



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 2018-00653]

RIN 0648-BG51

Commerce Trusted Trader Program; Withdrawal

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; withdrawal.

SUMMARY: The National Marine Fisheries Service (NMFS) withdraws the Commerce Trusted Trader Program proposed rule, which published in the **Federal Register** on January 17, 2018. The proposed voluntary program was intended to offer qualified importers electing to participate in the program a reduction in reporting and recordkeeping requirements and streamlined entry into U.S. commerce for seafood imports subject to the Seafood Import Monitoring Program. Upon consideration of public comment, NMFS has determined that this program will not provide the anticipated benefits to industry.

DATES: The proposed rule published on January 17, 2018, (83 FR 2412), is withdrawn as of *[insert date of publication in the Federal Register]*.

FOR FURTHER INFORMATION CONTACT: Rachael Confair or Dale Jones, NOAA Fisheries Office of International Affairs and Seafood Inspection, (301) 427-8301.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a proposed rule on January 17, 2018 (83 FR 2412) requesting comment on a voluntary Commerce Trusted Trader Program (CTTP), which would offer limited reductions to the burden of compliance in meeting the reporting and recordkeeping requirements of the Seafood Import Monitoring Program (SIMP). Importers electing to participate would submit an application package including a Compliance Plan, and, once approved, would be required to conduct internal product trace backs (at least one trace-back annually for each SIMP species imported) and hire certified third party auditors annually to verify their adherence to their Compliance Plan in order to maintain Commerce Trusted Trader (CTT) status.

In the proposed rule, NMFS estimated that the CTTP would financially benefit the largest 216 of roughly 2,000 importers subject to SIMP reporting and recordkeeping requirements, and would create an annual industry-wide cost savings of approximately \$806,810. However, numerous public comments noted that the estimated cost of compliance with the proposed CTTP was unrealistically low, as NMFS's estimate did not include staff time to perform internal product trace backs, review and respond to annual third party audit reports, and update the importer's Compliance Plan regularly. In consideration of these public comments, NMFS prepared revised cost estimates that incorporated these changes. The revised cost estimate resulted in an industry-wide cost to implement the CTTP, rather than a cost savings, when applied to the largest 216 importers of SIMP species. At this revised mid-range estimate, only the 41 importers (of 2,000 total) with the highest quantity of entries subject to SIMP in a given year would realize a cost savings. One commenter estimated that third party trace backs would cost

\$30,000 (\$10,000/species for three trace backs), which far exceeded the proposed rule estimate of \$2,240 per species for this annual requirement. NMFS finds the commenter's estimate acceptable as an upper bound. Using a revised \$30,000 cost for third party trace backs, only the largest three importers of seafood products subject to reporting and recordkeeping requirements of SIMP would financially benefit from the CTTTP, yielding a negligible estimated industry-wide annual cost savings of \$15,880.

Reinforcing the limitations of cost savings, several commenters expressed that the CTTTP would not offer sufficient relief from SIMP requirements to incentivize participation, noting that companies have already invested substantial resources to comply with the requirements of SIMP, and that it may not be cost effective for these importers to become CTTs as that would entail additional investments to comply with this voluntary program. NMFS agrees, but did not receive suggestions for alternative measures to provide importers relief from SIMP reporting burdens that would not undermine the stated objective of SIMP, which is to prevent illegally harvested or misrepresented seafood from entering U.S. commerce. Therefore, NMFS decided to withdraw the proposed rule.

Several commenters discussed the connection between Illegal, Unreported, and Unregulated (IUU) fishing and forced labor, noting the value of SIMP data in identifying forced labor in seafood supply chains. Commenters are correct in their assessment that SIMP data has applications in enforcing human rights laws; U.S. Customs and Border Protection has successfully used SIMP entry filing data to identify forced labor in seafood supply chains and prevented these products from entering U.S. commerce. While the consideration of impacts to efforts to combat forced labor was not a

determining factor in the decision to withdraw this rule, the decision will keep all SIMP entry filing data requirements in place, thereby eliminating the data availability concerns identified by the commenters.

The withdrawal of this proposed rule does not preclude NMFS from reinstating rulemaking concerning the issue addressed. Should NMFS decide to undertake such rulemaking in the future, we will re-propose the action and provide new opportunities for comment. You may wish to review the SIMP website (<http://www.iuufishing.noaa.gov>) for any current guidance on this matter.

Dated: August 28, 2020

Alexa Cole,

Director, Office of International Affairs and Seafood Inspection,

National Marine Fisheries Service.

[FR Doc. 2020-19506 Filed: 9/17/2020 8:45 am; Publication Date: 9/18/2020]