



GUIDE TO AUDIT REQUIREMENTS FOR THE SEAFOOD IMPORT MONITORING PROGRAM: FREQUENTLY ASKED QUESTIONS

Updated December 2020

The Seafood Import Monitoring Program, also known as SIMP, established permitting, reporting and recordkeeping requirements for imports of certain seafood products in order to prevent illegal, unreported, and unregulated (IUU)-caught and/or misrepresented seafood from entering U.S. commerce.

SIMP requires the importer of record to report key data in entry filings for shipments of certain imported fish and fish products identified as particularly vulnerable to IUU fishing or seafood fraud. In addition, importers must retain records of the information provided at entry and additional chain of custody information sufficient to trace the fish from the point of entry into U.S. commerce back to the point of harvest. These records must be retained, in paper or electronic format, at the importer's place of business for two years from the date of import and must be made available for inspection in the event of an audit or at the request of an NOAA fisheries law enforcement officer.

The National Marine Fisheries Service (NMFS) published a [final rule establishing the Seafood Import Monitoring Program](#) on December 9, 2016; mandatory compliance was effective on January 1, 2018, and a [final rule to include shrimp and abalone species](#) with a mandatory compliance was effective on December 31, 2018.

The thirteen species identified as particularly vulnerable to IUU fishing and/or seafood fraud and covered by SIMP:

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

The Guide to Audit Requirements for SIMP was developed in response to frequently asked questions from importers regarding SIMP audit processes. This Guide does not offer any new interpretation of the SIMP final rule or speak to potential enforcement actions that may result from noncompliance with SIMP requirements, including noncompliance identified through the audit process. As additional questions from industry are raised, this guidance will be updated as appropriate.

OVERVIEW

The purpose of a SIMP audit is to verify the harvest and landing information provided in an entry filing as well as the sufficiency of chain of custody records documenting the movement of fish and fish products from harvest to the point of entry into U.S. commerce. Importers will be notified in writing by a NMFS auditor if an entry was selected for audit and asked to provide supporting records within 5-10 days, depending on the format of submission. As a general rule, within 30 days of providing chain of custody records to NMFS, auditees will be notified of audit results and, if necessary, any nonconformities identified for the entry audited as well as corrective actions to support compliance with respect to future shipments.

TABLE OF CONTENTS

<i>DEFINITION OF TERMS</i>	2
<i>CHAIN OF CUSTODY RECORDS AND INFORMATION</i>	3
<i>AUDIT PROCESS OVERVIEW</i>	4
<i>COMMON MISTAKES AND RECCOMENDATIONS FOR IFTP HOLDERS</i>	5
<i>FREQUENTLY ASKED QUESTIONS</i>	5
<i>ADDITONAL RESOURCES</i>	9

DEFINITION OF TERMS

ACE:	The Automated Commercial Environment, managed by U.S. Customs and Border Protection, is the primary system through which the trade community electronically reports import data required by Federal agencies.
Auditee:	An Importer of Record (IOR) holding a current International Fisheries Trade Permit with one or more entries selected for audit under SIMP.
Chain of Custody:	A series of records sufficient to trace the fish or fish products in an imported shipment from the point of harvest to entry into U.S. commerce and at all points in between, including individual or Aggregated Harvest Reports, documentation of all movements of the fish, and identification of each custodian of the fish.
Information:	Traceability data that describes documented or undocumented chain of custody events provided to NMFS auditors.
Record:	Documentation, in electronic or paper format, related to the harvest, landing, transshipment, transfer, or processing of fish and fish products subject to SIMP.
SIL:	The SIMP-Compliant Importers List provides public recognition of U.S. importers with a demonstrated record of SIMP compliance, while also offering the potential for a reduced frequency of audits to those qualified importers.
SIMP Data Set:	The information, as specified at 50 CFR 300.324(b), that must be reported in ACE at the time of entry for each entry containing species or species groups subject to SIMP.

SIMP CHAIN OF CUSTODY RECORDS AND INFORMATION

A complete chain of custody tracks product from its initial wild-caught or aquaculture harvest to the point of entry into U.S. commerce. Records to show this chain of custody should identify the product and each custodian of the fish or fish product (e.g., a transshipper, processor, storage facility, or distributor) at every step as that product moves through the supply chain.

While SIMP does not prescribe the retention of specific records, the documents provided must demonstrate a complete chain of custody and provide proof that the product harvested met the competent authorities' legal requirement to do so. NMFS may request additional information from the importer to assist in verifying the information contained in chain of custody records provided. Additionally, NMFS may consult with other U.S. agencies and foreign governments to verify the authenticity of documentation provided, subject to the strict data confidentiality provisions applicable to SIMP.

NMFS regularly works with industry to support and improve compliance with SIMP. For example, NMFS developed [sample catch forms](#) that were widely disseminated in multiple languages to demonstrate to industry how required data related to catch, processing, and transshipment might be organized to facilitate entry filing. While these documents are records, the traceability information they contain must be supported with other source documentation (e.g., records from the harvester, country of origin, shipper, storage facility or processor) or information to establish a verifiable chain of custody. The use of these sample catch forms are not required, and NMFS encourages companies to modify the sample forms to reflect their supply chains. NMFS is available to review any modified sample form to help check that required traceability data required under SIMP is appropriately captured.

HARVEST AND LANDING DATA PROVIDED THROUGH ACE

The harvest and landing data elements reported at the time of entry filing through ACE will serve as records that NOAA will seek to verify if an entry is selected for audit. If third party verification is not possible, or if the information in the entry filing is insufficient or incongruous with other records, auditors may request supplemental chain of custody records documenting the harvest and landing of product which the importer of record would need to make available.

CHAIN OF CUSTODY RECORDS

Per section 300.324(e) of the SIMP final rule, "In addition to the entry recordkeeping requirements specified at 19 CFR part 163 and 300.323(b), the importer of record is required to maintain records containing information on the chain of custody of the fish or fish products sufficient to trace the fish or fish products from point of entry into U.S. commerce back to the point of harvest, including individual or Aggregated Harvest Reports, if any, and information that identifies each custodian of the fish or fish product (such as any transshipper, processor, storage facility or distributor). The latter may include widely used commercial records such as declarations by the harvesting/carrier vessels or bills of lading." While SIMP does not prescribe the retention of specific records, the documents provided must demonstrate a complete chain of custody and appropriately correspond with the legal documentation associated with the competent authority exercising jurisdiction over the fishing operation.

Examples of records that may be used to establish chain of custody are listed below:

HARVEST AND LANDING RECORDS	SHIPMENT RECORDS	PROCESSING AND STORAGE RECORDS
Vessel Harvest Manifest Records	Processor's Bill of Lading	Daily Production Log
Raw Material Invoice	Processor Receiving Bill	Finished Product Packaging Label
Fish Tickets at Landing Port	Cold Storage Receiving Ticket	Cold Storage Discharge Log
Off Loading Reports with Vessel Name(s)	Vessel Transferred Ticket	Cold Storage Receiving Log
Country Catch Certificate	Mate's Receipt	Processor's Raw Material Receiving Log
Fishing Permit or License		
Proforma Invoice	Transshipment Log	Packing Log
Aggregated harvest report (for small-scale harvests)	Cold Storage Unloading Log	Receiving Receipt or Record
	Packing List, Invoice to Shipment Records	

AUDIT PROCESS OVERVIEW

1. NMFS auditors will send a request for records pertaining to the entry(ies) selected for audit by email to the designated International Fisheries Trade Permit (IFTP) holder, and may follow up with a call as necessary. The IFTP Holder is required to report any changes in the information provided in the IFTP permit application, including contact information, within 15 days of those changes going into effect; if the change is not reported within 30 days, the permit is void as of the 30th day. See 50 CFR 300.322(k). Importers can update this information through the [NOAA Fisheries Permits website](https://www.fisheries.noaa.gov/international/seafood-import-monitoring-program).
2. NMFS auditors are currently conducting SIMP audits through remote record review. The time frame for auditees to provide requested chain of custody records to NMFS auditors is as follows:
 - a. **Five days** from receipt of the audit notification if the auditee, IFTP holder, or importer of record (IOR) choose to transmit the records via electronic means over e-mail or using a secure file sharing service such as Accellion.
 - b. **Ten days** from receipt of the audit notification if the auditee, IFTP holder, or IOR choose to transmit the records via secured shipping such as UPS, FedEx or U.S. Post Office.

NMFS auditors will attempt to contact IFTP holders with unresponsive audit notifications for **fifteen days** before referring to the Office of Law Enforcement (OLE). Failure to provide requested documents will result in a referral to OLE.

3. NMFS auditors will review submitted records and information for completeness. NMFS auditors may request supplemental records to the auditee, specifying key points in the supply chain where records are missing or that require clarification.
4. NMFS auditors will verify the adequacy and accuracy of traceability records and information provided.
5. NMFS will attempt to conclude audits within 30 days of receipt of records. Following the completion of an audit, importers of record will receive a letter describing the outcome of the audit.

NMFS has flexibility regarding audit selection and may adjust timelines during extreme events and extenuating circumstances.

COMMON MISTAKES AND RECOMENDATIONS FOR IFTP HOLDERS

Overall, most audits concluded with complete chain of custody records provided and no issues identified.

Audits with identified potential nonconformities generally fall under three categories:

- Inconsistent product information provided between the Customs entry filing upon import and the corresponding records provided during an audit.
- Chain of custody records were not provided or were incomplete.
- Harvest legality of products could not be verified.

The following recommendations are for IFTP holders to assist in their compliance with audits:

- Confirm contact information (email and phone number) under the IFTP is accurate.
- Work with customs brokers to ensure harvest and landing data reported into the Automated Commercial Environment is understood and accurate.

NMFS conducts mock audits upon request to assist IFTP holders in identifying gaps in recordkeeping, as well as other opportunities to improve compliance. IFTP holders interested in completing a mock audit should email their request and associated records to the SIMP Support email (simpsupport@noaa.gov). Mock audits are dependent on availability and conducted on a first-come, first-serve basis.

FREQUENTLY ASKED QUESTIONS

SIMP AUDIT PROCESS

Q: Will auditing always be post shipment?

A: No, per 50 CFR 300.324(d) , “[i]mport shipments of fish or fish products subject to this program may be selected for inspection and/or the information or records supporting entry may be selected for audit, on a pre- or post-release basis, in order to verify the information submitted at entry.” However, at this time, NMFS is focused on conducting audits after the shipment has entered U.S. commerce.

Q: Why was my entry selected for audit?

A: SIMP entries may be subject to both random and directed audits.

Q: Who is responsible for providing chain of custody records and information to NMFS auditors?

A: The auditee is responsible for making chain of custody records available for inspection, including to support an audit.

Q: Will the auditors be on-site? Or can the auditors conduct the audit remotely?

A: Records must be made available for immediate inspection at the importer’s place of business upon request. In addition, NMFS conducts remote records reviews for which the auditor does not need to be on-site at your facility. The instructions for providing digital records within five days and hard copy records within ten days applies to remote record review audits.

HARMONIZED TARIFF SCHEDULE CODES

Q: If I am importing a species that is not subject to SIMP but filed under a Harmonized Tariff Schedule code that includes species that are subject to SIMP, could my entry be subject to an audit?

A: If an entry of a product under an HTS code covered by SIMP includes a species code that is not subject to the full SIMP message set in the International Trade Data System (ITDS), it is also not subject to the recordkeeping requirements of SIMP and would therefore not be selected for audit.

Q: If I am importing a species that is subject to SIMP but filed under a Harmonized Tariff Schedule code that is not subject to SIMP, could my entry be subject to an audit?

A: Importers are required to use the most specifically descriptive Harmonized Tariff Schedule code available for any given entry; importers cannot legally circumvent SIMP requirements by using a non-descript harmonized Tariff Schedule code. If an entry includes a species that is subject to SIMP, but the HTS code is not subject to the reporting and recordkeeping requirements of SIMP (such as for highly processed products), the entry is not subject to SIMP and would therefore not be selected for audit.

Q: How do I choose a Harmonized Tariff Schedule code?

A: Under the Tariff Act of 1930, importers must use “reasonable care” in filing entries under the most accurate Harmonized Tariff Schedule code that reflects the product (19 U.S.C. § 1484(a)). If you have a question regarding selection of Harmonized Tariff Schedule codes, including the criteria for establishing exercise of reasonable care, please contact your U.S. Customs and Border Protection client representative.

Q: Should all species subject to SIMP that I am importing under a single Harmonized Tariff Schedule code be listed in an entry filing?

A: Yes, all species imported under a single Harmonized Tariff Schedule Code in an entry filing must be indicated in the SIMP data set, and this information will be verified in the event of an audit.

CHAIN OF CUSTODY RECORDS

Q: Which records are required for the chain of custody records?

A: Chain of custody records must include documentation of all points in the supply chain of the seafood product, from point of harvest or production event to entry into U.S. commerce (e.g., harvest, transshipment, landing, processing, storage, distribution, export/re-export, and changes in custody). NMFS does not prescribe what specific records are required because supply chains vary depending on a variety of factors including fishery, product type, country of origin, and producer. NMFS requires records sufficient to trace each step from entry into U.S. commerce back to the harvest or production event. Chain of custody records could include vessel product declarations, transshipment records, bills of lading, records on processing, reprocessing, and co-mingling, changes in product ownership, and changes in product location including storage, export/re-export, and re-packaging.

Q: What is an example where the NMFS would ask for additional records or information during an audit?

A: Instances when SIMP auditors would request additional information include if there is a gap in traceability information within the supply chain records provided, such as where the harvest document does not contain all the pertinent information to validate the harvest event. A common example is in the ICCAT Statistical Documents, where the weight listed is the shipped weight and not the harvested weight.

Q: Are quality control records required as part of the SIMP chain of custody?

A: Quality control records such as those for health, temperature storage, and heavy metals test results may be provided as a component of a complete supply chain record, but are usually not required to trace seafood from the point of harvest to entry into U.S. commerce.

Q: Are electronic or scanned copies of chain of custody records acceptable, or are original hard copies required?

A: Records may be in electronic or paper format. A SIMP audit does not require original records as long as the paper or electronic (digital) copies of the chain of custody records are clear and legible.

Q: For electronic traceability systems - for example, software that tracks lot shipments from farm to plant and from plant to importer - would NOAA accept the electronic transaction information as sufficient (provided of course that the SIMP information is present), or does NOAA require records such

as a .pdf or invoice?

A: Yes, electronic transaction information would be sufficient provided that the information required under SIMP is present and verifiable. The information provided must demonstrate a complete chain of custody and appropriately correspond with the legal documentation associated with the competent authority exercising jurisdiction over the fishing operation. NMFS may request additional information from the importer to assist in verifying the information contained in chain of custody records provided.

Q: I do not have access to some of my chain of custody records as the hard copies are required by a foreign government. What can I provide that will meet the SIMP audit requirements?

A: As stated above, records required under SIMP may be in paper or electronic format and original records are not required for an audit. You should make and retain a copy of all required records prior to submitting the originals to a foreign government. NOAA may work with foreign governments and international organizations to verify traceability information provided to NMFS.

Q: Do suppliers need to be approved by the Food and Drug Administration (FDA)?

A: NMFS does not require approved supplier lists, such as those provided by foreign government inspection authorities, of processors of fish and fishery products that, according to those authorities, are in good standing and are meeting the requirements of the FDA seafood Hazard Analysis Critical Control Point (HACCP) regulations as chain of custody records for SIMP. However, these documents may be provided as a component of a complete supply chain records.

Q: What if the chain of custody records I can provide are not in English? Who is responsible for translating the records?

A: It is the responsibility of the auditee to explain how and to what extent the record describes a link in the chain of custody. However, NMFS will translate records into English if needed.

Q: How should I submit sensitive business information for an audit?

A: The data and records relating to the audit involving confidential and proprietary information will be transmitted, accessed, and stored by NMFS in accordance with applicable federal law, including the Magnuson-Stevens Fishery Conservation and Management Act and the Privacy Act, as well as current U.S. Department of Commerce policy on protection of Personally Identifiable Information (PII) and Business Identifiable Information (BII). The process of secured transmission of the requested records for SIMP's audit will be advised to the auditee at the time of the audit notification.

Q: Are documents that have been modified or edited (e.g., through the use of white-out, or crossing out of data) acceptable chain of custody records for SIMP?

A: NMFS will seek to verify the information provided in chain of custody records, whether visibly edited or not. Regardless of edits made, if the information in a document is accurate and verifiable the record is acceptable. Business information that is not relevant to SIMP (e.g. prices) may be redacted from records provided to NMFS.

Q: What if an auditee is not privy to the sensitive business information from other companies in the supply chain?

A: SIMP is intended to ensure that importers of record are able to verify the legal origin of the products they are importing. This would require some degree of access to information describing each step in the chain of custody by the importer.

Q: What records are required of production during processing (e.g., soaking, peeling, cooking)?

A: Processing records and information must be provided to explain changes in custody, product form, and differences between received and final product weight during processing.

Q: What different chain of custody records will I need for small harvester vessels vs. large harvester vessels?

A: The data elements reported at the time of entry filing through ACE will serve as records that NMFS will use to verify harvest and landing if an entry is selected for audit, regardless of vessel size. In all cases, chain of custody records beyond harvest and landing to the point of entry into U.S. commerce are required.

Q: If the harvest vessel is registered under a Regional Fisheries Management Organization (RFMO) and we access information related to the vessel's authorization directly from the RFMO's website, will this information satisfy the SIMP requirement or do we have to keep the fishing license of each vessel we purchase fish from on file?

A: Information from an RFMO's website is no longer acceptable as the websites are not always up to date. If RFMO website information is provided, the audit team will request records validating harvest legality.

Q: Some catch log books and observer reports are directly sent by the vessel owner and observer to an RFMO and it is not current practice for the vessel owner to provide the auditee/importer/buyer with this information. Is it mandatory that the auditee have these specific records on file for a SIMP audit, or is there any other records sufficient to prove the catch is not IUU?

A: SIMP does not require retention of any specific records, but does require retention of records sufficient to document the chain of custody. NOAA Fisheries would first attempt to verify harvest and landing information provided to NMFS through the entry filing message set. In verifying entry information, NMFS may engage external parties, including RFMOs, concerning the details and legality of the harvest events reported. In addition, records a vessel owner may have such as Captains' statements may include traceability information that could also be used to verify harvest events and could be requested of the auditee as needed.

Q: Is cold storage considered a "custodian" or "owner" of the product and will they then have to supply SIMP related transactional data?

A: Cold storage would be considered a custodian of the product, so the auditee would need to retain and provide chain of custody records such as receiving, storage, and shipping records under SIMP.

Q: For fish stored in a cold storage facility then transferred to a carrier vessel or refrigerated container to the final destination, will a receipt from the cold storage or declaration of transfer letter or self-certified letter of fish transfer from the cold storage to the shipper be sufficient to satisfy SIMP audit requirements?

A: Receipts from cold storage that list the amount that is received and transferred are acceptable. However, the Bill of Lading issued by the shipping company or the carrier vessel would also be required as one of the chain of custody records.

Q: For tuna, will the SIMP auditors be able look at and get all the information from the Tuna Tracking and Verification Program records that are uploaded into ITDS?

A: Traceability information provided to NMFS through other trade monitoring programs may serve as records. The NOAA 370 Form may provide the following information about the harvest event: harvest weight, catch area, fishing gear, flag vessel, vessel names, and landing dates, as well as some chain of custody information such as the name of the exporter and importer.

Q: Will auditors ask for documentation of small-scale harvest events?

A: Given provisions for small-scale fisheries under SIMP, NMFS will not ask for a record verifying the details

and legality of individual small-scale harvests, but auditors will ask for records beginning at the point of aggregation, which may include records of deliveries or sale from the aggregator to a processor or shipper listing the products harvested.

Q: When reporting small-scale vessel harvests, is an importer expected to demonstrate that all harvesting vessels were less than 20 meters in length?

A: The regulations establishing SIMP exempt an importer from the requirement to individually identify harvesting vessels for a given import if the importer provides other required data elements based on an [aggregated harvest report](#). An aggregated harvest report can be used for: (1) harvests at a single collection point in a single calendar day from small-scale vessels (i.e., twelve meters in length or less or 20 gross tons or less); (2) landing by a vessel to which catches of small-scale vessels were made at sea. The importer must provide records sufficient for NMFS to verify that all aggregated harvest events were conducted by small-scale vessels.

POST-AUDIT

Q: What enforcement actions could be taken if there are issues with the completeness or accuracy of the chain of custody records I provided to NMFS?

A: Noncompliance with the permitting, reporting, or recordkeeping requirements of SIMP constitutes a violation of the Magnuson-Stevens Fishery Conservation and Management Act and is subject to enforcement action. The Magnuson Act authorizes monetary penalties and permit sanctions for violations of the Act and its implementing regulations; the action taken in any particular case will depend on a number of factors including the nature and gravity of the violation and the violator's degree of culpability and history of prior violations. More information about NOAA enforcement actions, including the NOAA Penalty Policy, is available on the NOAA Office of General Counsel Enforcement Section website: <http://www.gc.noaa.gov/enforce-office.html>.

Q: If a SIMP audit results in a finding that my import shipment contained illegal seafood, will NMFS provide me with the finding so that I can address the issue?

A: NMFS will provide the auditee with the finding. The information will also be referred to NOAA's Office of Law Enforcement for further action, as appropriate.

SIMP-COMPLIANT IMPORTERS LIST

Q: How does an IFTP holder become added to the SIMP-Compliant Importers List (SIL)?

A: There is no application or cost to being added to the SIL. IFTP holders will become eligible based on audit compliance. NMFS will notify new IFTP holders eligible for SIL on a quarterly basis. More information on SIL eligibility is available online: <https://www.fisheries.noaa.gov/national/simp-compliant-importers-list>.

Q: How does SIL affect my SIMP audits?

A: The random selection process of entry filings for SIMP audits will remain the same. However, IFTP holders eligible for SIL will benefit from reduced frequency of random audits under SIMP. Eligible IFTP holders should expect to receive an audit notification once per quarter. More information on SIL is available online: <https://www.fisheries.noaa.gov/national/simp-compliant-importers-list>.

ADDITIONAL RESOURCES

This guide as well as additional information regarding SIMP is available online at <https://www.fisheries.noaa.gov/international/seafood-import-monitoring-program>.

The SIMP requirements are codified at 50 CFR 300.320-300.325. If there is a discrepancy between the information provided in the Guidance and the regulations, the regulations take precedence.

CONTACT US

Technical support and questions regarding compliance can be directed to SIMP Support:

Email: SIMPsupport@noaa.gov

Phone: TOLL: 301-427-8301 or TOLL FREE (US and Canada): 833-440-6599.