

NMFS Proposes to Add More Species to SIMP, Clarify Importer of Record Requirements

The National Marine Fisheries Service is proposing to expand its Seafood Import Monitoring Program requirements to cover additional species, as well as amend the SIMP regulations to clarify the responsibilities of the importer of record, it said in a [notice](#) released Dec. 27. Comments on the proposal are due March 28.

The proposed rule would add five species groups to SIMP: all species of snapper (*Lutjanidae*), eels (*Anguilla* spp.), squid and cuttlefish, octopus, the queen conch (family *Strombidae*) and the Caribbean spiny lobster (*Panulirus argus*). It would also expand SIMP to cover all species marked or described as tuna that aren't already covered by the requirements, including slender tuna, bullet tuna, frigate tuna, kawakawa, spotted tunny, black skipjack tuna, blackfin tuna, longtail tuna, bonito, escolar and yellowtail tuna.

The NMFS said that, if the rule is finalized, there would be about 487 new applicants for the IFTP under the SIMP expansion.

The NMFS is also proposing to amend the SIMP regulations to clarify that the importer of record for customs entry filing and the International Fisheries Trade Permit holder must be the same entity. Another change would clarify that, while only U.S. residents may apply for an IFTP, a resident agent of a nonresident corporation may also apply.

A new paragraph would also be added to a section of the SIMP regulations on "prohibitions" to specify that it is prohibited to submit an entry filing that includes an IFTP number assigned by the NMFS to an entity other than the importer of record. "SIMP audits have revealed that, in many cases, a third party (e.g., the U.S. purchaser of the seafood) has allowed their IFTP number to be used by a foreign importer of record, even though this is not allowed under the SIMP regulations," the NMFS said.

The proposed rule would amend importer recordkeeping requirements to specify that "paper or electronic copies of all chain of custody documentation required under this subpart, and all supporting records upon which an entry filing or export declaration is made, must be maintained by the importer of record or the exporting principal party in interest as applicable, and made available for inspection, at the importer's/exporter's place of business for a period of two years from the date of the import, export, or reexport," the NMFS said. The relevant section of the SIMP regulations currently only says that the importer must "retain records of the information reported at entry" for two years.

The amended recordkeeping requirements also would say that the records must be provided electronically within five days of an NMFS request or audit notification, or on paper within 10 days, unless otherwise specified by the NMFS.

The proposed rule would clarify that SIMP requirements would also apply to product coming into the Pacific Insular Area as defined by the Magnuson-Stevens Act. Product moved from the Pacific Insular Area to any place within the customs territory of the U.S. also would be subject to all SIMP requirements.

The proposed rule also would add more detailed criteria for qualifying for the SIMP aggregated harvest report exemption under a "small-scale harvest accommodation as a record made at a single collection point on a single calendar day for aggregated catches by multiple small-scale fishing operations."

Finally, the NMFS is also seeking comments on "whether to consider a standardized 'SIMP Form' that would build on the current sample model forms to create a required document that encompasses all traceability elements required under the program," the NMFS said. Though industry had requested one, the NMFS had declined to include the standard form when it first set SIMP program requirements "due to potential duplication with existing forms, especially those required by Regional Fisheries Management Organizations."

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“If NMFS ultimately determines to pursue a standardized form, further rulemaking may be required, including justifying any duplicate information collection, as well as associated analysis and/or processes consistent with the Regulatory Flexibility Act, Paperwork Reduction Act and other applicable requirements,” the agency said. — **Brian Feito**

NMFS Issues Notice on Certificate of Admissibility Requirements for New Zealand Seafood

The National Marine Fisheries Service is working with CBP and the government of New Zealand to deploy a sudden ban on imports of certain fish from the country in response to an order from the Court of International Trade (see [ITT 11/28/2022](#)), it said in a [notice](#) released Dec. 16 outlining the new restrictions.

The CIT injunction banned imports of snapper, tarakihi, spotted dogfish, trevally, warehou, hoki, barracouta, mullet and gurnard from the set-net and trawl fisheries on the west coast of New Zealand’s North Island. Harmonized Tariff Schedule subheadings for the fish—some of which are not covered by species-specific tariff classifications – are [listed](#) by the NMFS on its website.

As previously announced, a certificate of admissibility requirement is being put into place for covered fish species harvested elsewhere in New Zealand or with fishing gear “not subject to the court-ordered embargo,” the NMFS said. “Fish or fish products imported to the United States from New Zealand under the designated HTS codes that are not subject to the import prohibition must be accompanied by Certification of Admissibility,” the NMFS said. The certificates and instructions are also available on the NMFS website.

“Absent Certification of Admissibility, entry filings under the specified tariff codes will be rejected,” the notice said. CBP “transmitted a user-defined rule to inspectors at affected ports of entry” on Dec. 5 “with instructions for port inspectors to examine entry filings from New Zealand under the specified tariff codes,” the NMFS said.

The NMFS is working with CBP on providing notice to the trade community on the new requirements, it said. In particular, the NMFS hopes to use CBP’s “internal and

external messaging systems for such notification,” it said. Consultations with the government of New Zealand are also “needed to identify those officials authorized to certify shipments bound for the United States,” the agency said. “NMFS initiated these steps prior to the effective date of the embargo,” which was Dec. 5. — **Brian Feito**

CBP Sets New March Target for Chinese Postal Code Entry Requirement

An upcoming requirement to include a postal code for entries of China-origin goods and new and updated Chinese manufacturer IDs is now scheduled for deployment on March 18, and CBP is looking to also automate the Uyghur Forced Labor Prevention Act detentions process in the following months, according to an updated CBP ACE deployment [schedule](#) released Dec. 21.

The controversial “UFLPA region alert” postal code requirement now will also allow filers the ability to update an existing MID with a postal code. Software developers had noted after the UFLPA region alert was first announced that customs software often uses the MID to retrieve name and address information for the cargo release, and that because they did not have the ability to modify MIDs to add a postal code for inclusion in the cargo release, the new requirement would be particularly burdensome (see [ITT 10/27/2022](#)).

Announced in October with a deployment date in November but quickly postponed until Dec. 15 and then indefinitely (see [ITT 10/26/2022](#) and [ITT 11/01/2022](#)), the UFLPA region alert will use the Chinese postal code to generate an error message when the postal code is invalid, and a warning message when a Uyghur region postal code is provided. Along with the delay, CBP announced a Trade Support Network working group would be set up to discuss the deployment (see [ITT 11/03/2022](#)).

The new ACE deployment schedule also adds a “UFLPA Detentions Process Related to Forced Labor,” with an anticipated deployment date of May 2023. The capability, for which CBP began development in August, will “create an automated process for Admissibility Reviews and Exception Requests,” including by automating the completion and issuance of CBP Form 6051D and attachment 2B, CBP said.

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Plans for the automated UFLPA detention process also include a new “public site for the trade to upload documentation and submit for CBP review,” and will “allow CBP to track, review, and determine the final disposition from this site,” CBP said. — *Brian Feito*

CBP to Begin MID Replacement Pilot, Accepting Requests to Participate

CBP announced it will formally begin its long-planned pilot program to test use of global business identifiers to replace the manufacturer identification code (MID) on entry documentation. The Global Business Identifier Evaluative Proof of Concept (GBI EPoC) will begin Dec. 19, and CBP will begin accepting requests from customs brokers and importers to participate in the pilot on Dec. 2, the agency said in a [notice](#).

The pilot has been in the works since at least 2018 (see [ITT 08/16/2018](#)). Through the pilot, broker and importer participants will provide three business identifiers—a nine-digit DUNS number from Dun & Bradstreet, a 13 digit Global Location Number (GLN) from GS1, and a 20-digit Legal Entity Identifier (LEI) from the Global Legal Entity Identifier Foundation (GLEIF)—from the manufacturers, shippers and sellers for all entries that will be included under the pilot.

CBP will use the pilot, which will run until July 21, 2023, unless extended, to evaluate “whether these three GBI, singly, or in concert, ensure that CBP and PGAs receive standardized trade data in a universally compatible trade language,” the agency said. “Moreover, CBP will examine whether the GBIs submitted to CBP can be easily verified, thus reducing uncertainties that may be associated with the information related to shipments of imported merchandise.”

CBP initially will allow only certain goods and countries of origin in the pilot. Entries will be limited to a set of sub-headings listed in CBP’s notice under Harmonized Tariff Schedule Chapters 3, 16, 22, 30, 33, 63, 90, and 95, the agency said. The countries of origin of goods entered under the pilot are initially limited to Australia, Canada, China, France, Italy, Mexico, New Zealand, Singapore, the U.K. and Vietnam. Additional commodities and countries of origin may be added in future *Federal Register* notices, CBP said. Only type 01 and type 11 entries will be allowed.

“Test participants are encouraged to submit GBIs with all qualified entry filings that meet the conditions of the test so that CBP has a fulsome data set to evaluate; however, entries will not be rejected if GBIs are not submitted,” the agency said.

Test participants will need to work with their software vendors or technical teams to ensure their electronic systems are capable of transmitting the DUNS number, GLN and LEI GBIs to CBP, the agency said. “Upon selection to participate in the test, the test participants will be provided with technical information and guidance regarding the transmission of the GBIs to CBP with the CBP Form 3461 filings. The assigned ABI client representatives of the test participants will provide additional technical support, as needed,” CBP said.

Partner government agencies are “intended as core test beneficiaries,” and CBP may bring on other agencies to test use of GBIs in PGA data, it said. “CBP will announce the PGAs who will receive GBIs and GBI data pursuant to the test in a notice to be published in the *Federal Register* at a later date.”

“The test is open to all importers of record and licensed customs brokers provided that these parties have requested permission and are approved by CBP to participate in the test,” CBP said. Those seeking to participate in the test “should email the GBI Inbox (GBI@cbp.dhs.gov) with the subject heading ‘Request to Participate in the GBI EPoC,’” CBP said.

Requests must include the participant’s filer code and evidence they have obtained “all three GBIs (D-U-N-S®, GLN, and LEI), or are in the process of obtaining them, from the manufacturers, shippers, and sellers (and, optionally, exporters, distributors, and packagers) of merchandise that is subject to the conditions of the test (commodity + country of origin),” CBP said. Requesters must “also advise that they intend to import commodities that are subject to the test from the countries of origin that are subject to the test,” the agency said.

CBP to Launch New UFLPA Interactive Tool, Guidance, Official Says

CBP will soon launch new “interactive” tools on its website, along with additional guidance and frequently asked

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questions, to help industry comply with the Uyghur Forced Labor Prevention Act, Acting Commissioner Troy Miller said. Miller said the agency has been exploring ways to better aid U.S. importers as they navigate increasingly “complex global supply chains” and vet suppliers who may be using forced labor.

“We know that the vast majority of the companies are doing their best to comply with the new act, and we want to work with you,” Miller said during a Dec. 7 Commercial Customs Operations Advisory Committee meeting. “That’s why we’re providing even more information to companies working to comply and ensuring the public understands the effectiveness of UFLPA.”

Miller said CBP is “currently developing” an interactive tool that will provide a range of forced labor enforcement statistics, including the “total number and value of entries identified” as being made with forced labor. He said CBP will break down those statistics by industry and update the numbers quarterly, adding that the agency expects it to launch “early next year.”

CBP is also working on new FAQs to provide guidance for UFLPA regulations, Miller said, along with a new “user interface chatbot to guide users to relevant information.” The updates will add to CBP website’s current resources, he said, which “outline the agency’s process, provide guidance to importers and contain information on effective due diligence to ensure goods are not sourced from Xinjiang.”

The agency is also planning to hold a “forced labor technical expo” this spring, Miller said. The event will bring together industry officials “to share an overview of their technology platforms and technical capabilities to other members of industry” related to UFLPA compliance. “All stakeholders have important roles to play in ending forced labor,” Miller said, “and we look forward to continued input and partnership.”

Miller’s remarks anticipated COAC [recommendations](#) adopted at the meeting that CBP issue a series of fact sheets on the agency’s forced labor enforcement processes, and adopt a process to receive and publish additional FAQs from the public. The COAC also recommended CBP provide more detail in its quarterly forced labor statistics and

revamp its webpage to clearly indicate when it updates its forced labor guidance.

Miller also spoke briefly about CBP’s customs broker modernization effort (see [ITT 10/17/2022](#)), saying the agency has been “conducting extensive outreach” with industry to make sure the changes are clear. Thomas West, Treasury’s deputy assistant secretary for tax policy, said the agencies are hoping those discussions result in “smooth implementation” of the rule, which takes effect later this month.

“I understand that there may be a few areas where brokers and other stakeholders have indicated that additional guidance could be useful,” West said. “I think that the COAC and the broker modernization working group continues to be well situated to provide feedback as implementation progresses there.” — *Ian Cohen*

Blumenauer Rejects Interim GSP Refund Proposal

While it’s not yet clear if Democrats and Republicans can agree on whether the Generalized System of Preferences benefits program and Miscellaneous Tariff Bill will advance this month, House Ways and Means Trade Subcommittee Chairman Earl Blumenauer, D-Ore., says he’s not for the proposal to offer a partial refund while importers wait for GSP renewal. The preferences program will have been expired for two years if it does not get renewed this month. He said, “We had a nice conversation with [U.S. Trade Representative] Katherine Tai this morning. We know [renewal] should happen, and we hope it does.”

Ways and Means Committee Chairman Richard Neal, D-Mass., said the two parties were trying to find a path forward. House Republicans say the Democrats’ insistence on linking GSP and MTB to a renewal of Trade Adjustment Assistance is the stumbling block. “I think that is something that the administration and others, myself included, are concerned [about], because it takes away the momentum to actually fix it. And I just think people ought to accept our bill, and pass it,” Neal said. — *Mara Lee*

California Ports to Phase Out Container Dwell Fee Program

The Los Angeles and Long Beach ports will end a program that could have eventually imposed surcharges on

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dwelling containers, the ports [announced](#) Dec. 16. The fee program was meant to incentivize the movement of dwelling containers (see [ITT 10/28/2021](#)), but the ports never implemented it and instead postponed it weekly (see [ITT 07/22/2022](#)) and later monthly (see [ITT 11/18/2022](#)) since it was first announced in October 2021 (see [ITT 07/29/2022](#)).

Since then, the ports said they have seen a combined 92% decline “in aging cargo” at the docks. “While the executive directors of both ports have had the authority from their respective harbor commissions to implement the fee, it was never activated because cargo owners were able to clear their long-dwelling cargo off terminals,” the ports said. The ports plan to officially end the fee program Jan. 24.

“I said when we launched this program that I hoped we would never collect a dime because that would mean that containers were moving off our docks. And that’s exactly what occurred,” said Gene Seroka, executive director for the Port of Los Angeles. “I’m grateful to the cargo owners and all our waterfront workers for all their successful efforts to improve the efficiency of our operations.” — *Ian Cohen*

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