



Public Webinar: Final Rule to Implement a Seafood Import Monitoring Program

Presenter: Christopher Rogers, Assistant Director, NOAA Fisheries' Office of International Affairs and Seafood Inspection

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Coordinator: Welcome and thank you for standing by. At this time, all participants are on a listen-only mode. During the question and answer session of today's call, you may press Star followed by 1 to ask a question. Today's conference is being recorded. If you have any objections, you may disconnect at this time. And now I'll turn the call over to Kerry Turner. You may begin.

Kerry Turner: Hello, everyone. Thank you for joining us. My name is Kerry Turner. I'm a Communications Specialist here with NOAA Fisheries Office and International Affairs and Seafood Inspection. Thank you for joining us for a webinar presentation on the final rule on the U.S. Seafood Traceability Program.

I'm joined today by Chris Rogers, who is the Assistant Director for the International Fisheries Division of NOAA Fisheries Office of International Affairs and Seafood Inspection. Just a few reminders before we begin. We have both audio and the web portion online.

If at any time that you're unable to see the web portion, you may visit us at iuufishing.noaa.gov and that is where you'll find a PDF not only of this presentation that's going to be seen, but also a transcript and recording of today's webinar and all the previous webinars that we've done on the Seafood Import Monitoring Program.

After Chris gives his presentation, we'll have a really robust question and answer session for you that you can submit your questions via the conference line or via the WebEx. And we'll give instructions on that after Chris' presentation, okay? Thank you and Chris.

Chris Rogers: Thank you. Good morning all who are in this time zone on the East coast afternoon or evening, depending on where you may be. Thanks for dialing in. So, this is a presentation about the U.S. Seafood Import Monitoring Program. The final rule was released in December 2016.

It establishes a program for reporting and record keeping for imports of certain seafood products to the U.S. market. The intent of the program is to prevent illegal, unreported, regulated caught fish, fish products, or fraudulent products, misrepresented seafood from entering U.S. commerce. This will support global efforts towards combatting IUU fishing.

The program was initially - or initiated, I should say by a presidential memorandum in June 2014 establishing a task force to combat IUU fishing and seafood fraud. The



task force was convened with the mission to provide recommendations for a comprehensive framework to combat IUU fishing and seafood fraud.

The task force was co-chaired by NOAA, the National Oceanic and Atmospheric Administration within the Department of Commerce and the State Department. The task force included senior level representatives from ten federal agencies and five executive offices of the President.

After the recommendations were released, the effort combatting IUU fishing and seafood fraud was transitioned to a standing committee of the National Ocean Council within the Executive Office of the President. And that committee of the National Ocean Council will continue with implementation and oversight of the program.

The task force produced 15 recommendations. Recommendations 14 and 15 were with respect to a risk based traceability program to track seafood from the point of harvest to entry into the U.S. commerce. So, that's the focus of today's presentation, the rulemaking to establish a program under recommendations of 14 and 15 of that task force action plan.

We've had a process of public engagement from the beginning, including federal register notice, public meetings and démarches to exporting nations, nations that export seafood to the U.S. All of that information is available not only on the portal that Kerry mentioned, iuufishing.noaa.gov, but also through the regulatory process, our (U.S.E.) rule making portal, regulations.gov.

You can see the proposal, final rule, comments received on the proposed rule and also the supporting documents all posted at regulations.gov. In March of 2015, the action plan for implementation of the task force recommendations was released. As I said, recommendations 14 and 15 concerned a risk based traceability program.

Working on that or towards that end, we did release the proposed rule in February of 2016. And that focused on a seafood import monitoring program. We had a lengthy public comment period, received a number of comments. And then, in responding to those comments have issued a final rule that came out and was published in the federal register in December of 2016.

Just to review, what the actual Recommendations 14 and 15 required within six months specifying with input from U.S. industry and other stakeholders the type of information and operational standards needed for seafood traceability. Then, within 18 months implement the first phase of a risk based traceability program to track seafood from the point of harvest to entry into U.S. commerce.

This recommendation and its implementation - or these two recommendations with respect to a seafood traceability program were focused at large all seafood entering U.S. commerce.

So, first we looked at domestically produced seafood entering into commerce and what were we currently collecting at the state and federal level with respect to fishing authorizations, fishing licenses, permits, dealer reports, processor receipts, those types of documentation both in the reporting to the government whether they be state



or federal authorities or even joint or cooperative programs that we have sharing responsibilities amongst state and federal authorities.

We determined that we do have a traceability program in place on the basis of those existing programs for domestically produced seafood. Therefore, the rule making effort was focused at entry into commerce for imported seafood. The U.S. does import about 90% of the seafood consumed on an annual basis in the current marketplace.

So, the steps for issuing the rule according to our normal rule making procedure is to solicit comment from the public and then develop a proposal, request comment on the proposal, respond to those comments, and then issue a final rule. So, our process included the establishment or basis for identifying priority species.

In other words, the first phase was supposed to be risk based or was intended to be risk based and would focus on those species, those seafood commodities that were at highest risk of illegal fishing or seafood fraud. So, the first request for information comment from the public was with regard to the principles we would use for identifying those priority species.

Based on the input, we applied some principles, issued a draft list of priority species, again sought additional comment, and a final list of priority species, which would be the focus of the initial phase of the program. We also solicited comment through the federal register on minimum standards and necessary data for a seafood traceability program.

We solicited comment and stated our intention to make use of the International Trade Data System to support this effort. The International Trade Data System is a U.S. government wide system. It has been developed, deployed by U.S. Customs and Border Protection as an electronic single window for collecting information on both imports and exports.

So, all the trade community will report under this program through the International Trade Data System. Recommendation 10 of the task force had an intersection of the work here under Recommendations 14 and 15. Recommendation 10 was to look at species names and codes, trade names for species, how they were identified, how they were represented in trade as well as coding schemes, in particular the harmonized tariff schedule.

And those who were working on Recommendation 10 looked at the existing mixed norms for species names and codes and made recommendations on changes that could help discern the actual species of each commodity in a shipment as well as how they were marketed in the hopes of reducing misrepresentation of seafood and proper identification. We considered information sharing across government agencies.

We did recognize that we do have in the U.S. several different agencies with jurisdiction over several different aspects of seafood production and trade. For example, Food and Drug Administration has a mandate for food safety. The focus of NOAA would be for lawful acquisition of the seafood.



Yet we both need to collect information about the origin and chain of custody of those seafood products in order to fulfill our missions. So, we looked at ways of sharing information also with the State Department and the U.S. Department of Agriculture, so we could avoid a duplication of effort.

We also looked at a commerce trusted trader program that was part of the Recommendations 14 and 15 to look at ways of reducing the burden on the trade with respect to reporting and record keeping and how we could set up a trusted trader program in order to assure ourselves that we would be effectively implementing the seafood traceability program, but reducing the burden appropriately for those who could achieve a trusted trader status.

So, we sought comment on the criteria for granting trusted trader status and how a program would work to afford some benefits to those who are trusted traders. We also looked at the process for evaluation and expansion of the program in the future. Recommendations 14 and 15 did refer to a seafood traceability program that would apply to all seafood entering into U.S. commerce.

But the idea was to have a risk based initial phase that we would work on those priority species and gain some expertise, work with trade to make sure we had an efficient program before we evaluated that program for expansion to include additional species. So, we went through our rule-making process as I indicated through that timeline.

The final rule was published in December 2016. It establishes a permitting program for U.S. importers of record, data reporting by those importers and for the record keeping of those certain products that we identified as the priority species.

The data that we will collect at the point of entry into U.S. Commerce, the import or what we call the entry filing, will include information on the harvest event and the harvest entity and will allow us to trace back to a certain point and verify with the competent authority in that jurisdiction that the products were lawfully harvested or produced.

The method of collecting the information will, as I said, be through the International Trade Data System as part of the entry file. So, the particular species or priority species that we have included in the initial phase of the priority program, we have identified the harmonized tariff schedule codes associated with those products.

And those products will be flagged in the customs system, the International Trade Data System as requiring additional information in order to make an entry. The information that we will collect is confidential. It is at the firm level.

In other words, it is information about the harvesting entities and what they produced as well as the importing entities on the U.S. side and what their businesses are doing with respect to importing volume and value. So, therefore, this is considered confidential business information. It is not available to the public, unless it is in aggregate form.

In other words, we can aggregate data and report on trends and general experience of the program. In other words, things like the number of entries for which information



was reported, the number of entries for which an audit was performed, the volume and value related to the species entries subject to the program, those sorts of aggregated statistics can be released.

But the information itself is protected as confidential business information under both the Trade Secrets Act as well as the Magnuson-Stevens Fisheries Conservation and Management Act. Apart from reporting at the time of entry through ITDS, the importer of record on the U.S. side will be required to keep records regarding the chain of custody of fish or fish product from the point of harvest into the U.S. market.

This is - we're taking a flexible approach. We're not prescriptive about what those records must be. Basically, the records must be able to support an audit from the point of entry into commerce when the goods are released from U.S. Customs into the U.S. marketplace back to the harvest event that was reported by the importer.

So, these records can include landings, tickets, processor receipts, invoices, manifests, any manner of documents that are currently used in trade to support a chain of custody audit.

In addition, if a particular supply chain is making use of any third party systems, whether they be certification schemes or regional fishery management organization catch documentation schemes or government programs, they can also be used to support the chain of custody audit.

So, we are not prescriptive in what these chain of custody records must be, but be mindful that they should demonstrate, be able to demonstrate the connection between the goods entered into the U.S. and the harvest event that was reported.

Again, the purpose of making that link is so that we can identify clearly the competent authority that would have jurisdiction over that harvest in order to work with the competent authority to determine that the products of the harvest were produced lawfully in that jurisdiction. This also applies to reimported product.

I said at the beginning we had examined traceability with respect to U.S. produced seafood whether harvested from wild catcher fisheries or produced via aquaculture, and we determined that record keeping and reporting mechanisms existed, that we did not to duplicate. So, the rule, again, focused on imported product.

However, for those products produced in the U.S. and exported abroad for cold storage or processing, reprocessing, and then reimported into the United States, this rule would apply. So, products reimported would have to demonstrate that they were originally of U.S. origin. So, that harvest event would point back to the U.S. and we would be able to corroborate that through our U.S. record keeping systems.

So, just some details on the information that would be collected at the point of entry to U.S. commerce, information about the fish, what went where, species of fish, harvest dates, product forms, area of wild capture or aquaculture harvest, point of landing, the name of the entity to which the fish was landed or delivered.

So, again, this can be handled in the local area of jurisdiction in terms of whatever catch documentation system or catch record system exists. RFMO, the Regional



Fishery Management Organizations for certain products to have catch documentation forms. They can be used. EU has a program to document harvest of fish and certification that it was not illegally harvested.

Those EU documents can be used, if the fishery is engaged in supplying the EU market as well. And we did release what we called a model form. In other words, the form does not have to be used, but if there is no other existing mechanism in the area of jurisdiction for that harvest event, that model form could be used on the part of the private sector trade in order to record the information and transmit it through the supply chain.

So, again, the model form is not required, but can be used as a guide, if no other systems exist. And there's no requirement that it be on paper either. There could be electronic scheme in place and in some cases a supply chain.

In order to secure a supply chain and have information about it all the way from the producer to the U.S. retailer, we'll contract with information technology companies and set up a supply chain record keeping system. So, certainly, that could be used as well.

As I said the rule itself focuses on the U.S. importer of record as the responsibility entity, so that importer of record must identify themselves. They must obtain a permit from NOAA Fisheries and that permit number must be reported during the entry process.

So, again, I indicated that the Harmonized Tariff Schedule will be used in the International Trade Data System to identify those import commodities that are subject to this rule making or this program and the system will then look for additional information about the importer of record and the harvest event when processing that entry filing.

So, the importer of record responsible, again, for getting a permit and for recording the information about the harvest to the International Trade Data System in order to have the entry processed and the goods released at port.

The importer of record is also responsible for maintaining those records - the chain of custody. Basically, the records to support a trace-back if that entry is selected for audit from the harvest event all the way to the U.S. import.

And again, that is to facilitate a dialogue we would have with the competent authority in the area of jurisdiction to confirm that the harvest event that was reported was legitimate and under rules and regulations that pertain in that area of jurisdiction.

Some information also about the harvesting or producing entity, its name/date of the harvesting vessel, evidence of authorization for that vessel to fish and in many jurisdictions a license or permit number are issued to the vessels.

If the vessel does have a unique identifier, the identification information about the vessel, the type of fishing gear used and if it's an aquaculture-produced commodity, the name of the farm or aquaculture facility.



Now I mentioned the system will be flagged for certain Harmonized Tariff Schedule codes in the system. The priority species that were identified for the initial phase of this program are listed here and we have associated this list with the tariff codes that would be flagged within the system as requiring this additional information in order to process the entry.

You will note in this box where it says 13 priority species there is an asterisk in front of abalone and shrimp. This is because when we did our analysis evaluation of domestic reporting programs for the wild catcher we did determine that we have existing systems in place for full-scale traceability to entry into commerce, from harvest to entry into commerce for U.S.-produced commodities.

However, there is in the U.S. some aquaculture of shrimp and abalone products for which we had less complete information. Again, shared jurisdiction between our sales fisheries, Food and Drug Administration, U.S. Department of Agriculture, so we needed to do some more work to close those gaps in order to have a domestic traceability program for shrimp and abalone products produced in the U.S. in aquaculture operations.

So, consequently, rather than have a disparate treatment with importer products of those species, we are delaying implementation for shrimp and abalone. We will publish a federal register notice in the future when we have closed those gaps in domestic reporting and recordkeeping and announce a date when the program will be expanded to include shrimp and abalone.

In response to the proposal, as I said, we received a large number of comments. Those comments are all posted under regulations.gov for the docket for this rule making. So, you can see the comments that we received and the responses to those comments are in the preamble to the final rule that is also posted in that docket at regulations.gov. There are also links to that docket from the portal iuufishing.noaa.gov.

But in response to comments on the proposed rule we did have a lot of concern expressed with respect to small-scale operators and some fisheries abroad and the need to assemble information from a large number of small-scale operators to address the need to identify the harvest event for a consolidated shipment.

So, in order to reduce the burden there, we did allow for a simplified reporting for small-scale operators, basically small vessels or small aquaculture facilities that can be consolidated.

So, the receiver of the fish, a fish dealer, fish collector, a consolidator at the ports, at the beaches or operator visiting an aquaculture facilities for small-scale operators can consolidate records and have one simplified harvest event report that would then be carried through the supply chain.

The timing was also a big issue for which we've received a lot of comments. Timing implementation for those who were familiar and following the action plan, the action plan did have an ambitious schedule for this program. Recommendation 14-15 did indicate a final rule would be published in August of 2016, and that it would become



effective in September of 2016, and in December of 2016 the program - the initial first-phase program would be evaluated for expansion to additional species.

We received a lot of comments that such a schedule was overly ambitious, would not provide ample time for the trade to invest in the necessary information, infrastructure, and programs in order to comply fully with the rule and its requirement.

Therefore, we have delayed implementation. The rule itself will become effective January 1, 2018. That is the mandatory compliance date so that's the date upon which the system, the International Trade Data System, will be activated to collect information for the products of the priority species for which we have flagged those Harmonized Tariff Schedule codes.

So, although that does provide ample time for the trade community to invest in the mechanisms they need to comply with the rules. It's important to note that those efforts must and can start immediately and continue through January 1, 2018. That's because any imports after that date will be checked and screened for that harvest event information, for the U.S. importer information, for the harvesting entity information.

So, any goods produced, any seafood products produced now that either through cold storage or processing or the shipping supply chain may be entered after - into the U.S. market place after January 1, 2018 will be it will be necessary to comply with those reporting requirements so advanced preparation is certainly required.

As I noted, the effective date for shrimp and abalone products, wild capture and agriculture raised, will be stayed until we have addressed our domestic recordkeeping and reporting requirements.

We will make an announcement of such a compliance date and certainly we will be mindful of the necessary advance notice similar to what we've done for the other priority species, have sufficient advance notice in order for the trade community to come into compliance before we establish the business rules in the International Trade Data System to apply to shrimp and abalone products as well.

So, the next steps. As I said, the final rule was published in December 2016 and the responses to comments were posted. You can see the changes to the final rule that we made.

We are currently engaged in an outreach program doing a number of these stakeholder webinars seeking to gain an audience both with U.S. importers as well as exporters to the U.S. market to make sure that folks understand the requirements that require cooperation throughout the supply chain.

So even though the rule itself is focused on U.S. importers, the U.S. importers will have to be permitted, the U.S. importers will have to report, the U.S. importers will have to keep records. Those U.S. importers obviously are dependent on the exporters and suppliers from abroad in order to assemble and keep that information.



We will have a presence up at the Seafood Expo North America in March and we will continue to update with fact sheets, compliance guides, frequently asked questions on the IUU Task Force web portal.

We are currently working with Customs and Border Protection to effect changes for International Trade Data System message set requirements and the business rules.

The business rules will be once a commodity is flagged in the entry process based on the tariff code what particular data elements are necessary in order for that entry to be processed and released. So, those will be the business rules.

We will publish a proposed rule. Our target date is March of this year with respect to the Commerce Trusted Trader Program. Exactly what the criteria would be for acceptance into the Trusted Trader Program and what the benefits would accrue to those who are Trusted Traders with respect to potentially reduced burden on reporting and recordkeeping.

So, look for that Commerce Trusted Trader Program in the federal register. We will certainly advertise it and have some public hearings on that before we go final on that program.

And then eventually once we gather some information about the program - it applies to the priority species in its initial implementation - we will look and evaluate the program towards expansion to all species eventually as was the intent of the recommendation of the task force.

All information as I said is posted on various websites. The best portal for all information not only about this rule and this program but also about the Task Force Action Plan and its recommendations in general is at www.iuufishing.noaa.gov.

Also, our international affairs website here within the Fishery Service for questions related to the program and the requirements and general nature you can send me an email christopher.rogers@noaa.gov.

For particular questions, technical questions regarding the use of the International Trade Data System you may contact Dale Jones of our Office of Science and Technology. Dale can help and respond to questions particularly that may be raised by customs brokers and software developers with respect to how to format the message set about the harvest event, data elements and get those into a form that can be accepted by the International Trade Data System.

Here's a look at that portal, iuufishing.noaa.gov. Again, this is a portal for the Task Force and the NOC Committee, the National Ocean Council Committee at large and all of the recommendations from the task force. What's happening with respect to their implementation and particularly the Recommendations 14 and 15.

You can see that over in the bottom on the right, the U.S. Seafood Import Monitoring Program. So, with that I'll turn it back to Kerry and we can remind you of how to pose a question.



Kerry Turner: Thank you very much, Chris. As you can see on the screen the website www.iuufishing.noaa.gov, as Chris mentioned. It hosts some materials in reference to this rule and also the Action Plan from the IUU Task Force.

We will also post materials in reference to these webinars, not only PDFs for the presentations, but also transcripts we recorded from the webinars that we've hosted.

We'll now be entering the question and answer portion of this presentation and you can ask a question through the audio line and/or the WebEx portion. (Shirley), would you tell the participants how to submit a question please?

Coordinator: Yes, thank you. We will now begin the question and answer session. If you would like to ask a question, please press Star followed by 1. You will be prompted to record your name. To withdraw your request, you may press Star followed by 2. And again, just press Star followed by 1 to ask a question. And one moment please for our first question.

At this time, I'm showing no questions. Again, if you'd like to ask a question on the phone lines just press Star followed by 1. We do have a question coming in, one moment please. We have a question from David McCarren. Your line is open, go ahead with your question.

David McCarren: Thank you. Good morning Chris.

Chris Rogers: Good morning.

David McCarren: I posted a couple of questions to the WebEx question line. The first one on the subject of confidentiality. Have the ASIS ITDS folks considered having some sort of a serial import declaration number that can be accessible by parties not directly engaged in the transaction but simply to offer a true/false verification that yes, in fact this product has been certified for import on such and such a date by the U.S. Customs and Border Patrol?

Chris Rogers: All right, there is an entry number assigned to each entry filing and that would be associated obviously with the entry of the seafood product. The way ITDS has been set up is that the account holder, the importer of record or a broker acting on their behalf - a customs broker, has an account and certainly can see the transactions that they have submitted and are being processed by Customs and the results thereof - whether the goods are released or held for inspection, the entry is rejected, et cetera.

We as a participating government agency or partner government agency in the International Trade Data System will have access to all those entries for the commodities that are subject to International Marine Fisheries Service jurisdiction.

So, we do get a data feed and, again, that entry number will be associated with each of the entries for which we are requiring our message set as we call it, the data elements regarding the harvest event.

No provision in ITDS to share with the general public any information about that entry. In other words, it's a secure data portal for the user or the reporter as well as the government evaluators. So, there is really no way to do that.



I do understand that there are private sector supply chain management systems of that sort that could serve that purpose but that would have to be external to ITDS.

In other words, if there was a supply chain management software developed on the part of the U.S. retailer and the foreign exporter, each party could enter information into the system, set it up as password protected, and be able to query the system.

The U.S. importer could then supplement that record with the entry information once it had cleared, goods were released, goods picked up at the port, et cetera but again, the straight answer to the question is ITDS will be restricted to the account holder who is submitting information and then the government entities that have the authority to access that information.

David McCarren: Okay, thanks Chris. The second question that I posted was about the electronic submission to ITDS. Is there a record definition format or better yet a web service definition for the bidding?

Chris Rogers: Yes, yes there is. What Customs and Border Protection calls them - they do have a very good website for ACE ITDS. They call it ACE ITDS. ACE is the Automated Commercial Environment. ITDS is sort of the system or concept. So, the International Trade Data System is facilitated by use of the Automated Commercial Environment. So, you'll see ACE ITDS on the Customs and Border Protection website.

They do have a large area of that website devoted to what they call partner data - partner government agency requirements. So, National Fishery Service is a partner government agency.

What you can do is go to the ACE website, ACE ITDS website. Go to the Partner Government Agency Section and you will see what they call implementation guides, which have a clear definition of the data element and the format for submission to ITDS to ensure that the record is accepted into the system.

We did publish and post there a implementation guide at the proposed rule stage but we are making some changes given the publication of the final rule and are working with Customs at this point to finalize that that will be posted and we'll make an announcement when it's available. We already have the system open for the International Fisheries Trade permit.

So, those importers who want to get ahead of the game can certainly apply for and receive that permit already at the national permits website we have at Fishery Service. Once an individual has a permit. We can also use that mechanism, their email address, to communicate with them any changes to the program, any updates to the electronic format.

We will also work with Customs and Border Protection. They do have some trade user groups and we'll work with them once the implementation guide with the data formats is finalized to get that out to the trade community and see what questions they may have about it. I should mention that our intent is to work with CBP to set up a pilot program.



In other words, to program the system and have it available for pilot testing as early as possible this year to have at least a couple of months of pilot testing in order to ensure that the U.S. importers working with their customs brokers and software developers understand the formats and successfully submit the data process and entry, get the entry released in short order, and work through any problems that are raised in that pilot phase of the program.

David McCarren: Those were my questions. Thanks, Chris.

Chris Rogers: Thank you.

Kerry Turner: We do have a question from the website and the question is from (Isabella Lupozio). My apologies, if I've mispronounced your name. Isabella's question is "What are the penalties for non-compliance?"

Chris Rogers: As I mentioned, the rule itself pertains to or is applied against, I guess you could say, enforced against U.S. importers of record. That's the entity who is responsible for obtaining the permit, making the report at the customs entry, and maintaining the records, the chain of custody records for the supply chain. So, that's the entity against which the rule or the program would be enforced.

In one sense, it's self-enforcing insofar as if a U.S. importer doesn't obtain a permit or doesn't obtain or report data, the entry won't be processed, it'll be rejected. So, therefore, there's a risk of economic loss, if an entry is rejected, ends up being spoiled, or has to be redelivered elsewhere, can't come into the U.S. market. So, there's a business risk there.

But, obviously, if there's misrepresentation or fraud in terms of what is reported, in other words, all the information set is there and therefore passes the validation rules in ITDS, the goods are released into U.S. commerce, but subsequently during an audit it is determined that the goods were intentionally misrepresented as to their origin or falsified in some way or determined to be illegal in our consultations with the confident authority in the area of jurisdiction, we will take action also against the U.S. importer of record.

That can be civil fines or a permit sanction that could, obviously, affect the business operations and profitability of that U.S. importer. So, no direct enforcement against the foreign producers, foreign exporters, but, obviously, the risk. There is a business risk with respect to the U.S. importer.

If the U.S. importer determines that a particular supply chain, harvesters, exporters, has not been providing reliable information that can sustain an audit or has proven to be illegally acquired seafood product, usually I would presume the U.S. importer would sever a business relationship with those exporting entities. So, that's essentially how the rule will be enforced.

Kerry Turner: Thank you. We do have additional question from (Derek Galway). His question is "Is there a requirement for an electronic data exchange?"



Chris Rogers: Well, there is a requirement at the point of entry in to U.S. commerce. All entries - well, the large majority of entries, well over 99%, are currently filed electronically through the Customs systems. Customs and Border Protection set up the ACE, the Automated Commercial Environment. So, entries into U.S. commerce of any commodity are filed electronically.

What this program will do is for those Harmonized Tariff Schedule codes associated with the priority species, the system will be programmed to require additional data in an electronic format that describes the harvest event with respect to the harvesting entity, license number, area of catch, port of landing, etcetera.

So, that information is required to be submitted electronically by the U.S. importer of record when making those entries in the Customs system. Now, there's no requirement for an electronic data exchange in order for the U.S. importer to get that information. That could be supplied by fax, by mail, in shipping documents that come with the shipment and are available to the U.S. importer before entry filing.

So, there is flexibility in that respect. How the information is obtained by the U.S. importer does not have to be electronic, could be electronic. That's at the discretion and the cost benefit analysis on the part of the trade. But with respect to the entry filing itself, yes, there is a requirement for electronic data submission.

Kerry Turner: Thank you, Chris. Again, you can submit - we have quite a few people, participants in this webinar and you are able to submit your questions via the online WebEx portion or you can submit via the operator, the conference line. And, (Shirley), can you tell us again how to get into the cue to ask a question, please?

Coordinator: Certainly. And, again, it's Star followed by 1 to ask a question. Again, Star followed by 1. At this time, we do have one question coming in and that comes from David McCarren. Your line is open. Go ahead with your question.

David McCarren: Hi, Chris. David McCarren again. This is - might be a more technical question, maybe an ASIS question, but has the ASIS program looked at itself or considered itself as a node in the supply chain and a node in the emergent field of traceability in that they will facilitate the passage of certain data elements from the export node to the import node, like a catch declaration number? You know, are they validating species codes and product form codes to a global standard and passing those on to the importer, so that there's some continuity in the data that's flowing through the supply chain?

Chris Rogers: It's a good question and certainly something we did look at as a partner government agency in the ACE ITDS project with customs and border protection. We do acknowledge that there are electronic schemes in place either through the Regional Fishery Management organizations, for example, International Commission for the Conservation of Atlantic Tuna, does have an electronic Bluefin catch documentation scheme.

And what we've done with respect to our rule making and setting up business rules in ACE ITDS is we recognize those systems and have simplified the reporting requirements. In other words, as ICAT would call it, a EBCD number or EBCD re-export certificate number



In those cases, we simplified the business rules in ACE ITDS so only that number needs to be reported. In other words, we don't need somebody - as an importer, U.S. importer to go into the ICAT system, retrieve all that information and then repackage it, so to speak, in the ACE ITDS message format. Because we can have a direct link with the ICAT system and the Customs system.

So, it would have to be mediated by the importer to extract that information and then resubmit it. But in order to avoid that effort, we basically have stated, in that case and would be for similar cases, just give us the EBCD number and that will allow us to pull that information, because we're an authorized user of the ICAT system, being a contracting party to ICAT. So, we will integrate the information on the National Marine Fishery Service side of the equation.

But we felt and Customs and Border Protection felt it was too great a risk for each of the 47 partner government agencies involved in ACE ITDS to start setting up business rules that would require electronic validation outside of the ACE ITDS system in the event that connections were down or databases weren't updated or revised on a frequent enough basis such that we would have a validation failures too often and products would not be released expeditiously, particularly products like seafood which are perishable and need to move quickly through the port.

So, a great idea, but I think the risks were too great to try to reach out of ACE ITDS into other systems, not under the control of National Marine Fishery Service or Customs and Border Protection in order to apply validation rules.

That said, we will have some back and forth with CBP, Customs and Border Protection. For example, we do have a national fisheries, the National Marine Fishery Service permitting system to issue International Fisheries Trade Permits. That is a system, it's web based, available 24/7, and self-service.

And as soon as anybody goes into that National Marine Fishery Service system, applies for and receives a permit, International Fisheries Trade Permit, that information is conveyed as a reference file instantly to Customs and Border Protection.

So, we do have a validation rule in the system that if an entry is of this tariff code, subject to the program, it will check for a valid International Fisheries Trade Permit number against that referenced file. So, and since we have automated certain connections with data elements that are within the sphere of control, span of control of their respected agencies, National Marine Fishery Service and Customs and Border Protection.

But, another example would be, many of the regional fishery management organizations maintain lists of what they call [inaudible] vessels. And we thought about that. If a vessel was reported in the message set that could be clearly linked to an IUU vessel list at each of the RF modes, then that would be a cause for blocking the entry.

However, for those familiar with those lists, they do change from time to time. Beneficial ownership changes and they petition to get off the list. So, again, having



so many IUU vessel lists spread around different websites that were updated on different frequencies, applying a business rule like that would be very problematic. I hope that helps answer your question.

David McCarren: Yes, it does. And I agree with your assessment of global readiness too, particularly in the cold chain to share these types of data in real time. However, I would encourage you at every juncture possible to look at international standards and look to being able to pass pieces of information that are standardized through the chain, so that there is some continuity so that the import export systems don't become simply a black hole, if you will, of information going in and staying in.

Chris Rogers: Right.

David McCarren: But, thank you.

Coordinator: Thank you David. We do have another question on the phone lines, and that comes from Abby McGill. Your line is open, go ahead with your question.

Abby McGill: Hi, thanks for all the information. This is very useful. I was wondering about the auditing process. So, what triggers an audit to verify if the information is accurate and can anybody as an average citizen, if you have information that seafood is coming into the United States that was harvested illegally and that some of the record keeping may be fraudulent, how would you alert that information to CBP or to [inaudible]?

Chris Rogers: Thank you, a good question. Certainly, we will do some audits at random. Each entry will be identified by an entry number. The data will be passed, essentially instantaneously to National Marine Fisheries Service from the customs system for all those entries that are subject to our regulations.

So, we will have folks from [inaudible] Inspection Program looking at the incoming data - data stream and certainly some will be picked for audit at random. But then, we can also set up screening and targeting criteria.

So, if we observe that certain trade patterns are more problematic than others, with respect to failing an audit or as you noted, if we get third party information concerns about the supply chain, misrepresented seafood, information about illegal acquisition, whether they be from U.S. domestic consumers or from suppliers abroad, we can use that information to set up screening and targeting criteria.

Customs and Border Protection can do that as well as National Marine Fisheries Service. We can do that jointly, in some cases, certain commodities may be subject to regulations also by Fish and Wildlife Service. We can work jointly with the Fish and Wildlife Service on any screening and targeting criteria that they would like to apply.

Customs does have what they call the Commercial Targeting and Analysis Center. It is a customs operation, but the partner government agencies are allowed to place individuals there and work with Customs and Border Protection on setting up screening and targeting criteria in the system so that certain entries, as they are occurring, will be flagged for scrutiny



Customs is also setting up what they call Centers of Excellence where, some people call it a virtual port. They're in a physical location but they are basically examining information that's filed electronically from ports throughout the country. So, they specialize in dealing with certain commodities and the requirements, not only of customs but of other agencies with respect to those commodities.

So, we will work with customs to train up their persons at their Agricultural Center for Excellence on the seafood import monitoring program and its requirements will work with hand and hand with the customs folks at the CTAC, Commercial Targeting and Analysis Center, as well as the Center for Excellence for Agriculture to effectively screen entries for any potential problems.

Again, once we select something for an audit, we will work with the importer of record to obtain the supply chain records, work back, assure ourselves that we can connect the admitted shipment to the harvest event that was reported. And then work with the competent authority in that jurisdiction to verify that that harvest event was in fact lawful and properly reported and recorded in their situation.

Because we need to be mindful that the authority for this program is in the Magnuson Act, Magnuson-Stevens Fishery Conservation Management Act, but it is a prohibition on the import of fish, fish products, taken in violation of a foreign law or regulation. So, it is foreign law or regulation that pertains with respect to the evaluation of was it lawfully acquired.

Our regulations is basically a record keeping and reporting requirements on the part of U.S. importers in order for us to enforce the prohibition on importing fish products taken in violation of a farm law or regulation.

Abby McGill: Great. Thank you.

Kerry Turner: Thanks, Chris. We have a question from the web. It's from (Farid Maruk). Farid asks, "How detailed the location of catch is needed, GPS coordinates?"

Chris Rogers: Well, again, we're very flexible on what is reported or has to be reported, but obviously, a U.S. importer has to have some information about that harvest event. Since, as I just referenced in the criteria for evaluation is the compliance with the foreign law or regulation. If a foreign law or regulation pertains to how a catch is supposed to be recorded, with respect to fishing areas, that's the area that should be reported.

If there are no foreign regulation that pertains, with respect to how a fishing area is recorded, we are requiring the FAO fishing areas. They're large areas which indicate whether it was within the exclusive economic zone of a particular coastal country or a high seas area using the FAO codes.

So, again, the rule itself is a record keeping and reporting rule on the part of U.S. importers. The rules with respect to what is a lawful harvest are the rules in the local jurisdiction. So, the information about a harvest event and how it should be recorded and reported are local jurisdiction rules, whether they be national, regional, or local community rules on how that catch is to be recorded.



Coordinator: Our next question from the web is from (Jennifer Wooster). Jennifer asks, "What are the risks that this rule and the supported programs or systems will be changed as a result of the change in presidential administration? If there is a change, what kind of notice will companies have?"

Chris Rogers: All right, well we issued this rule, again under Magnuson Act Authority. The Magnuson-Stevens Fishery Conservation and Management Act does confer upon the Secretary of Commerce the charge, to issue regulations if necessary to enforce the provisions of the Magnuson Act.

The Magnuson Act does require what we call notice and comment rule making procedures. Those procedures were established under a separate act, the Administrative Procedures Act.

Basically, you do a proposed rule, you take public comment, you address public comment, you issue a final rule. We've done that. So, in order to rescind this rule, we would have to undertake the same process, an administrative procedures act, notification to the public of our intent to modify or change the rule in some way, take comment on that and then issue another final rule.

So, typically there would be a several month process at best. It really depends on the nature of changes, if any, on the part of the new administration that they would seek.

Coordinator: Thank you Chris. I do not see any additional questions via the web or on the phone lines. We'll give people a little more time for one last pass on that. On this on your screen, you should see contact information, as we mentioned, related materials, notices in reference to this rule and also to the associated action plan for the Presidential Task Force will be posted to www.iuufishing.noah.gov. For questions related to the requirements of Seafood and Import Monitor Program, you may contact Chris. His email address is up there as well, and also in reference to question on the use of the ITDS as it relates to this program, please contact Dale Jones, his email address is also up there on the screen.

So, we have no additional questions. And I would like to thank everyone for joining us today. We had quite a robust question and answering session, and you have a wonderful day or evening, depending on your time zone.

Chris Rogers: Thank you very much.

Coordinator: Thank you, and that does conclude today's conference. We thank you for your participation. At this time, you may disconnect your lines.

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