservation of individual populations and species and the Antarctic marine ecosystem as a whole. The United States is a Contracting Party to the Convention, as well as a member of CCAMLR.

Due to the scale of illegal, unregulated, or unreported (IUU) fishing for toothfish in and beyond waters subject to CCAMLR, a Catch Documentation Scheme (CDS) for toothfish was adopted in 1999. The CDS monitors international trade, identifies the origin of imports, determines if imports caught in the Convention Area are consistent with CCAMLR conservation measures, and provides catch data for stock assessments. As of January 1, 2002, 17 contracting parties as well as three non-contracting parties of CCAMLR have implemented the CDS.

Although National Marine Fisheries Service (NMFS) has fully implemented the CDS in the United States, it recognizes that improvements can be made both to streamline administration of the program and to enhance efforts to prevent the import of illegally harvested toothfish. NMFS, therefore, has modified the current regulations to implement a preapproval system which would allow NMFS to review catch documentation in advance of import, thus providing additional economic certainty to U.S. businesses associated with the toothfish trade as well as facilitating enforcement efforts.

BAN ON IMPORTS FROM AREAS 51 & 57

The combination of the lack of confidence that catches are being reported accurately from vessels claiming to fish on the high seas, specifically FAO Areas 51 and 57, and the failure of CCAMLR Members to either adopt a centralized Vessel Monitoring System (VMS) or to fully comply with the current VMS requirements convinces NOAA Fisheries that a ban on these harvests is the only solution. Therefore, as of June 16, 2003, no imports of toothfish (fresh or frozen) that were harvested within FAO Areas 51 or 57 will be allowed entry into the United States. The harvest location is normally located on the *Dissostichus* Catch Document that serves as the trade document for this species. If you apply for a preapproval certificate for fish that has been harvested from this area, the entry will be “denied”.



Q *What happens to fish that has been harvested from FAO Areas 51 or 57 that comes into a U.S. port despite the ban? What action will be taken against the importer of record?*

A The fish will be seized for forfeiture to the U.S. Government. In addition, significant civil penalties may be assessed against an importer that fails to follow the requirements of the regulations.

Q *On what was the decision based to ban toothfish imports harvested from FAO Areas 51 and 57?*

A For the last two years, the Commission, based on advise from the Scientific Committee, has become increasingly concerned that the catches claimed to have been taken from FAO Areas 51 and 57 were not credible and in all probability were poached from within Convention waters. The Scientific Committee also expressed concern that the veracity of information reported in Catch Documents did not match available knowledge of toothfish distribution and potential biomass for waters in these adjacent areas to the Convention Area.

MODIFICATION TO PERMIT PROCESS

In order to simplify the permit process and alleviate the burden on the dealers, several modifications have been made to simplify the permit application process.



Q *What information will be required on the revised permit and its application?*

A The new regulations greatly simplify the permit and its application to reduce the burden on the dealer and will grant permission to import toothfish into the United States for a period of one year. The preapproval process will replace the need for the constant amendments to an existing permit. The revised permit application will be limited to the following:

1. Company Name
2. Company Address
3. Name of Species to Be Imported
4. Estimated Tonnage
5. Signature of Applicant
6. Signator's Title
7. Date of Application
8. Registered Agent, if applicant is a foreign entity

Q *What about my current permit?*

A Most currently held Permits to Import Antarctic Marine Living Resources (AMLR) has an expiration date of June 30, 2003. These permits are valid until such date. However, all current permit holders should have received a new permit application from NMFS by mail. The completed application should be submitted as soon as possible. NMFS will issue the new permits to dealers once the applications are processed.

This pamphlet was prepared in May 2003 to keep interested persons informed about the Toothfish Import Monitoring Program and to publicize the Agency's interest in developing changes to the current regulations. Prior to making any change in regulations, NOAA Fisheries will publish a general notice of proposed rulemaking with a detailed description of proposed changes to invite public comment. Since fishery rules are subject to change, importers must familiarize themselves with the latest regulations and are responsible for complying with current official rules and regulations.