# Compliance Guide: U.S. Seafood Import Monitoring Program

Revised January 2024

## INTRODUCTION

The Seafood Import Monitoring Program (SIMP) establishes reporting and recordkeeping requirements for imports of certain seafood products to deter illegal, unreported, and unregulated (IUU) fishing and/or misrepresented seafood from entering U.S. commerce.  This provides additional protections for our national economy, global food security, and the sustainability of our shared ocean resources.

As a global leader in sustainable fisheries and a major market for seafood commerce, the United States has a responsibility to combat illegal practices that undermine the sustainability of our shared ocean resources.  To that end, NOAA and its U.S. Government partner agencies are engaged in numerous efforts to engage internationally, enhance enforcement, strengthen partnerships, and establish seafood traceability.  On December 9, 2016, NOAA Fisheries published a regulation establishing SIMP.

SIMP requires additional data to be reported at the point of entry into U.S. commerce or retained by the importer of record for imported fish and fish products identified as priority species due to the risk for IUU fishing and seafood fraud activities.  Importers of record are identified to U.S. Customs and Border Protection (CBP) on each entry filing.  The U.S. importer of record is required to obtain an International Fisheries Trade Permit (IFTP) from NOAA Fisheries to report certain harvest information at the time of entry filing, and to keep records regarding the chain of custody of the fish or fish product from harvest to point of entry into the United States.

The purpose of this document is to provide an overview of SIMP requirements with responses to frequently asked questions.  This *Compliance Guide* does not offer any new interpretation of the SIMP regulation or speak to the potential enforcement actions that may result from noncompliance.

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## DEFINITION OF TERMS

ACE: The Automated Commercial Environment, managed by U.S. Customs and Border Protection, is the primary system through which the trade community electronically reports import data required by Federal agencies.

CBP: The U.S. Customs and Border Protection is the agency responsible for overseeing international trade. Importers' CBP Client Representative is a key resource and point of contact for support with Customs.

FAO: The United Nations Food and Agricultural Organization developed standardized codes for fishing areas and gear types. The fishing area and gear should be specified per the reporting convention and codes used by the competent authority exercising jurisdiction over the operation. If no such reporting requirements exist, the FAO fishing area and gear codes should be used.

HTS: Harmonized Tariff Schedule codes set tariff rates and categories for all imported goods into the United States. Products covered under SIMP are based on the HTS codes applicable to the thirteen species identified to be at-risk for IUU fishing and seafood fraud.

IFTP: The International Fisheries Trade Permit is required for the importation of any fish products regulated under SIMP for human consumption into U.S. commerce.

ITDS: The International Trade Data System is the U.S. government's single-window data portal for all import and export reporting. ITDS is part of ACE and where the harvest and landing information will be reported upon SIMP product entry.

## PROGRAM STATUS

In November 2023, NOAA Fisheries announced it is conducting a comprehensive review of SIMP to explore ways to enhance and strengthen its overall impact and effectiveness. During the program review, SIMP will operate as it has with the original thirteen species and species groups subject to program requirements. NOAA Fisheries remains available to support industry and the trade community on program compliance through the SIMP Support line (simpsupport@noaa.gov). For more information about the program review and the public webinars, please visit: *https://www.fisheries.noaa.gov/feature-story/noaa-fisheries-announces-comprehensive-review-its-seafood-import-monitoring-program.*

## PROGRAM REQUIREMENTS

### Which species are affected by the Seafood Import Monitoring Program?

Thirteen species and species groups were identified as particularly vulnerable to IUU fishing and/or seafood fraud and covered by SIMP:

| | | |
|---|---|---|
| Abalone | King Crab (red) | Shrimp |
| Atlantic Cod | Pacific Cod | Swordfish |
| Blue Crab (Atlantic) | Red Snapper (Northern) | Tunas: *Albacore, Bigeye,* |
| Dolphinfish (Mahi Mahi) | Sea Cucumber | *Bluefin, Skipjack, and* |
| Grouper | Sharks | *Yellowfin* |

Compliance for an initial eleven species and species groups went into effect January 1, 2018.  Compliance for shrimp and abalone, began December 31, 2018.

### Are all products containing these species included?

No.  The reporting and recordkeeping requirements are not applied to imports of certain highly processed fish products, in cases where these products cannot currently be traced back to one species of fish or a specific harvest event(s) or identified through product labeling.  The specific HTS codes for which the program applies are available online at: *https://www.fisheries.noaa.gov/resource/form/harmonized-tariff-codes-seafood-import-monitoring-program*

### What information is required to be reported at the point of entry into U.S. commerce and retained by the importer of record for imported fish and fish products?

The information to be reported and collected includes:

### Harvesting or Producing Entity
- Name and flag state of harvesting vessel(s)
- Evidence of authorization to fish/farm (farm permit, registration, or certification)
- Unique vessel identifier (when available)
- Type(s) of fishing gear

*Note:  The fishing area and type of fishing gear should be specified per the reporting convention and codes used by the competent authority exercising jurisdiction over the wild capture operation.  If no such reporting requirements exist, the FAO fishing area and gear codes should be used.*

### Harvest Event – What, When, and Where
- Species—FAO 3-Alpha Species Codes (Aquatic Sciences Fishery Information System - ASFIS)
- Landing or offloading, transshipment, or delivery date(s)
- Product form(s) at time of landing or offloading - including quantity and weight of product
- Area(s) of wild-capture or aquaculture harvest (farm address)
- Point(s) of first landing
- Name of entity(ies) to which the fish was landed or delivered

*Note:  In cases where the imported shipment consists of more than one harvest event, each event that is relevant to the shipment must be reported.  However, the importer does not need to link a particular fish or portion of the shipment to any one harvest event.*

**<u>Importer of Record - International Fisheries Trade Permit (IFTP) Holder</u>**

- Name, affiliation and contact information
- Valid International Fisheries Trade Permit number
- Importer of record is responsible for keeping records regarding the chain of custody detailed above.
- Information on any transshipment of product (declarations by harvesting/carrier vessels, bills of lading)
- Records on processing, re-processing, and commingling of product.

### Does SIMP apply to U.S. domestic seafood?

Existing U.S. domestic regulations require that catch and landing information for domestically caught seafood is reported to NOAA Fisheries.  SIMP applies only to seafood entering the United States from a foreign country including those products derived from domestic harvest and processed before re-entry into the United States (see below).

### Does SIMP apply to domestically harvested seafood that is subsequently sent to a foreign facility for processing and/or storage and later imported back into the United States?

Yes.  No exception for domestically caught seafood is made.  Fish or fish products initially harvested in the United States, but subsequently sent to a foreign country for processing, reprocessing, and/or storage prior to being sold in the United States are subject to reporting and recordkeeping requirements of SIMP for re-entry into the United States.

### Does SIMP apply to small shipments, such as samples?

Yes.  There is no *de minimis* or minimum threshold under SIMP.

### Are products imported for "personal use" covered under SIMP?

Informal entries or imports intended for personal use are regulated by CBP.  NOAA Fisheries encourages importers to contact CBP to ensure that their product falls under the agency's guidelines and regulations.  More information is available on the CBP website at:  *https://www.cbp.gov/trade/basic-import-export*

### Does SIMP require any labeling modifications?

No.  SIMP is <u>not</u> a labeling program.

### Would submitting the model catch certificates or model aggregated harvest reports be sufficient to meet SIMP requirements?

No.  The model catch certificates are example forms to illustrate the SIMP harvest and landing reporting and chain of custody data requirements.  NOAA Fisheries encourages importers to modify these forms to better reflect their supply chains.  Use of the model catch certificate forms is voluntary and not a replacement for chain of custody records.

For more information on recordkeeping requirements please refer to the *Guide to the Audit Requirement for SIMP* at:  *https://www.fisheries.noaa.gov/resource/document/guide-audit-requirements-seafood-import-monitoring-program*

**IMPORTER OF RECORD**

### How does NOAA Fisheries define who is an "importer of record"?

NOAA Fisheries defines an "importer of record" as the IFTP holder. The IFTP holder is responsible for collecting and maintaining harvest and landing information on products covered under SIMP and for providing chain of custody records in the event of an audit.

(Note: Customs and Border Protection defines an importer of record as the entity responsible for filing entry documents, paying any duties, and clearing imports through customs, or an authorized agent acting on their behalf.)

### How are products imported as Delivery Duty Paid (DDP) impacted by SIMP?

SIMP does not impact importer and exporter arrangements for DDP. Under SIMP, the IFTP holder is the entity responsible for data reporting and recordkeeping requirements and does not have to be the same as the importer of record for DDP purposes.

**INTERNATIONAL FISHERIES TRADE PERMIT**

### How do I obtain an International Fisheries Trade Permit?

NOAA Fisheries Permits System issues IFTPs online for $49. Permit holders must renew their IFTP annually. To apply or renew for an IFTP, visit: *https://fisheriespermits.noaa.gov/npspub/pub_cmn_login/index_live.jsp*.

The IFTP is required for the import, export, or re-export of fishery products subject to the following NOAA Fisheries trade monitoring programs and permits:

- Seafood Import Monitoring Program
- Tuna Tracking and Verification Program or NOAA 370 Program
- Highly Migratory Species International Trade Permit
- Antarctic Marine Living Resources dealer Permit

More information on IFTPs and the user guide that walks permit holders through the application process is available here: *https://www.fisheries.noaa.gov/permit/international-fisheries-trade-permit.*

### Who can obtain an IFTP?

Any business or individual with a U.S. address can obtain an IFTP. A U.S. address is needed as the IFTP holder will be the entity contacted in the event of an audit and responsible for SIMP data reporting requirements provided at the point of entry to U.S. commerce. IFTP holders do not need to be U.S. citizens.

A foreign importer that does not have a U.S. residence cannot obtain an IFTP. Those entities should work with an IFTP holder who is willing to bear the responsibility of data reporting and recordkeeping requirements under SIMP. For more information on IFTP issuance, visit: *https://www.federalregister.gov/d/2016-18401/p-265*

**DATA REPORTING**

**How will harvest and landing information be collected and reported?**
The collection of harvest and landing documentation for these priority seafood species is accomplished through ITDS, the U.S. government's single-window data portal for all import and export reporting (maintained by CBP). Import harvest and landing data will be submitted through ITDS "message sets" at the time of entry, while chain of custody records for the fish after landing is transferred through the supply chain and maintained by the importer of record. Importers of record are the U.S. entities taking responsibility for the import under U.S. Customs regulations and are required to hold an IFTP issued by NOAA Fisheries.

**Who can provide the harvest and landing information? What is the process for providing that information?**
The fishing vessel or farm owner can provide the harvest and landing data required by SIMP directly to the IFTP holder, or the data can be passed along the chain of custody with the product. For small- scale harvests, the first aggregator can collect and provide the information to entities further in the supply chains. NOAA Fisheries does not prescribe the process of business-to-business information transfer. The IFTP holder is responsible for ensuring data is entered electronically in the entry filing to CBP (either directly or indirectly through a customs broker) and maintaining chain of custody records for two years.

**Some products are already under existing regulatory reporting requirements for imports, how will they be impacted by the Seafood Import Monitoring Program?**
NOAA Fisheries has harmonized the reporting and recordkeeping requirements of the four trade monitoring programs under the IFTP as similar harvest, landing, and/or chain of custody information required under SIMP may also be required for the Tuna Tracking and Verification Program and/or Highly Migratory Species Trade Permit depending on the product. Implementation of the SIMP data requirements will not create redundant reporting and recordkeeping requirements for importers. The ITDS business rules are written to ensure that each data element is reported only once in a given case.

**Will the data reporting and filing requirements of this rule be a matter of public or consumer record?**
The information collected under this program is confidential. SIMP establishes a business-to-government reporting system to allow U.S. government agencies to confirm the legality of imported fish and fish products.

To address concerns about data confidentiality, data security is given the highest priority throughout this process. Information collected by ACE and maintained by CBP systems such as ITDS, is highly sensitive commercial, financial, and proprietary information, and is therefore generally exempt from requirements for public disclosure (for example, the Freedom of Information Act).

**Does the harvest and landing information need to be certified by a government agency?**
SIMP does not require attestation of the harvest and landing data or chain of custody records by a government agency. However, NOAA Fisheries must be able to independently verify harvest and landing information provided in the event of an audit.

**Will product from each and every harvest event need to be segregated through processing and shipment in order to be traced back from point of entry?**
No. The segregation of harvest events through the supply chain is not required. An imported shipment may consist of products from more than one harvest event. In such instances, an importer of record must provide information on each harvest event relevant to the contents of the product offered for entry, but does not need to specify which portions of the shipment came from particular harvest events.

**Does the full dataset need to be provided when an importer is not importing a SIMP species but is using an HTS code covered under the Program?**
Data reporting and recordkeeping requirements are only mandatory when entering a product that is covered by SIMP. If the importer is using a species code that is not specific, not elsewhere identified, and/or may be

inclusive of a SIMP species, the importer will be required to provide the full harvest and landing information at the time of entry filing.

For example, an importer of snapper (using one of the HTS codes covered by SIMP) who enters either the species code SNR (*Lutjanus campechanus*) or SNX (*Lutjanidae spp.*, not specific) will be prompted to enter the full SIMP message set. The full message set is required for SNX as it is nonspecific, and therefore the import could be *Lutjanus campechanus*.

If the snapper imported is not *Lutjanus campechanus*, the importer will need to identify what particular species it is (rather than the general SNX), and the full SIMP dataset will not be required.

**Does harvest information for aquaculture products need to be from the individual pond or farm?**
Harvest information from the farm or aquaculture production facility is sufficient to meet the requirements of SIMP as authorization occurs at the farm level, rather than for individual ponds within a farm.

**How are harvest weights reported for products that contain multiple harvest events?**
IFTP holders need to report the total harvest weight(s) that went into creating the final product. ACE does not limit the number of harvest events that can be reported for an individual product.

**If a harvester lands part of their catch to more than one buyer, what is documented for the Total Weight of Product at Landing/Harvest? Is it only the fish that the buyer purchases or the entire harvest?**
The total landed weight of the harvest is reported at entry filing. The weight is the volume (in pounds or kilograms) of the originally unloaded or delivered catch. NOAA Fisheries is aware that not all landed catch will be exported to the United States; however, the total catch volume is needed to verify that the harvest event was legal.

**Does NOAA Fisheries endorse or certify any documentation schemes or third-party software providers for SIMP?**
NOAA Fisheries does not endorse or promote any particular electronic or paper-based solution to harvest event reporting or chain of custody recordkeeping. The end result of the solution employed must allow the U.S. importer to report on the harvest event when making the electronic entry filing and, if audited by NOAA, to demonstrate chain of custody from harvest to import.

**RECORDKEEPING**

**What is the language of record for recordkeeping?**
The U.S. importer of record must be able to review and verify the accuracy of recordkeeping documents regardless of language. Translation of recordkeeping documents into English is not a requirement of SIMP but must be reviewed and understood by the U.S. importer of record.

**Will a foreign or U.S. catch certificate suffice for the chain of custody record?**
A catch certificate, whether foreign or domestic, would be one piece of the chain of custody records. Other records that must be retained include any time the product changes custody, such as processing and shipping.

**What weights are needed under the Seafood Import Monitoring Program reporting and recordkeeping requirements?**
Under SIMP, the weight reported is the harvest weight from when the product was first offloaded from the fishing vessel or at the aquaculture facility. Additionally, CBP requires a weight for all products entering U.S. commerce in ITDS (*e.g.*, the weight of the final product imported). Recordkeeping requirements entail processing records and information that explain changes in product weight.

**Why did the SIMP reporting requirements change for Northern Red Snapper?**
The National Defense Authorization Act (NDAA) of Fiscal Year (FY) 2023 (Section 11331(b)) directed NOAA Fisheries to prohibit aggregated harvest reports of Northern Red Snapper under SIMP regardless of vessel size, no later than one year after enactment. In response, NOAA Fisheries implemented such restrictions by limiting the use of the small-vessel accommodation for Northern Red Snapper (*Lutjanus campechanus*) when submitting the entry filing for SIMP in the CBP ACE. Please see the Implementation Guide for further technical details about NOAA Fisheries entry filing requirements available at: *https://www.cbp.gov/document/guidance/nmfs-pga-message-set-guidelines*.

**AUDITS**

**What will NOAA Fisheries look for during a SIMP audit?**
The purpose of a SIMP audit is to verify the legality of the harvest event, the harvest and landing information provided in an entry filing as well as the sufficiency of chain of custody records documenting the movement of fish and fish products from harvest to the point of entry into U.S. commerce. NOAA Fisheries will conduct random and targeted audits of seafood products under SIMP.

For more information, see the Guide to Audit Requirements for SIMP at: *https://www.fisheries.noaa.gov/resource/document/compliance-guide-seafood-import-monitoring-program*.

## SMALL-SCALE FISHERIES AND AQUACULTURE FACILITIES

### How will the data collection requirements be applied to small-scale fisheries?

SIMP exempts an importer from the requirement to individually identify small-scale vessels—or small scale aquaculture facilities—if the importer provides other required data elements based on an aggregated harvest report.  Aggregated harvest report is defined as a record that covers:

(1) harvests at a single collection point in a single calendar day from small-scale vessels (*i.e.*, twelve meters in length or less or 20 gross tons or less);
(2) landing by a vessel to which catches of small-scale vessels were made at sea; or deliveries made to a single collection point (processing facility, broker, or transport) on a single calendar day by aquaculture facilities that each deliver 1,000 kg or less in that day.

Please see the above information for SIMP entry filing changes, as the small-scale harvest accommodation is not applicable for Northern Red Snapper imports under the NDAA of FY2023.

### Do harvests that fall under the small-scale fishery exemption have to be reported as an aggregated harvest report record?

No.  The aggregated harvest report is an accommodation for small-scale fisheries.  IFTP holders may report the full SIMP data message set for smaller harvest events.

### Who creates the Aggregated Catch Certificate?

The Aggregated Catch Certificate can only be used for small-scale fisheries (defined as under 12 meters or less than 20 gross tons) and aquaculture operations (defined as daily production less than 1,000 kg per day).  An Aggregated Catch Certificate will be generated at the point of aggregation, such as by a shore-based operation, tender vessel, or the entity that owns the fish at the first off-loading.  For aquaculture products, the Aggregated Catch Certificate is generated at the point of the first collection, which could be a truck, cart, or processing plant.

NOAA Fisheries has developed a Model Aggregated Catch Certificate that can be voluntarily used to record the harvest from small-scale vessels or aquaculture operations.  The Model Aggregated Catch Certificate would record the number of deliveries or number of vessels contributing to the total aggregated harvest event, which will be used to provide an average weight per vessel/delivery.

Nothing precludes small vessels and small aquaculture operations from providing the same harvest and landing information that large vessels and aquaculture operations provide, including a catch document identifier, vessel name and number, fishing permit or license, facility license or authorization, and name and address of aquaculture facility.

## ADDITIONAL RESOURCES

### How will I know if my import is subject to other NOAA Fisheries trade monitoring programs?

Please see the NOAA Fisheries Seafood Import and Export Tool to help seafood traders easily identify our import and export monitoring requirements for their products, available at: *https://www.fisheries.noaa.gov/seafood-import-export-tool*.

### Who can I contact if I have further questions?

Information and additional resource materials about the final rule are posted to: *https://www.fisheries.noaa.gov/international/international-affairs/seafood-import-monitoring-program*.

For technical support and questions regarding compliance, please contact:  SIMPsupport@noaa.gov or 1-833-440-6599 (toll-free in U.S. and Canada).