

**§ 180.574 Fluazinam; tolerances for residues.**

(a) *General.* Tolerances are established for residues of fluazinam, (3-chloro-*N*-[3-chloro-2,6-dinitro-4-(trifluoromethyl)phenyl]-5-(trifluoromethyl)-2-pyridinamine) in or on the following commodities:

Commodity	Parts per million
Peanuts .....	0.02
Potatoes .....	0.02

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

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**NATIONAL SCIENCE FOUNDATION****45 CFR Part 670****Conservation of Antarctic Animals and Plants**

**AGENCY:** National Science Foundation.

**ACTION:** Final rule.

**SUMMARY:** The National Science Foundation (NSF) is amending its regulations to designate two additional Antarctic Specially Protected Areas (ASPAs) and to correct some typographical errors. These regulations, pursuant to the Antarctic Conservation Act of 1978, as amended, are being revised to reflect recommendations adopted by the Antarctic Treaty parties at the 15th and 21st Antarctic Treaty Consultative Meeting.

**DATES:** Effective September 7, 2001.

**FOR FURTHER INFORMATION CONTACT:** Anita Eisenstadt, Office of the General Counsel, at 703-292-8060, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

**SUPPLEMENTARY INFORMATION:** The Antarctic Conservation Act of 1978, as amended, ("ACA") (16 U.S.C. 2401 *et seq.*) implements the Protocol on Environmental Protection to the Antarctic Treaty ("the Protocol"). Annex II of the Protocol contains provisions for conservation of native Antarctic plants and animals. Annex V contains provisions for the protection of specially designated areas. Section 6 of the ACA, (16 U.S.C. 2405), as amended, directs the Director of the National Science Foundation to issue such regulations as are necessary and

appropriate to implement Annexes II and V to the Protocol.

The Antarctic Treaty Parties periodically adopt measures to establish additional specially protected areas. At the 15th Antarctic Treaty Consultative Meeting (ATCM) held in Rio de Janeiro in 1987, the Parties adopted Recommendation XIV-5 that added as a specially protected area the Summit of Mt. Melbourne, North Victoria Land. This site was previously included in the list of specially protected areas in 45 CFR part 670. However, in the 1998 amendments to 45 CFR part 670 [63 FR 50164 (September 21, 1998)], the site was inadvertently omitted from the list. At the 21st ATCM in Christchurch, New Zealand in 1997, the Parties adopted Measure 3 (1997) that added as a specially protected area Botany Bay, Cape Geology, Victoria Land. The rule is being revised to add these two specially protected areas. No public comment is needed because the addition of these two sites merely implements measures adopted at the ATCM.

Finally, these amendments correct typographical errors in the names of several species designated as native birds in § 670.20, and one species designated as a specially protected species in § 670.25.

**Determinations**

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Management and Budget. This rule involves a foreign affairs function of the United States and is, therefore, exempt from the notice requirements of section 553 of the Administrative Procedures Act and from regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612. Although this rule is exempt from the Regulatory Flexibility Act, it has nonetheless been determined that this rule will not have a significant impact on a substantial number of small businesses. For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), these amendments to the existing regulations do not change the collection of information requirements contained in NSF's existing regulations, which have already have been approved by the Office of Management and Budget (OMB No. 3145-0034). Finally, NSF has reviewed this rule in light of section 2 of Executive Order 12778 and certifies that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order.

**List of Subjects in 45 CFR Part 670**

Administrative practice and procedure, Antarctica, Exports, Imports, Plants, Reporting and recordkeeping requirements, Wildlife.

Dated: August 29, 2001.

**Lawrence Rudolph,**

*General Counsel, National Science Foundation.*

Pursuant to the authority granted by 16 U.S.C. 2405(a)(1), NSF hereby amends 45 CFR part 670 as set forth below:

**PART 670—[AMENDED]**

1. The authority citation for Part 670 continues to read as follows:

**Authority:** 16 U.S.C. 2405, as amended.

2. Section 670.20 is revised to read as follows:

**§ 670.20 Designation of native birds.**

The following are designated native birds:

*Albatross*

Black-browed—*Diomedea melanophris*.

Gray-headed—*Diomedea chrysostoma*.

Light-mantled sooty—*Phoebastria palpebrata*.

Wandering—*Diomedea exulans*.

*Fulmar*

Northern Giant—*Macronectes halli*.

Southern—*Fulmarus glacialis*.

Southern Giant—*Macronectes giganteus*.

*Gull*

Southern Black-backed—*Larus dominicanus*.

*Jaeger*

Parasitic—*Stercorarius parasiticus*.

Pomarine—*Stercorarius pomarinus*.

*Penguin*

Adelie—*Pygoscelis adeliae*.

Chinstrap—*Pygoscelis antarctica*.

Emperor—*Aptenodytes forsteri*.

Gentoo—*Pygoscelis papua*.

King—*Aptenodytes patagonicus*.

Macaroni—*Eudyptes chrysolophus*.

Rockhopper—*Eudyptes crestatus*.

*Petrel*

Antarctic—*Thalassoica antarctica*.

Black-bellied Storm—*Fregetta tropica*.

Blue—*Halobaena caerulea*.

Gray—*Procellaria cinerea*.

Great-winged—*Pterodroma macroptera*.

Kerguelen—*Pterodroma brevirostris*.

Mottled—*Pterodroma inexpectata*.

Snow—*Pagodroma nivea*.

Soft-plumaged—*Pterodroma mollis*.

South-Georgia Diving—*Pelecanoides georgicus*.

White-bellied Storm—*Fregetta grallaria*.

White-chinned—*Procellaria aequinoctialis*.

White-headed—*Pterodroma lessoni*.

Wilson's Storm—*Oceanites oceanicus*.

Pigeon

Cape—*Daption capense*.

Pintail

South American Yellow-billed—*Anas georgica spinicauda*.

Prion

Antarctic—*Pachyptila desolata*.

Narrow-billed—*Pachyptila belcheri*.

Shag

Blue-eyed—*Phalacrocorax atriceps*.

Shearwater

Sooty—*Puffinus griseus*.

Skua

Brown—*Catharacta lonnbergi*

South Polar—*Catharacta maccormicki*.

Swallow

Barn—*Hirundo rustica*.

Sheathbill

American—*Chionis alba*.

Tern

Antarctic—*Sterna vittata*.

Arctic—*Sterna paradisaea*.

#### § 670.25 [Amended]

3. In § 670.25, remove the word “rossi” and add, in its place, the word “rossii”.

#### § 670.29 [Amended]

4. In § 670.29, add two additional ASPAs at the end of the section as follows:

\* \* \* \* \*

ASPAs 159, Summit of Mt. Melbourne, North Victoria Land.

ASPAs 160, Botany Bay, Cape Geology, Victoria Land.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 010719181-1181-01; I.D. 062501A]

RIN 0648-AP35

#### Antarctic Marine Living Resources; Harvesting and Dealer Permits, and Catch Documentation

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Interpretive rule.

**SUMMARY:** NMFS issues a rule clarifying NMFS' interpretation of the Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA) which prohibits the import into the United States of *Dissostichus eleginoides* (Patagonian toothfish), *Dissostichus mawsoni* (Antarctic toothfish), and products from such fish harvested in violation of a conservation measure in force with respect to the United States. NMFS interprets this prohibition as applying to Patagonian and Antarctic toothfish and products from such fish, even if such fish or products are accompanied by a validated *Dissostichus* Catch Document (DCD), if the fish were harvested in violation of a conservation measure in force with respect to the United States. NMFS issues this interpretative rule because of recent requests for permits from U.S. importers wishing to receive toothfish that were harvested in violation of a conservation measure in force with respect to the United States, seized by a foreign law enforcement authority, and accompanied by DCDs validated by the country that seized the fish. The intent of this interpretation is to clarify that under United States law, such fish cannot be imported into the United States.

**DATES:** This rule is effective September 7, 2001.

**ADDRESSES:** Copies of the Regulatory Impact Review supporting this action may be obtained from Dean Swanson or Mark Wildman, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Dean Swanson or Mark Wildman at 301-713-2276.

**SUPPLEMENTARY INFORMATION:** The Antarctic fisheries are managed in

accordance with the Convention on the Conservation of Antarctic Marine Living Resources (Convention). Under the authority of the AMLRCA, 16 U.S.C. 2431 *et seq.*, NMFS implements conservation measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) through regulations at 50 CFR part 300, subpart G. In accordance with CCAMLR's requirements, the Secretary of the Department of Commerce (Secretary) has implemented a Catch Documentation Scheme (CDS) for Patagonian and Antarctic toothfish, which requires that shipments of such product be accompanied by validated documentation. At CCAMLR's October/November 2000 annual meeting, CCAMLR discussed the difficulties experienced by some Member countries that had seized or confiscated a catch or shipment of Patagonian or Antarctic toothfish and wished to export it to another country. CCAMLR considered a proposal that would have allowed a Member country that had seized toothfish to issue a new “DCD” and sell the fish in the international market. However, there was insufficient support to adopt that proposal, and CCAMLR agreed to discuss the proposal further. Since last November, the United States has received requests for permits from importers wishing to receive illegally harvested toothfish accompanied by DCDs validated by the countries that seized such fish.

The purpose of the AMLRCA is to provide legislative authority for implementation of the Convention. (16 U.S.C. 2431(b)). The AMLRCA states that it is illegal for any person to “ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of any antarctic living marine resource (or part or product thereof) which he knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States . . . .” (16 U.S.C. 2435 (3)). Neither the Convention nor any of CCAMLR's conservation measures currently contains a provision for “cleansing” illegally harvested toothfish. Thus, in light of the explicit statutory prohibition and the lack of international agreements to the contrary, NMFS interprets U.S. law to prohibit the import of illegally harvested, seized fish even if it is accompanied by a validated DCD. The fact that the fish has been seized by a foreign law enforcement authority and that it is accompanied by a DCD issued by the country that seized the fish, does not change the fact that the fish was harvested in violation of a conservation