



NOAA FISHERIES

Public Webinar: Commerce Trusted Trader Program

Date: May 04, 2016, 2:00 pm ET

Presenter: John Henderschedt, Director
Office of International Affairs and Seafood Inspection (NOAA Fisheries)

Facilitator: **NWX-DOC CONFERENCING**

Coordinator: Welcome and thank you for standing by. At this time all lines are in a listen only mode until the comment portion of today's call. At that time to provide a comment, you may do so by pressing star and then 1 on your touchtone phone. Today's call is being recorded. If you have any objections you may disconnect at this time. And I will now turn today's call over to Laurel Bryant. Ma'am, you may begin.

Laurel Bryant: Thanks a lot (Erin). And good afternoon or good morning wherever you happen to be for this phone call. Thanks for joining us today. Today is the first of three webinars that we'll be having on the Trusted Trader Program. Federal Register Notice requesting public input and comment was released last week. And this is the first of three.

With me in the room today that'll be walking you through some of the areas that we'd like to get comment on in terms of scope and elements is John Henderschedt, Director of International Affairs and Seafood Inspection, also Deputy Director Steven Wilson and Director Chris Rogers of International Fisheries.

And with that I would like to turn it over to John. I'll just remind folks that



following John's presentation we will go into comments and certainly we'll take questions but definitely seeking your input and comments. John.

John Henderschedt: Thank you Laurel and thanks all of you for joining this afternoon. As Laurel mentioned this is the first of three webinars to take comment on the Commerce Trusted Trader Program associated with the Seafood Import Monitoring Program.

So just in terms of an overview of the presentation, I'll give a brief background and context, discuss the scope and criteria for eligibility for the Commerce Trusted Trader Program, benefits and incentives, the program's relationship to other Trade Monitoring Programs, issues with respect to timing and implementation and then finally next steps.

So in terms of background as many of you know the Presidential Task Force on Combating IUU Fishing and Seafood Fraud includes recommendations 14 and 15 which directed task force to establish a risk-based traceability program to track seafood from the point of harvest to its entry in the U.S. commerce.

We've been through a process of identifying the priority species. We've – we are in the process of implementing operation of the International Trade Data System for NOAA. And the public comment on the proposed rulemaking for the Seafood Import Monitoring Program closed two weeks ago.

And so this brings us to the process of developing the Commerce Trusted Trader Program. Taking directly from the Action Plan, it states that the Secretary of Commerce will collaborate with the Secretary of Homeland Security and other agencies as relevant to assist in developing a voluntary



Commerce Trusted Trader Program for importers of these identified species. The program will provide benefits such as reduced targeting and inspections and enhance streamlined entry into U.S. Commerce for certified importers. And then finally the last step in addition to actually implementing these programs is evaluating an expansion of the Traceability Program.

So before we go further I just want to point out that in the action plan the language actually anticipates more of a process in which NOAA would at this time publish a – sort of a draft program for Trusted Trader which makes it highly – this differs highly from the approach taken with many of these other elements in which there was a comment and a scoping process that preceded the development of rulemaking, policy or in the case of the species at risk that list of species.

And so we believe that it is appropriate to take the time to do scoping. To take comments from interested stakeholders about what this program can – what it looks like, what benefits it can capture and what issues we should be paying attention to in its design.

So just wanted to note that it – this is a slight departure from what is described to the letter in the Action Plan. But I think very much in spirit with the way we've developed this program to date.

The first issue and I'm just going to be sort of walking through issues that we're seeking comment on as they appear in the request for comments.

And that first question is really just who is eligible to be a Trusted Trader and more importantly how might that be expanded?



So in the proposed rule for the Seafood Import Monitoring Program we have identified the importer of record, the holder of the International Fishery Trade Permit as the individual responsible for compliance with this rulemaking. And would therefore by logical extension be the individual or the entity that was eligible to be a Commerce Trusted Trader.

But we're looking to sort of test that theory. Ask you to comment on expansion of the eligibility of scope to possibly include entities like freight forwarders, foreign harvesters and foreign processors, foreign exporting companies, customs brokers or those who are acting on behalf of importers of record.

And entities with a role of securing supply chain that are not directly responsible for recordkeeping and the reporting and who may not be required to hold an International Fishery Trade Permit and other entities in the supply chain and import process that might benefit.

And finally, a question of which attributes of a supply chain should be covered in the scope of the program such as harvesting, landing, shipment, processing, storage, and import entry.

The next issue that we discuss in the Notice is developing criteria for evaluating and certifying permit holders.

So criteria considerations might include things like the applicant compliance record with other federal programs, the extent to which the permit holder has measures in place to verify the source and chain of custody of imported fish and fish products, the nature and complexity of the supply chains from which



the permit holder sources their imports, how much of each of the above criteria be weighted within the program when considering certification, the scope and process of verifying the certified permit holder's ongoing compliance with certification criteria and process and frequency by which certified Trusted Traders and other entities are evaluated for compliance with certification criteria.

So along with these I would note that while it should go without saying obviously our solution to these issues, our approach to developing this program must remain within the capacity of the Agency.

Some of these criteria, some of these levels of verification and certification could potentially be very taxing of NOAA Fisheries capacity.

And so in addition to the value of these criteria in the development of the program we'll of course be considering practicability with respect to NOAA's capacity.

The next grouping of questions is what the benefits and the incentives of a Commerce Trusted Trader Program? How do we reduce the burden of compliance for certified permit holders? How do we reduce targeting and inspections? How do we enhance streamlined entry, expedite the flow of trade and improve implementation and enforcement efficiency?

And it's worth noting that in designing the Seafood Monitoring Import Program to begin with we have attempted to minimize impact on the trade community with respect to the burden of compliance thereby limiting as well the elements that can be addressed in the development of the Trusted Trader



Program and the requirements of a member of that program.

We're also seeking input on how these benefits will incentivize participation in the Commerce Trusted Trader Program while ensuring the continued effectiveness of the Seafood Import Monitoring Program. So how do we balance the tradeoffs of eliminating or modifying aspects of the program for trusted traders while ensuring that we are meeting the goal and achieving the mission of the Seafood Import Monitoring Program?

What is the relationship to other Trade Monitoring Programs? NOAA administers for instance several other Trade Monitoring Programs including the Highly Migratory Species Catch Documentation Program and the Antarctic Marine Living and Marine Resources Import/Export Certification Program.

We're seeking input on the extent to which these programs can and should be included on the potential coordination of these programs as a means to expedite the entry of fish products, reducing overall regulatory burden and improve efficiency of implementation and enforcement.

How coordination or integration with other federal Trusted Trader Programs will incentivize participation in the Commerce Trusted Trader Program?

And a special note is the fact that the Tuna Tracking and Verification Program which by its reporting requirements are very similar to the Seafood Import Monitoring Program will not be included in the Trusted Trader Program. The Tuna Tracking and Verification Program already has specific criteria associated with recordkeeping and reporting requirements. And those will not



be modified through the implementation of a Commerce Trusted Trader Program.

NMFS will make its best effort to implement the Seafood Import Monitoring Program and the associated Commerce Trusted Trader Program simultaneously. Among other factors this could be affected by the timing of the implementation of the Seafood Import Monitoring Program final rule.

And to be clear, in this case I'm not referring to the timing of its publication but the times that the Agency allows for implementation. In other words how much time do we allow the trade community to establish the infrastructure required to comply could be affected by the completion of the structure and elements of the Commerce Trusted Trader Program itself. It could be impacted by the timeframe for completion of the Commerce Trusted Trader Program business rules in the International Trade Data System.

So we are seeking input on potential impacts and benefits of implementing the program following the implementation of the Seafood Import Monitoring Program and recommendations for design and implementation of the program regarding measures that can be taken to minimize the cost and burden of those impacts and to capture the available benefits.

So by asking for these comments we're addressing upfront the possibility or the uncertainty with respect to the implementation timing of the Trusted Trader Program acknowledging the importance and the expectation that we should have that up and running simultaneously with the Import Monitoring Program.



And so your comments on how to mitigate those impacts would be much appreciated.

So finally just information on how to comment, of course you are welcome to comment following my presentation. But with respect to written comment please go to www.regulations.gov and enter ID NOAA-NMFS-2014-0090-0341. I also just recently did a search on [regulations.gov](http://www.regulations.gov) with “Trusted Trader.” And this same notice came up at the top of the list so take your pick. The comment period is for 60 days which means that it will end on June 28, 2016.

Further information with respect to all of the work being done under the Offices of the Task Force on IUU Fishing and Seafood Fraud you can find at the National Ocean Council Committee web portal at www.iuufishing.noaa.gov and that’s what that web page looks like.

So thank you very much for your attention. We now welcome your comments and if you have clarifying questions with respect to our comment request.

Laurel Bryant: (Erin). Thank you, John. And (Erin) this is Laurel again. Before you remind folks how to get in the queue I just want to tell folks please be mindful to go through the audio with the Operator and to make your comments there. We are not able to use the WebEx portion. I realize that there is a Comment box there. But we do want to capture your comments as part of the public record. And so please use the Operator and get in the queue to make any comments or ask any questions.

(Erin) with that if you could give folks a reminder on how to get in the queue



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that would be terrific.

Coordinator: Absolutely. If you would like to provide a comment or ask a question via the audio please press star and then 1 on your touchtone phone. And record your name. And your name and affiliation is required in order to introduce you so again that's star and then 1 on your touchtone phone. And it will take just a few moments for any comments to queue up.

Laurel Bryant: I don't believe we have any jokes or entertainment at this end to keep this – there's no music. I should think of that as an option for next time.

John Henderschedt: I also would like to acknowledge that it is administratively efficient for us to include the dates of the webinars in the notice itself.

And just to want to acknowledge the fact that this is – this date is – was I think within the week of when the notice was published. That is due to the fact that it from time to time takes longer to get things done and published in the Federal Register than we would hope.

But that we do have two more sessions scheduled so that if you don't feel prepared to offer comments at this point, you're more than welcome to join later and offer them at one of the other two webinars.

Coordinator: And I currently show no one in queue at this time.

Laurel Bryant: You want to give it just another minute, absolutely.

Coordinator: Again if you would like to provide a comment or a question please press star



and then 1 on your touchtone phone.

Laurel Bryant: Also folks, while we're waiting to see if anybody wants to get in the queue, this presentation is also posted onto the web portal. They're quiet today.

Coordinator: One moment. Our first question comes from Ben Freitas from World Wildlife Fund. Your line is open.

Ben Freitas: Hi. Thanks John. We just had a clarifying question on the relationship to other federal import programs and wondering if you could clarify the reason why the Tuna Tracking Verification Program isn't included or would not be included as part of this.

John Henderschedt: Sure. There are requirements for – so first of all, for those who may not be familiar with the Tuna Tracking and Verification Program it is basically the program by which we administer the Dolphin Safe provisions of the Dolphin Protection Consumer Information Act.

And there are requirements associated with that reporting that are beyond the scope of the Seafood Import Monitoring Program.

And we do not believe that we can through this program under – that is promulgated under the Magnuson-Stevens Act that we can eliminate or list any of those requirements under the regulations implementing that statute through the Trusted Trader Program.

Laurel Bryant: Did that answer your question Ben?



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Ben Freitas: Yes, thank you. Thanks. I think there was one other question we had on the timing and implementation related to business rules and...

John Henderschedt: Okay so what – your question is what is meant by the business rules?

Ben Freitas: Yes.

John Henderschedt: So again we're simply trying to be very transparent here about what potential hurdles we envision in implementing the Trusted Trader Program.

And as you may know the International Trade Data System is in a implementation mode right now. Part of that operational mode means that it is essentially in lockdown. We are not in a position to add data elements or additional functionality for NOAA's requirements at this time.

That of course will change once the system is up and running. However there will be a process for getting approval for changes for supporting the cost of those changes financially.

And since that system is still in development we simply want to acknowledge the fact that since it will likely require new business rules those would be essentially if then programming in ITDS that would recognize for instance an International Trade Fishery Permit as a Trusted Trader those sorts of business rules within the International Trade Data System.

We have sort of an uncertain timeline for modifying those things at this point. And so that's why we're identifying that as a potential issue with respect to timing.



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Ben Freitas: Thanks.

Laurel Bryant: Thanks Ben.

Coordinator: Our next comment comes from (Adriana) from Sea Delight. Your line is open.

(Adriana): Hi. I'm a little unprepared for this but I just had a question. When you mean like importer of record would that be like Sea Delight, the company itself or would it be sort of we use a broker to do all of our customs and our paperwork and I do all the tuna certificates? Would they be the ones doing the Trusted Trader Program or is it Sea Delight would have to register, like how does that work?

John Henderschedt: Good afternoon (Adriana) and thanks for your question. I'm going to ask Chris Rogers to answer your question.

Chris Rogers: Okay. Thanks John and thanks (Adriana) for that question. We do realize that the seafood trade, any trade is complex in terms of the individuals, the entities that may be involved from freight forwarders to fish dealers to importers, customs brokers, everybody has that distinct role to play. Some entities are I guess you could say vertically integrated, a one stop shop. They can do all the logistics and customs clearance. In other cases there's a handoff.

And recognizing that different entities may physically possess a fish shipment as opposed to actually owning or have a financial interest in that fish shipment from time to time for the Seafood Import Monitoring Program and for our other trade monitoring programs for example tuna fish or Bluefin tuna we had



to identify a particular entity to which the permitting requirement would apply and to which the reporting requirement would apply and to which the recordkeeping requirement would apply.

And making an entry as you're probably familiar, there is a requirement by customers and border protection to identify an importer of record. And we have linked the permitting requirement and therefore the reporting and record keeper requirements to that entity so identified.

Now that entity may not be a person who has ownership or physical possession at any point in the supply chain. But to the extent that they are identified and it is required by customs to identify that entity, it was a convenient link for us to have enforceable regulations.

So whoever is identified as the importer of record again would be required to have the International Fisheries Trade Permit and the reporting and recordkeeping requirements would be enforced against that individual.

That said often an importer of record makes use of a customs broker to file the entry on their behalf. And obviously in most cases may use a freight forwarder to take possession and move the fish shipment from one point to another either within the country or internationally.

So it is a question that we're asking with respect to the Trusted Trader. Are we keying only on the importer of record and that International Fisheries Trade Permit holder as somebody eligible and who could benefit from participation in a Trusted Trader Program or are there other entities in the supply chain for which if we did have information about how they participate in that supply



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chain, how they secure that supply chain to prevent the infiltration of illegal fishery products, illegally harvested fishery products, can that add to the Trusted Trader concept, the Trusted Trader Program.

Hopefully that answers the question. If not, you can ask again and maybe I'll – I can help.

Laurel Bryant: (Adriana) was that helpful?

(Adriana): Not really. It was very confusing. So basically I have to ask, you know, who's the importer of record and then make sure, you know, deal with my customs broker to figure that out and then from there I'll know if I have to do it or they have to do it so essentially whoever is importer of record needs to do this.

John Henderschedt: So (Adriana) so I think it's really important if you have not looked at the proposed rule for the Seafood Import Monitoring Program that that's the first step. So that... (unintelligible).

((Crosstalk))

(Adriana): The IUU proposal for the President – IUU one?

Laurel Bryant: Correct.

((Crosstalk))

(Adriana): Yes. I've looked at that one extensively.



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John Henderschedt: Okay.

(Adriana): So then I just found this one in my mailbox like yesterday. And then that's why I'm sort of on this webinar because I've never heard of it.

John Henderschedt: So to be...

(Adriana): I mean not I've never heard of it. I wasn't sure of – I don't know.

John Henderschedt: So.

(Adriana): I'm trying to get a clear picture of what this means for us, you know, as we work towards being compliant I guess.

John Henderschedt: So this process right now is simply gathering comments. So there are no clear requirements and it is very likely that participation in this – in the Trusted Trader Program would be entirely voluntary.

But there will be future communications from NOAA with respect to the specific program details, process for application, etcetera. We are just at this point seeking your comments. We cannot answer questions of detail because the program is yet to be developed.

Laurel Bryant: So (Adriana) we're really looking for some of your thoughts on this (unintelligible)...

(Adriana): Okay.



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Laurel Bryant: ...of who should be included.

(Adriana): Okay. All right thank you.

Chris Rogers: So (Adriana) this is Chris. I'm sorry I was confusing. It is a lot of information that I was putting out very quickly.

But it sounds like you do use a customs broker to file entries for your company. So would that customs broker typically identify your company Sea Delight as the importer of record or maybe another party as an ultimate consignee of the products?

So again the purpose...

(Adriana): Well.

Chris Rogers: Yes.

(Adriana): No. Like I think, you know, we are the importer of record. But they do all of the filing and all the information from us – for us.

Chris Rogers: Right.

(Adriana): So it's sort of navigating this kind of who's going to be responsible for all those data collections especially once the proposed ruling becomes in effect.

And now I'm trying to get a grasp of what this Trusted Trader Program is because I focused so much on the other IUU proposed ruling that I haven't



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even thought about this piece.

But, you know, like you guys said it's just for comment so I just need to really look at it more carefully and then have a better understanding and then maybe make comments and ask questions that you guys will be able to answer in a later time.

John Henderschedt: Thank you very much (Adriana).

Chris Rogers: Okay.

Coordinator: And I'm currently showing no comments in queue at this time.

Laurel Bryant: Let's give it another minute and see if somebody (unintelligible).

Coordinator: Absolutely. As a reminder if you would like to make a comment please press star and then 1 on your touchtone phone.

Laurel Bryant: Yes. And again so to make certain that you're not using inadvertently the web window to answer questions although I don't see anybody in that so I think we're good.

Coordinator: And I am still showing no questions or comments in the queue at this time.

Laurel Bryant: So at this point unless somebody jumps on I think we're going to go ahead and wrap this up.



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I would remind folks that our next webinar I believe it's on May 10th which will be next week. I think it's the same bat time, same bat channel. We've tried to make everything pretty easy in terms of the participant code and the numbers.

I will note that the one on June 6th is a half an hour later. But I don't think that will be too difficult for folks' timing.

I want to thank everybody for joining us.

John, did you have any closing remarks?

John Henderschedt: Just thank you again for your attention, for your comments today and for your further consideration and comments.

Laurel Bryant: We really are looking for your guidance and your input and some of those thoughtful questions that came through today on kind of where we are. So we look forward to hearing more from you.

John Henderschedt: Have a great afternoon.

Laurel Bryant: Thank you everybody.

Coordinator: This does conclude today's conference call. We thank you for your participation and you may disconnect at this time.

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