

claim filing deadline will be reviewed individually and considered on its own merit. VA may grant exceptions to the requirements in paragraph (a) of this section if it determines that there was good cause for missing the filing deadline. For example, when dual coverage exists, CHAMPVA payment, if any, cannot be determined until after the primary insurance carrier has adjudicated the claim. In such circumstances an exception may be granted provided that the delay on the part of the primary insurance carrier is not attributable to the beneficiary. Delays due to provider billing procedures do not constitute a valid basis for an exception.

(c) Claims for CHAMPVA-covered services and supplies provided before the date of the event that qualifies an individual under § 17.271 are not reimbursable.

(d) CHAMPVA is the last payer to OHI, as that term is defined in § 17.270(b). CHAMPVA benefits will generally not be paid until the claim has been filed with the OHI and the OHI has issued a final payment determination or explanation of benefits. CHAMPVA is secondary payer to Medicare per the terms of § 17.271(b).

\* \* \* \* \*

■ 10. Revise newly redesignated § 17.277 to read as follows:

#### § 17.277 Appeals.

Notice of the initial determination regarding payment of CHAMPVA benefits will be provided to the CHAMPVA beneficiary on a CHAMPVA Explanation of Benefits (EOB) form. The EOB form is generated by the CHAMPVA automated payment processing system. If a CHAMPVA beneficiary or provider disagrees with the determination concerning CHAMPVA-covered services and supplies or calculation of benefits, he or she may request reconsideration. Such requests must be submitted to VA in writing within one year of the date of the initial determination. The request must state why the CHAMPVA claimant believes the decision is in error and must include any new and relevant information not previously considered. Any request for reconsideration that does not identify the reason for dispute will be returned to the claimant without further consideration. After reviewing the claim and any relevant supporting documentation, VA will issue a written determination to the claimant that affirms, reverses, or modifies the previous decision. If the claimant is still dissatisfied, within 90 days of the date of the decision he or she may make a written request for review by VA. After

reviewing the claim and any relevant supporting documentation, VA will issue a written determination to the claimant that affirms, reverses, or modifies the previous decision. The decision of VA with respect to benefit coverage and computation of benefits is final. When a CHAMPVA beneficiary has other health insurance (OHI), an appeal must first be filed with the OHI, and a determination made, before submitting the appeal to CHAMPVA with limited exceptions such as if the OHI deems the issue non-appealable. Denial of CHAMPVA benefits based on legal eligibility requirements may be appealed to the Board of Veterans' Appeals in accordance with 38 CFR part 20. Medical determinations are not appealable to the Board. 38 CFR 20.101.

(Authority: 38 U.S.C. 501, 1781)

■ 11. Revise newly redesignated § 17.278 to read as follows:

#### § 17.278 Medical care cost recovery.

VA will actively pursue medical care cost recovery in accordance with applicable law.

(Authority: 42 U.S.C. 2651; 38 U.S.C. 501, 1781)

[FR Doc. 2018-00332 Filed 1-16-18; 8:45 am]

BILLING CODE 8320-01-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 54

[WC Docket No. 17-310; FCC 17-164]

#### Promoting Telehealth in Rural America; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

**SUMMARY:** The Federal Communications Commission (Commission) published a document in the *Federal Register* of January 3, 2018 seeking comment on how to strengthen the Rural Health Care Program and improve access to telehealth in rural America. The document contained an incorrect reply comment date.

**FOR FURTHER INFORMATION CONTACT:** Radhika Karmarkar, Wireline Competition Bureau, (202) 418-7400 or TTY: (202) 418-0484.

#### Correction

In the *Federal Register* of January 3, 2018, in FR Doc. 2017-28298, on page 303, in the first column, correct the **DATES** caption to read:

**DATES:** Comments are due on or before February 2, 2018, and reply comments

are due on or before March 5, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer.*

[FR Doc. 2018-00451 Filed 1-16-18; 8:45 am]

BILLING CODE 6712-01-P

### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 161228999-7867-01]

RIN 0648-BG51

#### Commerce Trusted Trader Program

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** The National Marine Fisheries Service is proposing this Commerce Trusted Trader Program (CTTP) as part of an effective seafood traceability process to combat Illegal, Unreported, and Unregulated (IUU) fishing and seafood fraud. The voluntary CTTP supplements the Seafood Import Monitoring Program (SIMP), recently implemented under the Magnuson-Stevens Fishery Conservation and Management Act. Qualified importers who choose to participate in the CTTP would benefit from reduced reporting and recordkeeping requirements, and streamlined entry into U.S. commerce for seafood imports subject to the SIMP.

**DATES:** Written comments must be received by March 19, 2018.

**ADDRESSES:** Written comments on this action, identified by NOAA-NMFS-2016-0165, may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2016-0165>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Melissa Beaudry, Office of International Affairs and Seafood Inspection, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Enter N/A in the required fields if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (PDF) formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the NOAA Fisheries Office of International Affairs and Seafood Inspection (IASI) and by email to: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Melissa Beaudry, Office of International Affairs and Seafood Inspection, NOAA Fisheries (phone (301) 427-8308, or email [Melissa.Beaudry@noaa.gov](mailto:Melissa.Beaudry@noaa.gov)).

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 15, 2015, a multi-agency Presidential task force published an Action Plan for combatting IUU fishing and seafood fraud. This Action Plan called for the identification of the seafood species most “at-risk” for IUU fishing or subject to significant seafood fraud, and the development of a traceability program to track these “priority” species from point of harvest to entry into U.S. commerce, with eventual expansion of the program to all seafood species imported into the United States. A final rule containing measures to address imported fish and fish products as part of this traceability program—called the SIMP—became effective on January 9, 2017, with a compliance date of January 1, 2018 for most priority species (81 FR 88975; December 9, 2016).

The Action Plan also called for the development of a voluntary Commerce Trusted Trader Program (CTTP) for importers of species that are subject to the SIMP. The CTTP is intended to provide the benefits of reduced reporting and recordkeeping requirements and streamlined entry of applicable species into the United States for importers who are approved as Commerce Trusted Traders (CTTs).

U.S. Customs and Border Protection (CBP) and the U.S. Food and Drug

Administration (FDA) are both developing their own voluntary Trusted Trader programs designed to reduce costs to both the government and industry, and streamline processing of imports. While the CTTP shares many features with these programs, it is designed and intended to apply only to the SIMP.

A critical element of the CTTP is the assurance that the entire supply chain for species covered by SIMP, from point of harvest to entry into U.S. commerce, is legal and documented, and that the entry of illegally harvested and misrepresented fishery products into the U.S. market is prevented. The program is intended to increase the security of the supply chain while reducing the burden of compliance for those importers who qualify for CTT status. This proposed rule, if adopted, would establish the qualifying criteria and application procedures for approval as a CTT. It would also establish requirements for a Trusted Trader Compliance Plan, recordkeeping, and third-party audits for CTTP participants. Under the proposed rule, a CTT would be required to establish a secure supply chain (free of IUU fish or fish product and falsely labeled seafood product) and maintain, either directly or through a third party, the records necessary to verify the legality of all seafood products subject to SIMP that he or she enters into U.S. commerce. Compliance with these requirements would replace the SIMP requirement to enter harvest event data into the International Trade Data System (ITDS) at the time of filing an entry, and would provide increased flexibility for complying with SIMP recordkeeping requirements.

The CTT would be expected to produce all traceability documentation associated with an entry filing subject to the SIMP within 14 days upon request by NMFS to support an audit and to make such documentation available for inspection, but would have significantly reduced reporting requirements for imports of SIMP species. With the exception of any records or documents required by other state or Federal programs, such as the Tuna Tracking and Verification Program (TTVP) or FDA’s Prior Notice of Imported Food the CTT would only be required to enter their International Fisheries Trade Permit (IFTP) number and species codes into the ITDS at the time of entry filing.

**I. Qualifying Criteria and Application for the Commerce Trusted Trader Program**

The CTTP, as proposed, is a voluntary program for U.S. importers of record who import, or intend to import, species

subject to the SIMP (50 CFR 300.324(a)(2)). This proposed rule provides that certain criteria must be met in order for an importer to be approved as a CTT. In addition to other requirements specified below, an applicant must be a holder of a valid IFTP, which can be obtained via online registration through the NMFS National Permitting System at [https://fisheriespermits.noaa.gov/npspub/pub\\_cmn\\_login/index\\_live.jsp](https://fisheriespermits.noaa.gov/npspub/pub_cmn_login/index_live.jsp). IFTP regulations are at 50 CFR 300.322. A single IFTP issued to an importer of record is valid for imports of all seafood species that require an IFTP. Separate permits are not required, for example, if the imported species are covered under more than one NMFS import monitoring program or the importer trades in more than one covered species. Note, however, that for some commodities, permits issued by other agencies may also be required (e.g., U.S. Fish & Wildlife Service permits for products of species listed under the Convention for International Trade in Endangered Species (CITES)).

In addition to being an IFTP holder, the applicant must submit an online application for the CTTP at a website designated by NMFS. Incomplete applications will not be reviewed by NMFS. A complete application must contain the following:

- (1) The applicant’s IFTP number;
- (2) An affirmation that the applicant has no history, during the previous five years, of noncompliance (i.e., violations that resulted in a finding of liability and assessment of a civil monetary penalty or criminal fine) with Federal regulations related to the importation of fish or fish products and is currently in compliance with all licensing, permitting, and reporting requirements applicable to the importation of fish or fish products;
- (3) An affirmation that the applicant is in compliance with other state and federal programs, such as the Highly Migratory Species (HMS) International Trade Program, Antarctic Marine Living Resources (AMLR) Import Export Certification, and the TTVP, as applicable, including license and/or registration number(s) applicable to the importation of fish or fish products;
- (4) Electronic submission of the applicant’s Trusted Trader Compliance Plan (see details below); and
- (5) Application fee.

The amount of the fee is calculated, on at least an annual basis, in accordance with the procedures of the NOAA Finance Handbook, available from NMFS, for determining the administrative costs of each special product or service. The fee may not

exceed such costs and is specified on each application form. At present, the fee is expected to be approximately \$30.

The NMFS Office of International Affairs and Seafood Inspection (IASI) will review a CTT application, as well as the applicant's history of compliance with state and federal regulations related to the importation of fish or fish products, in determining whether to approve the application. If the application is complete and the applicant does not have a history of non-compliance with applicable regulations, NMFS will approve the application and will issue a letter to the applicant that will serve as official documentation of CTT status. If the application is incomplete or complete but not approved, NMFS will issue a letter to the applicant explaining the reasons why. If NMFS issues such a letter, the applicant may respond in writing with additional information to address the issues NMFS identified in its letter. After reviewing such information, NMFS will issue a letter to the applicant indicating if CTT status is approved or explaining the reasons why such status continues to not be approved. NMFS' decision is final upon issuance of this letter and is not appealable. NMFS looks forward to receiving comments on the nature and extent of the application and Compliance Plan review.

While the IFTP must be renewed annually (see 50 CFR 300.322(d)), approval under the CTT remains in effect unless it is revoked (see Section IV below).

For each entry containing species or species groups subject to the SIMP, the CTT or designated entry filer must file electronically, at the time of entry, the CTT's IFTP number and species to be entered, as required under 50 CFR 300.323(a). No further SIMP data needs to be provided. NMFS IASI will notify CBP of the decision to grant CTT status so that CBP will know that the complete SIMP data set is not required. See proposed 50 CFR 300.324(f) for CTT exemptions from SIMP requirements.

## II. Trusted Trader Compliance Plan

Under this proposed rule, CTT applicants must have a written Trusted Trader Compliance Plan (Compliance Plan) showing that they have a secure and controlled supply chain, including, but not limited to, harvest, purchase, landing, shipping, processing, storage, and import entry. Importers, regardless of IFTP status, that do not meet these requirements will not be approved as CTTs.

The Compliance Plan must be designed to meet the objective of the

SIMP in preventing the importation of illegally harvested or misrepresented fish and fish products into United States commerce. The Compliance Plan may delegate entry filing, recordkeeping and other responsibilities to other persons, but such roles must be clearly defined in the Compliance Plan, as detailed below. Ultimately, the CTT is responsible for adherence to the Compliance Plan and compliance with all NOAA import requirements, including all applicable requirements of the SIMP and the CTT, if finalized, and for ensuring the prevention of illegally harvested or misrepresented seafood entering U.S. commerce through the CTT's import activities.

The Compliance Plan must, at a minimum, include the following components:

- (1) An Internal Control System (see below for requirements);
- (2) Procedures for ensuring that the Compliance Plan and the CTT's adherence to it is audited by a certified third party at least annually (see below for audit requirements);
- (3) The applicant's written policy and related supporting materials on preventing the import of illegally harvested and misrepresented seafood, including a description of how the policy is communicated to any affected employees, entry filers, representatives, and suppliers or other parties in the supply chain, and corrective actions to be taken as needed;
- (4) An organizational chart that identifies the persons with responsibility for: entry filing; custodianship of recordkeeping documents; developing, administering, and implementing the Compliance Plan and its component measures; and conducting training to ensure effective implementation of the Compliance Plan;
- (5) A signature page completed by the applicant and the individual at the highest level of authority in the applicant's organization assuming responsibility for implementing the Compliance Plan; and
- (6) Any changes to the Compliance Plan, along with an updated signature page and organizational chart must be included in the mandatory annual audit report required (see below).

### *Internal Control System Requirements*

The Internal Control System, which must be documented in the Compliance Plan described above, must include traceability monitoring procedures for seafood products subject to the SIMP (50 CFR 300.324(a)(2)). The CTT is responsible for ensuring implementation of the Internal Control System, which must include:

- (1) Procedures to verify the legal harvest and landing of fish or fish products subject to the SIMP that the CTT enters into U.S. commerce. Verification may rely on flag-state or port-state harvest and landing records. Certification of legal harvest by the flag-state may also be used. In any case, the procedures must be capable of verifying the legal harvest and landing of any fish or fish products imported by the CTT of species that fall under the SIMP by providing the harvest and landing information required by the SIMP regulations at 50 CFR 300.324(b)(1)–(3). A CTT may establish separate procedures for verifying legal harvest and landing from known and trusted fishery sources and for verifying legal harvest and landing from new fishery sources, and may establish separate measures for each fishery source, as appropriate;
- (2) Procedures to enable verification of the full chain of custody from point of first landing (or point of aggregation for small-scale fisheries) to entry into U.S. commerce (See 50 CFR 300.324(e)). These procedures should describe the process(es) that will be followed, and documentation that will be used, to verify chain of custody, and measures in place to periodically verify the accuracy of that documentation;
- (3) Procedures to ensure that chain of custody documentation will be provided to NMFS, upon request, within 14 days to support an agency audit. Under 50 CFR 300.325(f) of the proposed rule, the Compliance Plan must identify who is responsible for maintaining chain of custody documentation, the point along the supply chain at which the chain of custody documents are stored and how the CTT will ensure access to them when necessary. The documentation must be maintained and made available for inspection as required under § 300.325(i) of the proposed rule. The CTT must be able to access records for no less than two years from the date of entry of the product into U.S. commerce, and records must be made available for inspection, upon request by NOAA to support an agency audit and as necessary for purposes of the annual audit required under § 300.325(j);
- (4) Procedures for the CTT (or designee) to perform at least one trace-back annually for each species covered by the SIMP imported by the CTT. A trace-back is a document review of all industry records that follow the product from the point of entry into U.S. commerce backwards through all steps of processing, shipping, and storage to

the point of harvest (or point of first aggregation for small scale fisheries);

(5) Procedures to be taken in response to information that illegally harvested or misrepresented fish or fish products have entered the supply chain (e.g., notice from NOAA's Office of Law Enforcement (OLE) or inclusion of the harvesting vessel in a regional fishery management organization's list of vessels that have engaged in illegal, unreported and unregulated fishing), measures to ensure that such fish or fish products are removed from commerce and further shipments are prevented from entering commerce, and procedures for promptly informing OLE whether such products are inbound to the United States or have entered U.S. commerce;

(6) Procedures to be taken in response to any supplier in the CTT's supply chain for SIMP species being placed on an FDA Import Alert.. Import Alerts inform FDA field staff and the public that the Agency has enough evidence to allow for Detention Without Physical Examination (DWPE) of firms and products that appear to be in violation of FDA laws and regulations. These violations could be related to the product, manufacturer, shipper and/or other information. More information is available online at <https://www.fda.gov/ForIndustry/ImportProgram/ActionEnforcement/ImportAlerts/ucm516428.htm> and

(7) Procedures to regularly review internal controls and update procedures in response to changes in the fish or fish products that the CTT wants to enter into U.S. commerce, suppliers, or operating conditions or non-conformities identified in an audit.

The CTT must ensure that all information and documentation used for internal controls related to the Compliance Plan and Internal Control System must remain available for U.S. government audit for no less than two years from the date of import entry.

NMFS seeks comment generally on the required elements of the Trusted Trader Compliance Plan, including the Internal Control System. NMFS also invites comment on establishing a species-specific CTTP. As currently drafted, this proposed rule would allow a CTT to import all species subject to SIMP and benefit from reduced reporting requirements at the time of import. As an alternative, an applicant for CTT status could specify in the CTTP Application and Compliance Plan that it has a secure and controlled supply chain for some, but not all, SIMP species and request that CTT status be limited to that subset of SMP species. Under this species-specific alternative, a

CTT would be required to comply with all SIMP reporting and recordkeeping requirements for imports of SIMP species not specifically included in its Compliance Plan. NMFS' analysis of the species-specific CTTP, set out in Section 1.3.5 of the regulatory impact review (available from NMFS; see **ADDRESSES**), indicates higher compliance costs for CTTs under the species-specific CTTP. Since the per entry reporting and recordkeeping costs are projected to be greater under SIMP than under CTTP, a CTT who chooses to comply with CTTP requirements for only a subset of the priority species would be assuming the higher fixed costs of CTTP compliance while reducing the economic benefit of that investment that accrues to every import entry of a priority species by a CTT through the reduction of per entry, incremental costs.

Additionally, NMFS estimates that its costs for both ITDS/ACE programming and effective long-term compliance auditing would be higher with a species-specific CTTP. NMFS seeks comment on its assumptions and conclusions related to a species-specific CTTP.

### III. Procedures for Annual Third-Party Audit

As noted in Section II, this proposed rule provides that the CTT's Compliance Plan must include procedures for a third-party audit. The CTT is responsible for ensuring that this third-party audit is conducted annually. Paragraphs 300.325(j) and (k) of the proposed rule set forth requirements for the audit and auditor certification.

#### *Third-Party Audit Requirements*

At least once annually, the CTT must ensure that an audit is conducted by a certified third-party auditor, consistent with the requirements of the rule. The purpose of the audit is to evaluate the adequacy of the CTT's Compliance Plan in meeting the requirements of 50 CFR 300.325(f) and the CTT's adherence to that plan. A third-party audit should include an opening meeting, during which the auditor will discuss audit objectives with the CTT and any personnel supporting the audit.

During each audit, the third party auditor must review the Compliance Plan and relevant documents. The CTT must make all records, written and electronic, that are pertinent to the Compliance Plan and Internal Control System described therein available to the auditor at the time of the audit. The auditor will select a minimum of three import entries containing SIMP species to serve as the subject of the audit. He or she must verify that all processes in

the CTT's Compliance Plan are being followed and that the Internal Control Plan effectively meets the requirements of the CTTP. The auditor must also verify that the audited entries can be traced back to legal harvest (or production) and landing and that the species contained in the shipment are truthfully represented. The auditor must conduct interviews as necessary with CTT staff, suppliers, and individuals delegated responsibilities under the Compliance Plan and may conduct other activities as necessary.

A CTT must notify NMFS at least 30 days in advance of each third-party audit. NMFS, at its discretion, may attend a third-party audit as an observer or conduct a side-by-side audit. In a side-by-side audit, NMFS will review the same documentation as the third party auditor at the same time as the third party auditor to evaluate both the shipment(s) and performance of the third party auditor. NMFS may also conduct an independent audit of a CTT at any time.

The auditor must have a closing meeting with the CTT or designee to review observed weaknesses and any non-conformities with the Compliance Plan, and issue a written audit report within 30 calendar days of the audit. In the audit report, the auditor must assess the reliability of the CTT's Compliance Plan and the CTT's adherence to it, provide results of the audit, and identify any non-conformities with the Compliance Plan or its implementation. The audit report must include the auditor's certifying credentials (see below) and attestations that the auditor (i.e., individual auditor(s) and auditing firm): (1) Was not involved in developing the CTT's Compliance Plan, and (2) has no financial relationship with, or substantial interest in, the CTT retaining their services beyond performing the audit and any related follow up.

The CTT is responsible for ensuring that the auditor provides a signed and locked electronic copy of the audit report (in .pdf format) to the CTT and NMFS IASI no later than 30 days following completion of the audit. If the auditor determines that no corrective action is needed, the report is considered the final audit report. If the auditor determines that corrective action is required to address non-conformities with the written Compliance Plan or its implementation, the report is considered an initial audit report. In that case, within 60 days following the audit, the CTT must ensure that a signed and locked electronic copy of the final audit report (in .pdf format) is provided to NMFS

IASI. The final report must include an explanation, along with relevant documentation, of corrective action taken by the CTT and approved by the auditor.

If the CTT fails to provide the audit report to NMFS as required above or take acceptable corrective actions as identified in the report, NMFS may conduct additional audits at its discretion. NMFS may also take additional measures up to and including revocation of CTT status, as deemed appropriate by NMFS. CTT third-party audits may be combined with other Global Food Safety Initiative (GFSI) or chain of custody audits, provided the combined audit is in full compliance with the requirements of the CTPP.

#### *Third-Party Auditor Certification and Other Requirements*

Beyond conducting the audit and any related follow up for a CTT, a third-party auditor (*i.e.*, individual auditor(s) and auditing firm) must not have any other financial relationship with, or substantial interest in, the CTT. In addition, an auditor must not have been involved in developing the CTT's Compliance Plan. A third-party auditor should have some familiarity or experience with the seafood trade to ensure accurate and critical review of a CTT's written Compliance Plan and the CTT's adherence to it. The third party auditor must be certified with respect to, and affirm his or her knowledge of current auditing practices and proficiency in conducting process audits, identification of non-conformities and review of corrective actions taken by the CTT. A third-party must be certified by a competent certifying body, as evidenced by one or more of the following:

- (1) Current accreditation or certification by the American Institute of Certified Public Accountants (AICPA);
- (2) Current accreditation or certification by the Institute of Internal Auditors;
- (3) Current accreditation or certification by the American Evaluation Association;
- (4) Current accreditation or certification by a chain of custody certifying body;
- (5) Current accreditation or certification by Accreditation Services International; or other nationally recognized certifying organizations;
- (6) Evidence of current peer-review certification such as Certified Quality Auditor (CQA), Certified Internal Auditor (CIA), Certified Public Accountant (CPA), and Certified HACCP Auditor (CHA);

(7) Successful completion of auditor training recognized by the International Register of Certified Auditors (IRCA) or Registrar Accreditation Board and Quality Society of Australasia (RABQSA), in environmental management standards (EMS); quality management standards (QMS); or Global Food Safety Initiative (GFSI), and registration with IRCA or RABQSA as an EMS or QMS auditor; or

(8) Other training or certification approved in writing by NMFS.

#### **IV. Revocation of CTT Status**

While the IFTP must be renewed annually (see 50 CFR 300.322(d)), approval under the CTPP remains in effect unless revoked under this section. If a CTT fails to comply with requirements of the Program as detailed above, NMFS may issue a Notification Letter to the CTT that:

- (1) Identifies the alleged failure to comply with Commerce Trusted Trader Program regulations and requirements;
- (2) Describes the indications and evidence of the alleged failure;
- (3) Sets a Response Date by which the CTT must submit to NMFS a written response to the Notification Letter, including, if applicable, a proposed solution; and
- (4) Explains the CTT's options if the CTT believes the Notification Letter is in error.

NMFS will establish a Response Date between 14 and 30 calendar days from the date of the Notification Letter. The CTT's response must be received in writing by NMFS on or before the Response Date. If the CTT fails to respond by the Response Date, CTT status will be revoked. A CTT who has submitted a timely response may meet with NMFS within 21 calendar days of the date of that response to discuss a detailed and agreed-upon procedure for resolving the alleged failure to comply with the Commerce Trusted Trader Program regulations and requirements.

If the CTT disagrees with the Notification Letter and believes that there is no failure to comply with CTPP regulations and requirements, NMFS has incorrectly defined or described the failure, or NMFS is otherwise in error, the CTT may submit a written Objection Letter to NMFS on or before the Response Date. Within 21 calendar days of the date of the Objection Letter, the CTT may meet with NMFS to discuss a resolution or redefinition of the issue. If modifications to any part of the Notification Letter are required, then NMFS will issue a revised Notification Letter to the CTT; however, the Response Date or any other timeline in

this process would not restart or be modified unless NMFS decides to do so.

The total process from the date of the Notification Letter to the date of final resolution should not exceed 90 calendar days, and may require a shorter time frame, to be determined by NMFS, depending on the seriousness of the alleged failure. In rare circumstances, NMFS, at its discretion, may extend the time for resolution of the alleged failure. In such a case, NMFS will provide a written notice to the CTT informing him or her of the extension and the basis for the extension. If the failure to comply with CTPP requirements cannot be resolved through this process, NMFS will issue a Revocation Letter to the CTT that:

- (1) States that CTT status has been revoked;
- (2) Summarizes the failure to comply with CTPP requirements;
- (3) Summarizes any proposed procedures, or attempts to produce such procedures pursuant to sub-paragraph (3) of this section, to resolve the failure;
- (4) Explains why resolution was not achieved; and
- (5) Advises the importer that (1) the importer is no longer exempt from the requirements of the SIMP, and (2) the importer may not reapply for CTT status for a period of one year. NMFS' decision is final upon issuance of the Revocation Letter and is not appealable.

#### **V. Prohibitions**

The proposed rule would amend the existing prohibitions section in subpart Q to add five new prohibitions. Specifically, the proposed rule would prohibit: (1) Making a false statement on an application for the CTPP; (2) the falsification of records required to be maintained under 50 CFR 300.324(d) or (e) or 300.325; (3) failure to make records available for inspection, as required under 50 CFR 300.324(d) or (e) or 300.325(i); (4) a CTT from failing to maintain records containing information on the chain of custody and custodian of fish or fish products, provide access to such records to support an agency audit, and make such records available for inspection as required (see 50 CFR 300.325(g)(3) and (i)); and (5) a CTT from failing to implement or follow the Trusted Trade Compliance Plan they are required to have in place as a condition of being granted, and retaining, that status (see 50 CFR 300.325 (f) and (g)).

More information and any updates on the proposed CTPP can be found on our website at <http://www.iuufishing.noaa.gov/>.

## Classification

This proposed rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* The NMFS Assistant Administrator has determined that this proposed action is consistent with the provisions of this and other applicable laws, subject to further consideration after public comment.

### *Executive Order 12866*

This proposed rule has been determined to be significant for the purposes of Executive Order 12866. NMFS has prepared a regulatory impact review of this action, which is available from NMFS (see **ADDRESSES**). This analysis describes the economic impact this proposed action, if adopted, would have on businesses and consumers. NMFS invites the public to comment on this proposal and the supporting analysis.

The regulatory action being considered is described in the preamble of this proposed rule. For importers subject to the SIMP, this proposed rule would create a voluntary program that includes exemptions from SIMP reporting and recordkeeping requirements. NMFS anticipates that U.S. persons would not have any significant adverse economic effects as a result of this action, because it does not pose any new burdens with regard to existing reporting and recordkeeping requirements. On the contrary, this rule, if adopted, would reduce reporting and recordkeeping requirements under the SIMP for importers who are approved as CTTs, and result in positive economic benefits for them. NMFS seeks comment on whether there could be economic impacts that have not been addressed in this proposed rule, or that could be difficult to anticipate.

### *Executive Order 13771*

This proposed rule is expected to be an E.O. 13771 deregulatory action. As discussed below, this proposed rule would create cost savings of approximately \$806,810 industry-wide on an annual basis. Further details on the estimated cost savings of this proposed rule can be found in the regulatory impact review analysis.

### *Regulatory Flexibility Act*

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA) and is available from NMFS (see **ADDRESSES**). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being

considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows.

For this proposed rule, NMFS looked at two alternatives: No action and a CTT, as called for in the March 15, 2015, Presidential task force Action Plan (see Background). By not joining the CTT, importers will need to fully comply with the SIMP rule and report information pertaining to the harvest of species covered under SIMP via the ITDS prior to entry, and maintain those records as well as records documenting the supply chain from point of harvest to entry into U.S. commerce for a period of no less than two years. For importers who do not apply to become a CTT, there would be no change from current SIMP requirements and thus no economic impacts. In the SIMP final rule, NMFS estimated annual compliance costs of \$6,075,000 including permit fees, reporting, recordkeeping, and data storage for 2,000 importers who, combined, filed 215,000 entries through the International Trade Data System (ITDS). There were 216 importers who filed more than 250 entries in 2014 (comprising roughly 72% of all entries). NMFS expects these high volume importers would benefit financially from the CTT. NMFS seeks public comment on the accuracy of these baseline conditions used in the development of this proposed rule.

In the Final Regulatory Flexibility Analysis for the SIMP rule, NMFS concluded that all persons subject to the program requirements could be classified as small businesses. Likewise, all importers who choose to apply and be approved as CTTs would also be classified as small businesses. CTTs would realize the benefits of reduced reporting and recordkeeping and streamlined entry into U.S. commerce of their fish and fishery products. The increased cost of annual third-party auditing required under the CTT would be offset by the reduction in reporting costs at time of entry. Consequently, importers with a higher annual volume of entries would accrue greater benefits. In comparing entry reporting cost savings to estimates of the costs to contract with a third-party auditor, NMFS estimates that importers making more than 250 entries per year would benefit from becoming a CTT. Considering the same baseline as that used for the SIMP analysis (entries of priority species seafood products made in 2014), approximately 2000 importers would be required to report harvest event data upon entry. NMFS estimates

that 216 of these importers, who each filed more than 250 entries in 2014, would benefit from the reduced reporting burden of becoming a CTT. Assuming all of these importers would elect to become CTTs, cost savings of approximately \$806,810 would be realized industry-wide on an annual basis.

### *National Environmental Policy Act*

Under NOAA Administrative Order (NAO 216-6A), the promulgation of regulations that are administrative, financial, legal, technical or procedural in nature are categorically excluded from the requirement to prepare an Environmental Assessment. These proposed regulations to implement a Commerce Trusted Trader Program are procedural and administrative in nature in that they would modify recordkeeping and auditing requirements for ongoing authorized catch and trade activities. Fishing activity and trade in seafood products are not further restricted relative to any existing laws or regulations, either foreign or domestic. Given the procedural and administrative nature of this rulemaking, an Environmental Assessment was not prepared.

### *Paperwork Reduction Act*

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. The information collection burden for the requirements proposed under this rule (CTTP application; Compliance Plan development or modification; third-party audit; and traceability documents recordkeeping) are estimated to result in a significant reduction in both time and costs for CTTs relative to the burden associated with compliance with the reporting and recordkeeping requirements of the SIMP.

NMFS estimates that approximately 216 International Fisheries Trade Permit holders would apply for the CTT, and that they would need approximately 10 minutes to fill out the online application, at an hourly rate of \$25, for a total of 36 hours and labor costs of \$900. NMFS considers that most of the 216 entities estimated to apply for CTT status will already have some form of internal control plan in place, so the development of a Compliance Plan specific to the CTT will take no more than 8 hours. If a Compliance Plan needs to be developed from square one, NMFS estimates no more than 24 hours will be required, at an hourly rate of \$50. Assuming that this rule would

affect 216 importers, the total one-time burden for application and Compliance Plan development and submission amounts to between 1,764 hours and 5,220 hours, and labor costs of between \$87,300 and \$260,100.

Because the CTTTP removes the requirement of reporting harvest data prior to entry into U.S. commerce, a CTT is expected to realize the cost savings of not entering such data. NMFS has calculated the time and cost of a CTTTP entry filing (header record only) to be 12 minutes at \$25 per hour, for a cost per entry of \$5, versus 36 minutes per SIMP filing (header and all harvest vessel and landing records) and a cost of \$15 per filing. Using available data from 2014, the average number of entries for the 216 importers filing 250 or more entries, which is the point at which NMFS believes an entity would likely choose to become a CTT, is 750. This equates to 162,000 entries. The annual burden of contracting with a third-party auditor is estimated to be one hour at the hourly rate of \$50, for a total of 216 hours and \$10,800 annually. The cost of the actual audit is estimated to be between \$1,120 and \$3,600, with an average cost of \$2,190, for a total of \$473,040. These burdens would be offset by the reduced cost benefit of the program, which cuts out 64,800 hours of data entry filing at a cost savings of \$1,620,000.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the assumptions used in calculating the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the NOAA Fisheries Office of International Affairs and Seafood Inspection at the ADDRESSES above, and by email to *OIRA\_Submission@omb.eop.gov* or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

### List of Subjects in 50 CFR Part 300

Exports, Fisheries, Fishing, Fishing vessels, Illegal, unreported or unregulated fishing, Foreign relations, Imports, International trade permits, Treaties.

Dated: January 11, 2018.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 300, subpart Q, is proposed to be amended as follows:

### PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300 continues to read as follows:

**Authority:** 16 U.S.C. 951 *et seq.*, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 5501 *et seq.*, 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

■ 2. In § 300.321, add, in alphabetical order, a definition for “Commerce Trusted Trader”, “Commerce Trusted Trader Program”, “Internal Control System”, and “Trusted Trader Compliance Plan” to read as follows:

#### § 300.321 Definitions.

\* \* \* \* \*

*Commerce Trusted Trader* (CTT) means an importer of record who holds a valid International Fisheries Trade Permit (see § 300.322) and who has been approved by NMFS under § 300.325.

*Commerce Trusted Trader Program* (CTTP) means the voluntary program established under § 300.325.

\* \* \* \* \*

*Internal Control System* means the written procedures required under § 300.325(g).

\* \* \* \* \*

*Trusted Trader Compliance Plan or Compliance Plan* means the written plan required under § 300.325(f).

\* \* \* \* \*

■ 3. In § 300.324, add paragraph (f) to read as follows:

#### § 300.324 Seafood Traceability Program.

\* \* \* \* \*

(f) An importer of record who is approved as a Commerce Trusted Trader (CTT) under § 300.325 shall be exempt from the reporting requirements of § 300.324(b)(1)–(3) and (c) and may delegate the recordkeeping responsibilities under § 300.324(e) to one or more third parties as provided in § 300.325(i). However, a CTT is not exempt from IFTP requirements under § 300.322 or any other applicable requirements and is responsible for compliance with the obligations of

§ 300.324(e). CTTTP application procedures and requirements are set forth at § 300.325.

■ 4. Redesignate § 300.325 as § 300.326 and add a new § 300.325 to read as follows:

#### § 300.325 Commerce Trusted Trader Program.

(a) *Establishment.* This section establishes a voluntary Commerce Trusted Trader Program (CTTP) which provides an exemption from the reporting requirements of the Seafood Import Monitoring Program (SIMP) (see § 300.324(f)) and alternative recordkeeping options (see paragraph (i) of this section). Qualifying criteria, application procedures, requirements for Trusted Trader Compliance Plans and recordkeeping, and third-party audit requirements for CTTTP participants are set forth in the following sections.

(b) *Qualifying Criteria.* To be approved as a Commerce Trusted Trader (CTT), an applicant must be a U.S. importer of record who has imported, or who intends to import, products subject to the SIMP and must be a holder of a valid International Fisheries Trade Permit (IFTP) (see § 300.322).

(c) *Application.* The applicant must submit an online application for the CTTTP at a website designated by NMFS. Incomplete applications will not be reviewed by NMFS. A complete application must contain the following:

(1) The applicant's IFTP number;

(2) Affirmation that the applicant has no history, during the previous five years, of noncompliance (*i.e.*, violations that resulted in a finding of liability and assessment of a civil monetary fine or criminal penalty) with federal regulations related to the importation of fish and fish products and is currently in compliance with all licensing, permitting, and reporting requirements applicable to the importation of fish and fish products;

(3) Affirmation that the applicant is in compliance with other state and federal programs, as applicable, including license and/or registration number(s) applicable to the importation of fish and fish products;

(4) Electronic submission of the applicant's Trusted Trader Compliance Plan (see paragraph (f) of this section); and

(5) Application fee.

(d) *Fees.* Applicants for the CTTTP must electronically pay an application fee assessed by NMFS to recover application review costs. If an application fee is paid with a commercial instrument that is



insufficiently funded, the CTT application will not be processed.

(e) *Review and Approval of Application.*

(1) The NMFS Office of International Affairs and Seafood Inspection (IASI) will review a CTT application, as well as the applicant's history of compliance with federal regulations related to the importation of fish and fish products, in determining whether to approve the application.

(2) If NMFS IASI approves the application, it will issue a letter to the applicant that will serve as official documentation of CTT status.

(3) If the application is incomplete or complete but not approved, NMFS will issue a letter to the applicant explaining the reasons why.

(4) If NMFS issues a letter under paragraph (e)(3), the applicant may respond in writing with additional information to address the issues NMFS identified in its letter. After reviewing such information, NMFS will issue a letter to the applicant indicating if CTT status is approved or explaining the reasons why such status continues to not be approved. NMFS' decision is final upon issuance of this letter and is not appealable. The applicant may reapply no earlier than one year from the date of NMFS' final decision.

(5) While the IFTP must be renewed annually (see § 300.322(d)), approval under the CTT remains in effect unless it is revoked under paragraph (l).

(f) *Trusted Trader Compliance Plan.* In order to be approved as a CTT, the applicant must have a Trusted Trader Compliance Plan (Compliance Plan) that is designed to meet the objective of the SIMP in preventing the importation of illegally harvested or misrepresented fish and fish products into United States commerce. The Compliance Plan may delegate entry filing, recordkeeping and other responsibilities to other persons, but the CTT remains responsible for ensuring adherence to the Compliance Plan and compliance with all NOAA import requirements, including all applicable requirements of the SIMP and the CTT. The Compliance Plan must, at a minimum, include the following components:

(1) An Internal Control System (see paragraph (g) of this section for requirements);

(2) Procedures for ensuring that the Compliance Plan and the CTT's adherence to it is audited by a certified third party at least annually (see paragraph (j) of this section for audit requirements);

(3) The applicant's written policy and related supporting materials on preventing the import of illegally

harvested and misrepresented seafood, including a description of how the policy is communicated to any affected employees, entry filers, representatives, and suppliers or other parties in the supply chain, and corrective actions to be taken as needed;

(4) An organizational chart that identifies the persons with responsibility for: Entry filing; custodianship of recordkeeping documents; developing, administering, and implementing the Compliance Plan and its component measures; and conducting training to ensure effective implementation of the Compliance Plan;

(5) A signature page completed by the applicant and the individual at the highest level of authority in the applicant's organization assuming responsibility for implementing the Compliance Plan. This signature page and the organizational chart must be updated each year at the time of the annual audit in order for a CTT's status to remain current; and

(6) Any changes to the Compliance Plan, along with an updated signature page and organizational chart must be included in the annual audit report required under paragraph (j) of this section.

(g) *Internal Control System Requirements.* The Internal Control System, which must be documented in the Compliance Plan under paragraph (f) of this section, must include traceability monitoring procedures for seafood products subject to the SIMP (§ 300.324). The CTT is responsible for ensuring implementation of the internal control system, which must include:

(1) Procedures to verify the legal harvest and landing of fish or fish products subject to the SIMP that the CTT enters into U.S. commerce. Such procedures may rely on flag-state and/or port-state harvest and landing records or flag-state certification of legal harvest. A CTT may establish separate verification procedures for each fishery source, as appropriate (e.g., known and trusted vs. new sources);

(2) Procedures to enable verification of the full chain of custody from point of first landing (or point of aggregation for small-scale fisheries) to entry into U.S. commerce (See paragraph (i) of this section). These procedures should describe the process(es) that will be followed, and documentation that will be used, to verify chain of custody, and measures in place to periodically verify the accuracy of that documentation;

(3) Procedures to ensure that chain of custody documentation will be provided to NMFS, upon request, within 14 days to support an agency audit. The Compliance Plan under

paragraph (f) of this section must identify who is responsible for maintaining chain of custody documentation, the point along the supply chain at which the chain of custody documents are stored and how the CTT will ensure access to them when necessary. The documentation must be maintained and made available for inspection as required under paragraph (i) of this section;

(4) Procedures for the CTT (or designee) to perform at least one trace-back annually for each species covered by the SIMP that is imported by the CTT. A trace-back is a document review of all records that follow the product from the point of entry into U.S. commerce backwards through the supply chain (e.g., through all steps of processing, shipping, purchase, and storage) to the point of harvest (or point of first aggregation for small scale fisheries);

(5) Procedures to be taken in response to information that illegally harvested or misrepresented fish or fish products have entered the supply chain (e.g., notice from NOAA's Office of Law Enforcement (OLE) or inclusion of the harvesting vessel in a regional fishery management organization's list of vessels that have engaged in illegal, unreported and unregulated fishing), measures to ensure that such fish and fish products are removed from commerce and further shipments are prevented from entering commerce, and procedures for promptly informing OLE whether such products are inbound to the United States or have entered U.S. commerce;

(6) Procedures to be taken in response to a supplier being placed on an FDA Import Alert List. FDA Import Alerts inform FDA field staff and the public that the Agency has enough evidence to allow for Detention Without Physical Examination (DWPE) of products that appear to be in violation of the Federal Food, Drug, and Cosmetic Act (FD&C Act) or FDA regulations. These violations could be related to the product, manufacturer, shipper and/or other information. More information is available online at <https://www.fda.gov/ForIndustry/ImportProgram/ActionsEnforcement/ImportAlerts/ucm516428.htm>; and

(7) Procedures to regularly review and update internal control procedures in response to changes in the fish or fish products that the CTT wants to enter into U.S. commerce, suppliers, or operating conditions, or non-conformities identified in an audit.

(h) *Entry filing requirements.* NMFS will alert U. S. Customs and Border Protection when it approves a CTT



under paragraph (e) of this section. For each entry containing species or species groups subject to the SIMP, at the time of entry, the CTT or designated entry filer must file electronically, as required under § 300.323(a), the CTT's IFTP number and species to be entered. No further information needs to be provided. See § 300.324(f) for exemptions from SIMP requirements.

(i) *Recordkeeping requirements.* As specified in § 300.324(e), records containing information on the chain of custody and custodian of fish or fish products (e.g., trans-shipper, processor, storage facility or distributor) must be maintained. However, CTTs have the option of delegating the recordkeeping requirements to one or more third parties. The records must be maintained either by the CTT, or at designated points within the supply chain to which the CTT has unrestricted access, or with any third-party that the CTT designates in its Compliance Plan. Regardless of which option it chooses, the CTT is responsible for ensuring that the required chain of custody documentation for all species and species groups subject to SIMP is maintained for a period of two years from the date of entry of product into U.S. commerce, providing such documentation to NMFS in accordance with paragraph (g)(3) of this section, and making it available for inspection as required under § 300.324(e).

(j) *Third-party Audit Requirements.* At least once annually, the CTT must ensure that an audit is conducted by a certified third-party auditor, consistent with the requirements of this paragraph and paragraph (k) of this section. The purpose of the audit is to evaluate the adequacy of the CTT's Compliance Plan in meeting the requirements of paragraphs (f) and (g) of this section and the CTT's adherence to that plan. The audit must include:

(1) Review of the Compliance Plan and relevant documents; full trace back to point(s) of harvest of at least three shipments of products falling under the SIMP, selected by the third-party auditor; interviews as necessary with CTT staff, suppliers, and individuals delegated responsibilities under the Compliance Plan; and other activities as necessary;

(2) A closing meeting between the auditor and the CTT or designee to review observed weaknesses and any non-conformities with the Compliance Plan; and

(3) Issuance of audit reports.

(i) *Notification and NMFS Audit.* The CTT shall notify NMFS at least 30 days in advance of each third-party audit. NMFS, at its discretion, may attend a

third-party audit as an observer or conduct a side-by-side audit. NMFS may conduct an independent audit of a CTT at any time.

(ii) *Audit Reports.* In an audit report, a third-party auditor must assess the reliability of the CTT's Compliance Plan and the CTT's adherence to it, provide results of the audit, and identify any non-conformities with the Compliance Plan or its implementation. The audit report must include the auditor's certifying credentials (see paragraph (k) of this section) and attestations that the auditor (i.e., individual auditor(s) and auditing firm): (1) Was not involved in developing the CTT's Compliance Plan, and (2) has no financial relationship with, or substantial interest in, the CTT retaining their services beyond performing the audit and any related follow up.

(iii) *Follow Up on Audit Reports.* The CTT is responsible for ensuring that the auditor provides a signed and locked electronic copy (in .pdf format) of the audit report to the CTT and IASI no later than 30 days following completion of the audit. If the auditor determines that no corrective action is needed, the report is considered the final audit report. If the auditor determines that corrective action is required to address non-conformities with the Compliance Plan or its implementation, the report is considered an initial audit report. In that case, within 60 days following the audit, the CTT must ensure that a signed and locked electronic copy of the final audit report (in .pdf format) is provided to NMFS IASI. The final report must include an explanation, along with relevant documentation, of corrective action taken by the CTT and approved by the auditor.

(iv) If the CTT fails to provide the audit report as required above or take acceptable corrective actions, NMFS may conduct additional audits at its discretion. NMFS may also take additional measures up to and including revocation of CTT status as deemed appropriate by NMFS.

(k) *Third-Party Auditor Certification and Other Requirements.*

(1) Beyond conducting the audit and any related follow up for a CTT, a third-party auditor (i.e., individual auditor(s) and auditing firm) must not have any other financial relationship with, or substantial interest in, the CTT. In addition, an auditor must not have been involved in developing the CTT's Compliance Plan. A third-party auditor should have some familiarity or experience with the seafood trade to ensure an accurate and critical review of a CTT's Compliance Plan and the CTT's adherence to it. The third party auditor

must be certified in and affirm his or her knowledge of current auditing practices and proficiency in conducting process audits, identification of non-conformities and review of corrective actions taken by the CTT.

(2) A third-party auditor must be certified by a competent certifying body, as evidenced by one or more of the following:

(i) Current accreditation or certification by the American Institute of Certified Public Accountants (AICPA);

(ii) Current accreditation or certification by the Institute of Internal Auditors;

(iii) Current accreditation or certification by the American Evaluation Association;

(iv) Current accreditation or certification by a chain of custody certifying body;

(v) Current accreditation or certification by Accreditation Services International, or other nationally recognized certifying organizations;

(vi) Evidence of current peer-review certification such as Certified Quality Auditor (CQA), Certified Internal Auditor (CIA), Certified Public Accountant (CPA), and Certified HACCP Auditor (CHA);

(vii) Successful completion of auditor training recognized by the International Register of Certified Auditors (IRCA) or Registrar Accreditation Board and Quality Society of Australasia (RABQSA), in environmental management standards (EMS); quality management standards (QMS); or Global Food Safety Initiative (GFSI), and registration with IRCA or RABQSA as an EMS or QMS auditor; and

(viii) Other training or certification as approved in writing by NMFS.

(1) *Revocation of CTT status.*

(1) If a CTT fails to comply with requirements under this section, NMFS may issue a Notification Letter to the CTT that:

(i) Identifies the alleged failure to comply with CTT regulations and requirements;

(ii) Describes the indications and evidence of the alleged failure;

(iii) Sets a Response Date by which the CTT must submit to NMFS a written response to the Notification Letter, including, if applicable, a proposed solution; and

(iv) Explains the CTT's options if the CTT believes the Notification Letter is in error.

(2) NMFS will establish a Response Date between 14 and 30 calendar days from the date of the Notification Letter. The CTT's response must be received in writing by NMFS on or before the

Response Date. If the CTT fails to respond by the Response Date, CTT status will be revoked. At its discretion and for good cause, NMFS may extend the Response Date to a maximum of 60 calendar days from the date of the Notification Letter.

(3) A CTT who has submitted a timely response may meet with NMFS within 21 calendar days of the date of that response to discuss a detailed and agreed-upon procedure for resolving the alleged failure to comply with the CTTTP regulations and requirements. The meeting may be in person or via conference call or webcast.

(4) If the CTT disagrees with the Notification Letter and believes that there is no failure to comply with CTTTP regulations and requirements, NMFS has incorrectly defined or described the failure, or NMFS is otherwise in error, the CTT may submit a written Objection Letter to NMFS on or before the Response Date. Within 21 calendar days of the date of the Objection Letter, the CTT may meet with NMFS to discuss a resolution or redefinition of the issue. The meeting may be in person, or via conference call or webcast. If modifications to any part of the Notification Letter are required, then NMFS will issue a revised Notification

Letter to the CTT; however, the Response Date or any other timeline in this process would not restart or be modified unless NMFS decides to do so, at its discretion.

(5) The total process from the date of the Notification Letter to the date of final resolution should not exceed 90 calendar days, and may require a shorter time frame, to be determined by NMFS, depending on the seriousness of the alleged failure. In rare circumstances, NMFS, at its discretion, may extend the time for resolution of the alleged failure. In such a case, NMFS will provide a written notice to the CTT informing him or her of the extension and the basis for the extension.

(6) If the failure to comply with CTTTP requirements cannot be resolved through this process, NMFS will issue a Revocation Letter to the CTT that:

- (i) States that CTT status has been revoked;
- (ii) Summarizes the failure to comply with CTTTP requirements;
- (iii) Summarizes any proposed procedures, or attempts to produce such procedures pursuant to sub-paragraph (3) of this paragraph to resolve the failure;
- (iv) Explains why resolution was not achieved; and

(v) Advises the importer that:

(A) The importer is no longer exempt from the requirements of the SIMP; and  
(B) The importer may not reapply for CTT status for a period of one year.

(7) NMFS' decision is final upon issuance of the Revocation Letter and is not appealable.

■ 5. In newly redesignated § 300.326, add paragraphs (d), (e), (f), (g), and (h) to read as follows:

**§ 300.326 Prohibitions.**

\* \* \* \* \*

(d) Make a false statement on an application for the CTTTP.

(e) Falsify records required to be maintained under § 300.324(d) or (e) or § 300.325(i).

(f) Fail to make records available for inspection as required under § 300.324(d) or (e) or § 300.325(i).

(g) As a CTT, fail to maintain and provide access to records as required under § 300.325(i) or to produce records as required under § 300.325(g)(3).

(h) As a CTT, fail to implement or follow the procedures in the Trusted Trader Compliance Plan submitted to NMFS in a CTT application or as part of an annual audit report.

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**BILLING CODE 3510-22-P**