

SUPPORTING STATEMENT
NMFS IMPLEMENTATION OF THE SEAFOOD TRACEABILITY PROGRAM
OMB CONTROL NO. 0648-0739

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

On March 15, 2015, a multi-agency Presidential task force published an Action Plan for combatting Illegal, Unreported, and Unregulated (IUU) fishing and seafood fraud. This Action Plan called for the identification of the seafood species most “at-risk” for IUU fishing and seafood fraud, as well as the development of a risk-based traceability program to track seafood from point of harvest to entry into U.S. commerce. A final rule containing measures to address imported fish and fish products as part of this traceability program – called the Seafood Import Monitoring Program – was effective on January 9, 2017, and has a compliance date of January 1, 2018 (81 FR 88975 (December 9, 2016)). The Action Plan also called for the development of a voluntary Commerce Trusted Trader Program (CTTP) for importers under the Seafood Import Monitoring Program. The CTTP, which is the subject of this rulemaking, is intended to provide benefits such as reduced reporting and recordkeeping requirements and streamlined entry of species covered by the Seafood Import Monitoring Program into the United States for importers who are approved for Commerce Trusted Trader status. The information collection for SIMP has already been approved under this OMB Control Number, and NOAA is requesting a revision to the previously approved reporting burden estimates to account for the implementation of the CTTP.

The U.S. Customs and Border Protection (CBP) and U.S. Food and Drug Administration (FDA) are each developing their own voluntary Trusted Trader programs designed to enhance information sharing between government agencies, reduce costs to both the government and industry, and streamline processing of imports. While the CTTP shares many similar features with these programs, it is designed and intended to apply directly and specifically to the Seafood Import Monitoring Program, whereas the CBP and FDA programs will apply more broadly to imports and exports monitored by those agencies.

A critical element of the CTTP is the assurance that the entire supply chain for species covered by SIMP, from point of harvest to entry into U.S. commerce, is legal and documented, and that the entry of illegally harvested and misrepresented fishery products into the U.S. is prevented. The program is intended to increase the security of the supply chain and enhance trade efficiencies, while reducing the burden of compliance for eligible International Fisheries Trade Permit (IFTP) holders. This proposed rule, if adopted, would establish the criteria required for approval as a Commerce Trusted Trader (CTT) and identify specifically how the program would be monitored and by whom. Under the proposed rule, a CTT would be required to establish a secure supply chain and maintain the records necessary for NMFS to verify the legality of all designated product entering into U.S. commerce. In return, the rule would excuse the CTT from the SIMP requirements to enter harvest event data into the International Trade Data System (ITDS) at the time of filing an import entry, and to maintain direct control of all chain of custody records for a minimum of two years. In lieu of these SIMP requirements, the CTT would contract for an annual independent third party audit and arrange for record recovery from the

supply chain actors with whom the CTT conducts business. The proposed rule details the application process and specifies how the CTT would be audited by third-party entities while the overall program would be monitored by NMFS.

The CTT would be expected to produce all traceability documentation associated with an entry filing subject to the SIMP within 14 days upon request by NMFS, but would have significantly reduced reporting requirements. With the exception of any records or documents required by other state or federal programs, such as the Tuna Tracking and Verification Program (TTVP) or FDA's Prior Notice of Imported Food, the CTT would only be required to enter the IFTP number and species codes into the ITDS at the time of entry filing.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The SAFE Port Act (Public Law 109-347) requires all Federal agencies with a role in import admissibility decisions to collect information electronically through ITDS (single window). The Department of the Treasury has the U.S. Government lead on ITDS development and partner government agency integration. CBP developed the Automated Commercial Environment (ACE) as an internet-based single window for the collection and dissemination of information to support ITDS.

NMFS is a partner government agency in the ITDS project due to the agency's role in monitoring trade of certain fishery products. Electronic collection of seafood trade data through a single portal will result in an overall reduction of the public reporting burden and the agency's data collection costs, improve the timeliness and accuracy of admissibility decisions, increase the effectiveness of applicable measures to exclude products of illegal fishing, and have the beneficial effect of decreasing the incidence of seafood fraud.

To apply for the CTT, an importer – who has been issued an International Fisheries Trade Permit (IFTP) (OMB Control No. 0648-0732) as required under the SIMP – would apply online via the National Permitting System using the account established for the IFTP. As part of the online application, the importer would electronically submit a copy of his or her Trusted Trader Compliance Plan (Compliance Plan). The proposed rule sets forth required elements for the Compliance Plan. At a minimum, NMFS will review the Compliance Plan to ensure that the required elements are included. Applications and Compliance Plans will not be disseminated to the public, but used internally by NMFS solely to determine an importer's eligibility for the CTT.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Under the proposed rule, NMFS requires that application to the CTT be submitted electronically via a NMFS website. The information required for routine auditing of the program may be presented in either electronic or hard copy format, at the discretion of the CTT, but NMFS would prefer to receive all submissions via electronic means.

4. Describe efforts to identify duplication.

The online application for the CTTT will be tied directly to the importer's IFTP on the National Permitting System website, so the importer will not need to re-enter any identifying information already reported to obtain the IFTP.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Since most of the respondents are considered small businesses, separate requirements based on size of business have not been developed. For importers who apply for, and are approved under the CTTT, the proposed rule would reduce the burden of reporting and recordkeeping. The proposed rule would create an exemption from certain SIMP requirements. First, harvest event data would not have to be submitted at time of entry processing. Second, records pertaining to the initial catch/production and subsequent supply chain would not have to be kept with the importer as long as the importer is able to furnish records within 14 days upon request of NMFS. Such supply chain transfer or chain-of-custody records are produced in the normal course of business by fish dealers, processors, exporters, freight forwarders and carriers. For a CTT, these records can remain in the custody of the respective supply chain actors until requested by NMFS. In such case, the CTT will execute a pre-approved plan to assemble the records.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If the rule is not implemented, there will be no reduction in reporting or recordkeeping requirements, as all importers will still need to comply fully with the SIMP rule and file all data electronically through ITDS at the time of entry and maintain on-hand all supply chain records related to the entry.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Collection of information will be made in a manner consistent with OMB guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A proposed rule, RIN 0648-BG51, will be published coincident with this submission to OMB for a revision to the currently approved information collection. The notice of proposed rulemaking will solicit public comment on the CTTT application, reporting, auditing and recordkeeping requirements.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts are made.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The information collection will be considered and treated as confidential as required by section 402(b) of the Magnuson-Stevens Act, 16 U.S.C. 1881a(b), and [NOAA Administrative Order 216-100](#). Where other information collection authorities apply (e.g., Trade Secrets Act), information collected will be handled in compliance with agency filing and retention policy. The data sharing MOU between NMFS and CBP also addresses confidentiality concerns and disclosure provisions for information collected via ACE/ITDS.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

NMFS is using an hourly labor rate of \$25.00 for the application process and reporting of data at entry, consistent with the Bureau of Labor Statistics' fourth quarter 2015 estimate of \$23.84 per hour on total cost to the employer for office and administrative support services. A higher rate \$50.00 per hour is used for the Trusted Trader Compliance Plan development and third-party audit contracting, as these duties would likely be completed by an employee with higher training, skills and responsibilities, commensurate with higher wage rate.

CTTP Application Requirement: Currently, SIMP is applicable to 13 priority species. NMFS estimated the number of entities likely to apply for Trusted Trader status, given the volume of priority species they import and their potential cost savings from being a CTT. This estimate is based on the number of entries an importer files annually. Importers who would likely apply for the CTTP are importers for whom the CTTP implementation costs (e.g., annual third-party audit) would more than offset the costs of otherwise applicable SIMP requirements (e.g., cost of reporting harvest and vessel information for each entry of fish or fish products). NMFS examined 2014 import data to determine the average annual number of entries for which there would be net savings. In comparing the costs of contracting for an annual independent audit in compliance with CTTP to the costs of reporting harvest events at entry filing in compliance with SIMP, NMFS estimated that the break-even point is at 250 entry filings per year for a mid-range estimate of audit costs. There were 216 importers who filed more than 250 entries in 2014 (comprising roughly 72% of all entries).

If it takes approximately 10 minutes to fill out the online application and there are approximately 216 applicants, this results in a **one-time total of 216 responses and burden of 36 hours** and a

labor cost of \$900. The burden is annualized to 12 hours and \$300 in labor costs,

Trusted Trader Compliance Plan Development: Many of the 216 CTTTP applicants will likely have some form of internal control plan or systems in place to meet standard food safety and business management requirements. To the extent that there is an existing internal control plan that includes procedures to meet current food safety and SIMP requirements, revisions to the plan to be CTTTP-specific may not require much time, e.g., no more than 8 hours. If a Trusted Trader Compliance Plan needs to be developed from square one, NMFS estimates that it could take up to 24 hours. At an hourly rate of \$50, this results in a **one-time total of 216 responses and between 1,728 and 5,184 hours** (higher estimated used), **annualized to 1,728 hours** and a total one-time labor cost of between \$86,400 and \$259,200, annualized to \$86,400.

Annual Third-Party Audit: NMFS estimates one hour each year for the activity of researching and contracting with a third-party auditor for the annual audit required of this program. This results in an annual total of **216 responses and hours**, at an hourly rate of \$50, for a total labor cost of \$10,800 annually.

Recordkeeping Requirement: The proposed rule provides that the harvest event records and the chain-of-custody records must be retained by the importer, or within the supply chain as outlined in the importer's Trusted Trader Compliance Plan, for at least two years from entry. This rule affords more flexibility than the SIMP rule, which requires the importer to maintain all chain of custody records. The two-year recordkeeping time period is the same requirement as the SIMP rule, so there is no demonstrable change in cost for recordkeeping. Hours are still 144,880 and labor costs would stay at 3,622,000.

Reporting Requirement: An importer approved under the CTTTP would be exempt from the SIMP requirement of reporting harvest data at time of entry, and thus is expected to realize cost savings of not entering such data. SIMP data submission requirements were estimated to increase hours by 87,000 and, using \$25/hour, result in labor costs of \$2,175,000. See Supporting Statement for OMB Control No. 0648-0739 (https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201612-0648-004). NMFS calculated the time and cost of entry filing the header record only (IFTP number and species codes) for the CTTTP to be 12 minutes at \$25 per hour, for a cost per entry of \$5. A SIMP filing (header and vessel records) is estimated to take 36 minutes at \$25 per hour, for a cost per entry of \$15. Using available data from 2014, the average number of entries for the 216 importers filing 250 or more entries, which is the point at which NMFS believes an entity would likely choose to become a CTT, is 750. The 216 filers have an average of 750 filings each (162,000 total filings), at 12 minutes (0.2 hour) per filing, which is 64,800 hours total saved by not having to file the complete harvest and vessel record set prior to entry. The total reduction from 144,880, relative to the baseline originally calculated for SIMP, would be 64,800 hours at a labor cost savings of \$1,620,000 annually. Roughly, this is a reduction of 22% for hours and labor costs relative to that estimated for SIMP. **New total hours will be 80,080 and labor costs, \$2,002,000.**

Requested Burden Adjustments for the CTTTP

When NMFS analyzed the SIMP reporting requirements, it also developed an alternative Upper Bound Estimate based on costs per container versus costs per entry. See Supporting Statement for OMB Control No. 0648- 0739 [https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201612-0648-004] and the Final Regulatory Impact Review/Final Regulatory Flexibility Analysis [<https://www.regulations.gov/document?D=NOAA-NMFS-2015-0122-0112>]. The alternative Upper Bound Estimate was based on an analytical approach submitted during public comment on the SIMP proposed rule by the National Fisheries Institute (NFI). For the Upper Bound Estimate analysis, NMFS adopted NFI’s assumption that a container corresponds to an entry filing. However, a single entry filing could contain multiple containers with the same product (single HTS code), and/or multiple entry lines may pertain to a single container with different products declared under multiple HTS codes. [See SIMP final rule RIR/FRFA at page 13]. Data are not available to estimate the likelihood of cost savings for CTTs based on the number of containers imported annually. Therefore, NMFS estimated the burden reductions for the CTTP using actual entry filing data and assumed a linear relationship with the burden estimate previously calculated on a per container basis. The percent reductions in hours and costs for the per entry analysis were thus applied to the totals previously calculated for the per container analysis (Upper Bound Estimate).

Under the Upper Bound Estimate approach, the direct cost per year was estimated at \$1,091,630. See id. at page 13. As noted above, NMFS anticipates that the CTTP proposed rule could reduce burden hour and labor costs for reporting for 216 CTTs by up to 22% from that of fully complying with SIMP. Applied to the previously approved burden estimates of hours and costs, this means an adjusted hourly burden of 274,497 hours and an adjusted labor cost of \$1,033,533. Applied to the previously approved burden estimate of responses based on containers, this means an adjusted annual response number of 25,268.

	Responses	Hours	Labor Costs
SIMP Approved Burden	24,764	289,927	1,091,630
Net Changes due to CTTP	504	(15,430)	(58,097)
Adjusted Burden	25,268	274,497	1,033,533

*However, net increase of 4,620,870.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The annualized permit fee cost is \$2,160.

Based on audits performed by NMFS personnel in the Seafood Inspection Program, it is estimated that the annual third-party audit itself would require from 4-8 hours of the auditor’s time. Based on market research, it is estimated that qualified auditors would charge from \$280 to \$450 per hour for auditing services. Combining time and hourly rate estimates yields a cost for the annual audit of between \$1,120 and \$3,600, with a mid-range estimate of \$2,190 per audit and total of \$473,040.

Most seafood dealers already have systems in place for supply chain records to meet food safety and business management requirements. Once the harvest event information is recorded, these existing systems for passing commercial documents along the supply chain, either electronically

or in paper form, can be used to enable the importer to maintain control of the supply chain records for the required minimum of two years. The proposed rule gives importers who are approved under the CTTTP greater flexibility in their approach to recordkeeping. There is no additional burden for recordkeeping from this proposed rule relative to the SIMP rule. While cost savings are likely, it is not possible to estimate the likely responses of all CTTTs. The additional costs associated with the CTTTP application and annual third-party audit are more than offset by the reduction in reporting costs.

The 216 trusted traders will no longer have recordkeeping/reporting cost for submission of harvest event data. This will reduce that cost, previously an annualized \$600,000, by 22%, to \$468,000.

Reducing the \$600,000 to \$468,000, adding the CTTTP permit costs of \$2,160 and the auditing costs of \$473,040, results in a new total cost of \$1,091,630, \$1,434,830, a net increase of \$343,200 from \$1,091,630 (as shown in ROCIS).

14. Provide estimates of annualized cost to the Federal government.

The cost for approving an importer's application to the Commerce Trusted Trader Program will be covered by an administrative cost recovery fee of \$30 per application, thus there will be no incremental cost to the Federal government.

Additional costs to government are attributable to monitoring imports, auditing entries and audit reports, consulting with foreign government counterparts regarding lawful acquisition, and addressing violations of the recordkeeping and auditing requirements of this rule. NMFS believes that this work can be accomplished with 1,040 hours of labor, the equivalent of one part-time position. At an average hourly labor cost of \$61, the ongoing annual costs would amount to \$63,440. Given that the duties required of NMFS would be spread among multiple disciplines (inspection, auditing, enforcement), we believe that the necessary resources can be drawn from among existing staff, and no separate hiring will be necessary specific to this program.

15. Explain the reasons for any program changes or adjustments.

This is an enhancement to the Seafood Import Monitoring Program, designed specifically to reduce the burden of reporting and recordkeeping requirements and provide streamlined entry into U.S. commerce for seafood imports subject to SIMP for importers approved as CTTTs. Importers who would likely apply for the CTTTP are importers for whom the CTTTP implementation costs (e.g., annual third-party audit) would offset the costs of SIMP requirements (e.g., cost of reporting each entry of fish or fish products). NMFS examined 2014 import data to determine the average annual number of entries for which there would be net savings.

In the SIMP final rule, NMFS estimated annual compliance costs of \$6,075,000 including permit fees, reporting, recordkeeping, and data storage for 2,000 importers who, combined, filed 215,000 entries through the International Trade Data System (ITDS). There were 216 importers who filed more than 250 entries in 2014 (comprising roughly 72% of all entries). NMFS considers these 216

importers to be “high volume”, and based on the compliance cost of both SIMP and CTTT, they are expected to benefit financially from the CTTT.

For the 216 importers with over 250 entries filed per year, the cost savings for reduced reporting will outweigh the costs of contracting for an independent audit annually in compliance with CTTT requirements. Importers who apply for and are approved under the CTTT would have the following incremental costs. First, the CTTTs would be subject to \$30 each for a one-time CTTT application fee. Second, to the extent that the importer has an existing internal control plan that includes procedures to meet current food safety and SIMP requirements, making revisions to the plan to comply with CTTT requirements for a Compliance Plan, including an internal control plan, may not require significant time, e.g., no more than 8 hours. If that is not the case and the importer must develop Trusted Trader Compliance Plan from square one, NMFS estimates that it could take up to 24 hours. At an hourly rate of \$50, this results in a total one-time labor cost of between \$86,400 and \$259,200, with a mid-range of \$172,800. Third, it is estimated that the 216 CTTTs combined would incur labor costs of \$10,800 to contract for an annual audit, assuming \$50 for one hour of time of a relatively high level employee to procure services of an auditing firm. Finally, NOAA estimates between \$1,120 and \$3,600 for auditing costs charged by a third party auditor. NOAA has assumed a mid-range estimate of \$2,190 as the likely cost of an audit so a total of 216 CTTTs would incur direct costs of \$483,840 annually (contracting for the audit plus the actual audit itself).

In contrast to these incremental costs, there would be a significant reduction in reporting costs for the entry filings (average of 750 filings per importer at \$5 data entry cost for each CTTT filing versus \$15 data entry cost for each SIMP filing). A CTTT filing would contain only the header record (IFTP number, product and species codes) while a SIMP filing would contain the header record and all harvest and vessel records. Total savings for all 216 importers are estimated at \$1.21 million at the low estimates for audit cost and Compliance Plan development and \$0.50 million at the high estimates for audit cost and Compliance Plan development per year. The table below assumes the mid-range figure for Compliance Plan development and third-party audit costs.

		Scenario I: None Become Trusted Traders	Scenario II: All Become Trusted Traders	Scenario III: Greater than 250 Entries Become Trusted Traders	
SIMP Costs	Unit Cost	SIMP Compliance	CTTT Compliance	CTTT Compliance	SIMP Compliance
Number of IFTP holders		2,000	2,000	216	1,784
IFTP Application	30	60,000	60,000	6,480	53,520
CTT Application	30	-	60,000	6,480	-
Compliance Plan development	800	-	1,600,000	172,800	-
Reporting per SIMP Entry	15	3,225,000	-	-	890,505
Reporting per CTTT Entry	5	-	1,075,000	778,165	-
Recordkeeping per Entry	10	2,150,000	2,150,000	1,556,330	593,670
Data Storage per	320	640,000	640,000	69,120	570,880

Importer					
Contracting a 3 rd Party Auditor	50	-	100,000	10,800	-
Conducting 3 rd Party Audits	2,190	-	4,380,000	473,040	-
Total Costs		\$ 6,075,000	\$ 10,065,000	\$ 3,073,215	\$ 2,108,575
Cost Change		-	\$3,990,000	\$(893,210)	-

Burden and cost comparison from ROCIS

IC	Current Responses	Current Hours	Current Costs*	Proposed Responses	Proposed Hours	Proposed Costs*
IFTP requirement	2000	167	6000	2000	167	6,000
Dataset submission requirement	11382	144,800	600,000	11382	127,494	468,000
Data storage	11382	144,800	431,630	11382	144,800	431,630
CTTP application	NA	NA	NA	72	12	2,160
TT Compliance Plan	NA	NA	NA	216	1,728	0
Third Party Auditor Contract	NA	NA	NA	216	216	473,040
Totals	24,764	289,927	1,091,630	25,268	274,497	1,434,830

*Recordkeeping/reporting costs

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish any information collected from this program. NOAA may report aggregate statistics on the number of approved CTTs and the number of annual entries filed under the CCTP.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not Applicable.

18. Explain each exception to the certification statement.

There are no exceptions. Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.